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THE
COUNCIL OF STATE DEBATES

VOLUME II, 1929



(16th September to 28th September 1929)

SEVENTH SESSION
OF THE
SECOND COUNCIL OF STATE, 1929



SIMLA
GOVERNMENT OF INDIA PRESS
1929

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THE
COUNCIL OF STATE DEBATES

(Official Report)

VOLUME II

SEVENTH SESSION

OF THE

SECOND COUNCIL OF STATE

1929



SIMLA
GOVERNMENT OF INDIA PRESS
1929

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THE
COUNCIL OF STATE DEBATES
(OFFICIAL REPORT OF THE SEVENTH SESSION OF THE
SECOND COUNCIL OF STATE)

VOLUME II—1929

COUNCIL OF STATE.

Monday, 16th September, 1929.

The Council met in the Council Chamber at Viceregal Lodge, Simla, at Eleven of the Clock, being the first day of the Seventh Session of the Second Council of State, pursuant to section 63D (2) of the Government of India Act. The Honourable the President (the Honourable Sir Henry Moncrieff Smith, Kt., C.I.E.) was in the Chair.

MEMBERS SWORN :

The Honourable Khan Bahadur Mian Sir Fazl-i-Husain, K.C.I.E., Kt.
(Education, Health and Lands Member);
The Honourable Mr. John Herbert Fyfe (Bengal Chamber of Commerce);
The Honourable Mr. Thomas Ryan, C.I.E. (Industries and Labour
Secretary);
The Honourable Mr. Pratap Chandra Dutt (Madras : Nominated Official);
The Honourable Mr. Alma Latifi, O.B.E. (Punjab : Nominated Official);
The Honourable Mr. Surpat Singh (Bihar and Orissa : Non-Muhamma-
dan);
The Honourable Mr. Clement Wansbrough Gwynne, C.I.E., O.B.E. (Home
Department : Nominated Official).

QUESTIONS AND ANSWERS.

FURTHER REFORMS FOR INDIA.

1. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY :
Will Government be pleased to state :

- (a) When the Simon Commission and the Committee of the Central Legislature in India are going to submit their reports about the grant of further reforms in India ?

- (b) When is any Bill about the grant of further reforms in India, if any, going to be introduced in the British Parliament?
- (c) What, if any, facilities are being given to the representatives of India, for taking any part with the representatives of the British people in framing the ultimate scheme of reforms for India?
- (d) Whether, and, if so, what, arrangements are going to be made about the ratification of the ultimate scheme of reforms for India, by the people of India, before or after it is passed by the British Parliament?

THE HONOURABLE MR. C. W. GWYNNE: (a), (b), (c) and (d). The Government of India are not in a position to make any statement.

TRANSFER OF THE MILITARY CONTROL OF ADEN TO HIS MAJESTY'S GOVERNMENT.

2. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: Will Government be pleased to state whether the opinion of the people of India was taken in any way about the cessation of the military control of Aden to the British Government? If not, why not?

THE HONOURABLE SIR CHARLES WATSON: I am not clear whether the Honourable Member has in mind the general question of the transfer of the military control of Aden to His Majesty's Government or the recent legislation in Parliament which gave formal effect to that transfer. He will, however, I think find the answer to both in the Foreign Secretary's reply in the Legislative Assembly on the 29th January, 1929, to a similar question (No. 199) by Mr. Gaya Prasad Singh.

CAUSES OF FLOODS IN INDIA.

3. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: Will Government be pleased to state whether any enquiry has been held at any time about the causes of floods in different parts of India during the last five years; if so, when, and what has been the result of such enquiries?

THE HONOURABLE MR. T. RYAN: Matters relating to floods and the steps taken to deal with them are primarily the concern of Local Governments. The Government of India have, therefore, no detailed information regarding enquiries that have been held into the causes of floods in different parts of India during the last five years or what has been the result of such enquiries. But they have every reason to believe that, where necessary, enquiries have been made, or are being made, and that all possible action is being taken. This is certainly the case in areas which are directly administered by the Central Government.

2. I may add for the Honourable Member's information that the Government of India, although not directly responsible, have, on two different occasions recently—namely, in 1924 and 1927—addressed Local Governments and offered to assist them in any way, and in particular in making any investigations they thought necessary. Advantage of this offer has been taken by three Local Governments—by the Bihar and Orissa Government in investi-

gating the flood problems in Orissa, and by Assam and Bengal, both of which provinces have been visited by the Consulting Engineer to the Government of India with a view to advice being given by him regarding flood problems.

FLOODS IN INDIA.

4. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: Will Government be pleased to state the number of floods that have taken place in different parts of India during the last five years?

THE HONOURABLE MR. C. W. GWYNNE: I have placed a statement on the table giving the information asked for by the Honourable Member.

Number of serious floods reported to the Government of India during the last five years.

In 1925.—Two each in the Madras Presidency and Orissa and one in the Bombay Presidency.

In 1926.—One in Bengal, three in Burma and one each in Orissa, the Punjab, Assam and the Central Provinces.

In 1927.—One each in the Bombay Presidency, Bengal, Bihar and Orissa and Assam. Floods also occurred in the Punjab and the North-West Frontier Province.

In 1928.—One each in the Madras Presidency and the Punjab.

In 1929.—One each in the Bombay Presidency, Madras Presidency, the Punjab, the North-West Frontier Province and Burma, and three in Assam.

SALE OF SILVER IN LARGE QUANTITIES IN ENGLAND.

5. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: Has any communication been received by the Government of India from the Indian Chamber of Commerce, Calcutta, deprecating the policy of Government in respect of their selling silver in large quantities in England lately as being detrimental to the interest of the country? If so, what steps do Government propose to take in the matter?

THE HONOURABLE MR. E. BURDON: The letter in question has been received. All the points raised in it were fully discussed between the Honourable the Finance Member and the Chamber recently in Calcutta. The Finance Member has given his careful attention to the matter and he hopes to be able to meet the Chamber's views in certain respects. I will give the Honourable Member a copy of statements which Sir George Schuster has recently made on the subject in another connexion, and I hope this will be of some use to my Honourable friend.

ROAD MOTOR COMPETITION WITH RAILWAYS.

6. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: Is it a fact that Indian Railways are being greatly affected by competition with road motors? If so, where and to what extent, and what steps do Government propose to take about it?

THE HONOURABLE MR. J. A. WOODHEAD: Passenger earnings on Indian Railways have been affected to a certain extent during recent years by road motor competition where metalled roads lie parallel to the railway line.

The general policy adopted by railway administrations is to meet such competition by endeavouring to afford to the public better service than is given by road transport. For fuller particulars, I would refer the Honourable Member to paragraph 69 of the Railway Board's Report on Indian Railways for 1926-27 and paragraph 54 of the Report for 1927-28.

THE PROPOSED ARICHA-DACCA RAILWAY.

7. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: What stage has the construction of the proposed Aricha-Dacca Railway now reached, and what steps do Government propose to take at present for its construction?

THE HONOURABLE MR. J. A. WOODHEAD: The final location of the line and preparation of land acquisition plans are in progress. Construction will be commenced after the detailed estimates prepared on the basis of the final location survey have been submitted to and accepted by the Railway Board, but it is unlikely that financial considerations will permit of active construction before 1931.

CONSTRUCTION OF THE ISWARDI-SADHUGANJ RAILWAY.

8. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: Have Government come to any decision about the construction of the Iswardi-Sadhuganj Railway in the district of Pabna? If so, what?

THE HONOURABLE MR. J. A. WOODHEAD: The project is still under consideration.

ALLEGED BAN ON THE NEWSPAPER *Liberty* OF CALCUTTA.

9. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: (a) Has the newspaper *Liberty* published in Calcutta been banned from the Eden Hindu Hostel at Calcutta? (b) Has Mr. S. C. Ghatak, officiating District Magistrate of Jessore, issued a circular to all Government servants prohibiting them from subscribing to that paper? (c) If so, why? (d) Have the Government of Bengal or the Government of India had any hand in the matter?

THE HONOURABLE MR. C. W. GWYNNE: The Government of India had no concern with the action alleged and have no information regarding it.

APPOINTMENT OF A REPRESENTATIVE OF THE BENGAL BANKERS' FEDERATION TO THE BENGAL PROVINCIAL BANKING ENQUIRY COMMITTEE.

10. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: (a) Are Government aware of the existence of the Bengal Bankers' Federation formed by the federation of a large number of indigenous banks in Bengal? (b) If so, what is its constitution and who are the constituent banks? (c) Has any representative of that body been appointed to the provincial branch in Bengal of the Banking Enquiry Committee? (d) If not, why not?

THE HONOURABLE MR. E. BURDON: (a) The Government are aware of the existence of the Bengal Bankers' Federation.

(b) They have been informed by the Federation that the Federation represents about 600 Banks and Loan Offices in Bengal.

(c) There is no representative of the Federation on the Bengal Provincial Banking Enquiry Committee.

(d) The general scheme for the composition of the Provincial Committees, which was settled, I may say, after consultation with, *inter alia*, a number of representative members of this Council and of the two Associations of Indian and European Chambers of Commerce, provided that the Committee should include a representative of the indigenous banking community. Dr. Narendranath Law has been selected for this purpose on the advice of the Local Government. In regard to this whole matter of Provincial Committees the views and wishes of Local Governments have very properly, I think, been given great weight.

ENQUIRY BY THE TARIFF BOARD REGARDING THE SALT INDUSTRY.

11. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: (a) What is the scope and object of the enquiry by the Tariff Board about salt? (b) Is it to be confined to the definite policy of entrusting the manufacture to private enterprise and that on the West Coast of India alone?

(c) Do Government propose to publish the report of Mr. Strathie about the matter?

THE HONOURABLE MR. J. A. WOODHEAD: (a) and (b), I have nothing to add to paragraph 6 of the Resolution of this Department No. 601-T.(1), dated the 25th July, 1929, which was published in the Gazette of India of 27th July, 1929, and to which the Honourable Member's attention is invited.

(c) Mr. Strathie did not submit what can properly be called a report, but wrote a departmental note for the information of the Central Board of Revenue. A copy of this note has been supplied to the Tariff Board for information, and any future publications on the whole subject of salt will now be left over till the Tariff Board's Report on the salt industry has been received.

I may, however, add that the entire matter that this note contained was embodied in the Report of the Central Board of Revenue which was published along with the Government Resolution of the 12th May, 1928.

ASSESSMENT OF COTTON PIECE-GOODS.

12. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: What is the scope and object of the investigation to be held by Mr. G. S. Hardy about the conditions of tariff in respect of imported cotton goods?

THE HONOURABLE MR. E. BURDON: As stated in the Press Communiqué issued on the 22nd July, 1929, Mr. G. S. Hardy has been appointed to examine the possibility of substituting a system of specific duties for the existing system of *ad valorem* assessment of cotton piece-goods. He will simultaneously ascertain and report what changes have taken place, since the Tariff Board reported, in the volume of imports, classes of goods imported and the extent and severity of external competition with the products of the Indian mills.

CONSTRUCTION OF A BRIDGE OVER THE BRAHMAPUTRA.

13. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY :
(a) Do Government contemplate the construction of a bridge over the Brahmaputra? (b) If so, where and when?

THE HONOURABLE MR. J. A. WOODHEAD : There are no proposals for a bridge over the Brahmaputra, but the construction of a bridge over the Meghna river near Bhairab Bazar is under consideration.

OPENING OF AIR MAIL SERVICES IN INDIA.

14. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY :
(a) Do Government contemplate opening air mail services between different places in India? (b) If so, when, between what places and upon what terms?

THE HONOURABLE MR. T. RYAN : (a) Yes; the matter is at present engaging the attention of the Government of India.

(b) I regret that I am not at present in a position to communicate particulars to the Honourable Member, but these will be furnished to him as soon as possible, and a copy will be placed on the table of the House.

ISSUE BY THE GOVERNMENT OF INDIA OF A RESOLUTION REGARDING LAND REVENUE.

15. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY :
(a) Is it a fact that at a conference of Revenue Members of the Provincial Governments it was decided that the Government of India would issue a Resolution on land revenue after consulting Local Governments? (b) If so, have the Local Governments been consulted? (c) Are the Government of India issuing any Resolution? (d) If so, when, and what Resolution?

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN : (a) and (b). Yes.

(c) and (d). The Government of India hope to issue the promised Resolution as soon as possible.

INDIANISATION ON THE COMPANY-MANAGED RAILWAYS.

16. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY :
(a) Was there any understanding that the Company-worked Railways would also carry out the policy of Indianisation to which the Railway Board had committed itself when the Lee concessions were sanctioned for application to officials on Company lines?

(b) How far have the Company-managed Railways carried out the policy of Indianisation and how much of it is Anglo-Indian, and how much other than Anglo-Indian?

THE HONOURABLE MR. J. A. WOODHEAD : (a) Yes.

(b) The Honourable Member will find the information he desires in Appendix G to Volume I of the Annual Reports by the Railway Board on Indian Railways, copies of which are in the Library.

INCREASING THE DEMAND FOR INDIAN COTTON IN ENGLAND.

17. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY :
(a) What suggestions, if any, have the Indian Central Cotton Committee, in their annual meeting held at Bombay in July last, made to the Indian Trade Commissioner in England with a view to increasing the demand for Indian cotton there? (b) What steps do Government propose to take about it?

THE HONOURABLE MR. J. A. WOODHEAD : The proceedings of the last annual meeting of the Indian Central Cotton Committee have not yet been published. It has, however, been ascertained from the Secretary to the Committee that no communication on the subject referred to has been addressed by him to the Indian Trade Commissioner in England, since the meeting was held.

PROCEDURE ADOPTED BY GOVERNMENT FOR LEVYING CUSTOMS DUTY ON GOODS DESTINED FOR INDIAN STATES AND FOREIGN TERRITORIES.

18. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY :
(a) What is the method adopted by Government of levying custom duties upon goods destined for inland Indian States and foreign territories? (b) Do Government propose to introduce any change in these methods? (c) If so, what changes?

THE HONOURABLE MR. E. BURDON : (a) Goods intended for inland Indian States are liable to customs duty on entering British India and no rebates of duty are granted on re-export to Indian States except in the case of goods intended for the Kashmir State, the duty upon such goods being transferred to that State. So far as goods for foreign territories are concerned no customs duty is levied in the case of goods intended for the Government of Nepal; full rebate of customs duty is also granted in the case of trade and private goods to that country subject to certain safeguards, e.g., proof of re-exportation. Trade and private goods to Afghanistan are allowed similar concessions. In the case of goods destined for Persia *via* Duzdap, duty is first levied and subsequently a refund of 15/16ths of duty is made. Similarly, in the case of goods destined for China *via* Bhamo and Tengyueh, 7/8ths of duty is refunded when the goods reach their destinations. The deductions of 1/16th and 1/8th referred to above are made in order to meet the expenditure on administration incurred by the Government of India.

(b) and (c). The Government of India do not propose to make any change in the existing procedure except as part of any decision that may be reached on the recommendations of the Butler Committee, which will be considered in due course.

USE OF THE CART ROAD BY THE DARJEELING HIMALAYAN RAILWAY.

19. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY :
Upon what terms is the Cart Road used by the Darjeeling Himalayan Railway and who maintains the said road in repair?

THE HONOURABLE MR. J. A. WOODHEAD : The terms are contained in the Darjeeling Himalayan Railway Contract, dated 8th April, 1879. This contract is printed at pages 132 to 146 of the "Reprint of Contracts of Hardwar-

Dehra, Sara-Sirajganj and Darjeeling Himalayan Railways", a copy of which is available in the Library.

PROTECTION OF THE RIGHTS AND PROSPECTS OF PRESENT INCUMBENTS OF THE INDIAN MEDICAL SERVICE IN CIVIL EMPLOY, ETC.

20. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY :

(a) Is it the policy of Government to guarantee to the present incumbents in the Indian Medical Service all the prospects of service and promotion which they had when they joined the service? (b) If so, has a similar guarantee been given in respect of other services as well? (c) What are these guarantees in detail in respect of the different services?

(d) How many European doctors have been stationed in the interior districts in different provinces to afford facilities of treatment to European officers and how many in different headquarters of provinces and how many in hospitals and colleges, respectively?

(e) (i) How many Indian Medical Service men have been placed in Central and Provincial administrative posts? (ii) What proportion do they form of the total cadre? (iii) How many of them are Indians?

(f) Do Government propose to create a provincial cadre of the Medical Service for the minor provinces or to reserve these posts also for the Indian Medical Service men?

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN : (a) The Honourable Member is presumably referring to Indian Medical Service officers in civil employ whose rights require protection owing to the reduction in the number of reserved posts under the reorganization scheme. I would invite his attention to paragraph 8 of the Press Communiqué issued on the 10th May, 1928, a copy of which has been placed in the Library of the House.

(b) and (c). The existing rights and prospects of members of other all-India services operating in the transferred field have also been fully preserved, for instance, it has been provided by rules—

- (1) that no person may be appointed without the previous sanction of the Secretary of State in Council to any post borne on the provincial cadre of an all-India service except a person who is either a member of the service or is already holding a post borne on the cadre of that service;
- (2) that the cadre of a provincial or a subordinate service may not be increased or reduced without the Secretary of State's previous sanction, if such increase or reduction would affect adversely a member of the corresponding all-India service;
- (3) that an all-India service post may not be abolished without the previous sanction of the Secretary of State in Council, if an existing member of the service is likely to be prejudiced thereby, and in no case may a post carrying special pay or a post of the Head of a Department be abolished without the sanction of that authority.

(d) The distribution will be found in the Annexures to the Press Communiqué referred to by me in answer to part (a).

(e) If by the words "administrative posts" is meant such posts as carry the rank of Colonel or Major-General, then the post of Director General, Indian Medical Service, which is under the Central Government, is the only post which is reserved for Indian Medical Service officers under the re-organization scheme announced in the Press Communiqué of the 10th May, 1928. Under this scheme the total number of Indian Medical Service officers required for civil employ is 302. The nine Surgeon Generalships and Inspector Generalships of Civil Hospitals in provinces are also at present held by Indian Medical Service officers, all of whom are Europeans.

(f) If the Honourable Member means that there should be one cadre for all posts held by Assistant Surgeons in all the minor provinces, then I may say that there is no such proposal under the consideration of the Government. The posts reserved for Indian Medical Service officers in the minor provinces will be found in Annexure I to the Communiqué to which I have already referred.

EGYPTIAN SCHEME OF LOANS TO CULTIVATORS ON SECURITY OF COTTON STORED.

21. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY :

(a) Has the Indian Central Cotton Committee brought to the notice of the Government of India or the Provincial Governments any scheme proposed by the Egyptian Government of loans being advanced on the security of cotton designed to assist the small producer? (b) If so, what is the scheme? (c) What steps do Government propose to take in the matter? (d) Are similar measures contemplated in respect of jute and other agricultural products?

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

(b) The main features of the scheme are explained in the note of the Secretary, Indian Central Cotton Committee, copies of which are placed on the table.

(c) and (d). The Indian Central Cotton Committee discussed the scheme at its meeting in July last and considered that it was of great interest and importance to India. The information collected by the Committee has been brought to the notice of all Provincial Governments with the request that the details of the scheme may be communicated to co-operative institutes, Central Co-operative Banks and similar institutions in each province interested in the finance and marketing of the cotton crop. The information has also been supplied to the Provincial Banking Enquiry Committees.

It is understood from the information, so far available, that the scheme has not yet been put into practice in Egypt and the Indian Central Cotton Committee is taking steps to keep itself informed of the progress of the scheme and particularly of such experience as may be obtained as a result of its actual operation in the cotton growing tracts in that country. The Government of India have no doubt that Local Governments and the Central and Provincial Banking Enquiry Committees will take suitable action on the information supplied to them by the Indian Central Cotton Committee. A copy of the Honourable Member's question and of this reply will be sent to all the Local

Governments and Administrations and also to the Secretary, Central Banking Enquiry Committee. ■

Note of the Secretary, Indian Central Cotton Committee.

The scheme is designed to be worked by Government in co-operation with Banks. A nucleus fund of ₹15,000 is to be deposited by Government with each Bank for the purpose of making advances against cotton deposited by cultivators in approved godowns, compounds, etc. Banks will requisition daily from the National Bank the amount of advances approved on the previous day. The grower may, on depositing his cotton at any of the several places nominated by Government, including bank compounds, warehouses and approved ginning factories, obtain advances on a fixed scale according to the amount of cotton deposited, its variety and class. The limits of the amounts of cotton upon which advances can be obtained are, minimum 5 kantars (6 maunds), maximum 500 kantars (600 maunds). Interest at the rate of 4 per cent. per annum is required to be paid by cultivators taking advances, but all other charges, e.g., storage, packing, weighing, protection, etc., are borne by Government. Advances are only granted to growers on their own crop and they are required to furnish a declaration to this effect previous to receiving a loan from a Bank. Each cultivator has to sign a contract form before receiving an advance. Advances are sanctioned for a period of four months with the option of extension for four more. The necessary staff, cashiers, agents, warehouse-keepers, etc., are nominated by the Bank but paid by Government. Furthermore, the Banks furnish sacks, etc., at a reasonable cost to borrowers requiring these for the packing and storage of their cotton, the expense in this connection being also met by Government. It is interesting to note that the borrowers have to agree to Government taking charge of the ginning of all cotton deposited and to accept the classification of their cotton made at the place of deposit or ginning factory. The borrower further authorises Government to sell the seed at a price considered reasonable and may authorise Government further to effect the sale of his cotton after ginning in the Bourse of Minciel Bassal. In default of payment at maturity, of capital, interest and expenses which have been advanced by Government to borrowers, Government can proceed to sell the cotton deposited after 30 days' notification of sale; 1 per cent. will be recovered from the proceeds of such sales for the expenses incurred in realizing the security and, from the net price obtained, the advance, principal and interest outstanding, are deducted and the balance sent to the borrower.

ELECTRIFICATION OF CERTAIN SECTIONS OF THE SOUTH INDIAN RAILWAY.

22. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY :
(a) Are there any negotiations going on between the Madras Government and the Railway Board about the electrification of certain sections of the South Indian Railway? (b) If so, what is the proposal and what decision have the Railway Board come to about it?

THE HONOURABLE MR. J. A. WOODHEAD: The question of taking electricity from the Madras Government's Pykara Hydro-Electric Scheme has been under examination for some time; present indications are that, with the exception of the Nilgiri Mountain Railway, the electrification of which is still under consideration, there is no justification for electrifying any section of the South Indian Railway from the Pykara Scheme.

PURCHASE BY THE EAST INDIAN RAILWAY OF CURRENT AT CERTAIN STATIONS TO BE SERVED BY THE UNITED PROVINCES GOVERNMENT'S TRANSMISSION LINES.

23. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY :
(a) Are negotiations taking place between the East Indian Railway and the United Provinces Government's electric development scheme?
(b) If so, what are the negotiations?

THE HONOURABLE MR. J. A. WOODHEAD: The Agent, East Indian Railway, reports that he is arranging for the purchase of current at certain railway stations to be served by the United Provinces Government's transmission lines.

ELECTRIFICATION OF THE SUBURBAN RAILWAYS OF CALCUTTA.

24. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY :
Do Government contemplate the electrification of the suburban railways of Calcutta at an early date?

THE HONOURABLE MR. J. A. WOODHEAD: The matter is still under examination and it is impossible to say when the investigation will be completed.

CASES OF FRAUD, EMBEZZLEMENT AND FINANCIAL IRREGULARITIES ON RAILWAYS.

25. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY :
(a) Is it a fact that 60 cases of fraud and embezzlement and financial irregularities have been reported in Mr. G. Kaula's Appropriation Accounts of Railways in India, 1927-28? (b) If so, what are the details of these cases, and what steps do the Railway Board propose to take in the matter?

THE HONOURABLE MR. J. A. WOODHEAD: Copies of the Appropriation Accounts of Railways in India for 1927-28 are in the Library and the Honourable Member will find full details of the cases he refers to in that publication. As regards the steps that the Railway Board propose to take in the matter, I would refer him to the evidence given by the Financial Commissioner of Railways before the Public Accounts Committee when this report was discussed by them last month.

UNDESIRABILITY OF PLEADINGS BEING DRAWN BY ATTORNEYS.

26. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY :
(a) Is it a fact that Mr. Justice Buckland sitting as a Judge on the Original Side of the Calcutta High Court has repeatedly drawn attention to the undesirability of pleadings being drawn by attorneys?

(b) Is there any law which forbids attorneys from drawing pleadings in suits on the Original Side of the High Courts in India? (c) If not, do Government propose altering the law in any way?

THE HONOURABLE MR. C. W. GWYNNE: (a) Yes.

(b) High Courts are empowered to frame rules. Government do not propose to alter the law.

NUMBER OF CASES COMPROMISED IN THE COURT OF MR. JUSTICE BUCKLAND OF THE CALCUTTA HIGH COURT.

27. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY :
Is it a fact that more cases coming up before Mr. Justice Buckland on the Original Side of the Calcutta High Court are compromised by the parties than before any other Judges?

THE HONOURABLE MR. C. W. GWYNNE: Government have no information.

CONTRIBUTION TO THE COUNTESS OF DUFFERIN'S FUND, ETC.

28. THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY : (a) How much contribution, if any, is made by the Government of India to the Lady Dufferin Fund Association for the provision of medical aid to women ? (b) How and where are women doctors recruited for the Society ? (c) How many of these doctors are Indians or doctors with Indian qualifications ?

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN : (a) An annual contribution of Rs. 3,70,000 is made from Central Revenues to the Countess of Dufferin's Fund.

(b) Recruitment to the Women's Medical Service is made both in England and in India, but with the exception of specialists for teaching posts all recruitment has, since 1926, been made in India. The Selection Committee which recruits in India, consists of the Director General, Indian Medical Service, the Surgeon to His Excellency the Viceroy and the Chief Medical Officer, Women's Medical Service. In England candidates are recruited by a sub-committee of the Countess of Dufferin's Fund consisting of a medical man and two medical women, two members of the sub-committee at least being conversant with Indian conditions. A copy of the general rules and regulations of the Women's Medical Service for India has been placed in the Library of the House.

(c) Of the total cadre of 44 officers in the Women's Medical Service, 22 including 9 Anglo-Indians are of Indian domicile. As regards the qualifications possessed by officers of Indian domicile, one has only an Indian degree and has now proceeded to England for further study in her special subject, two have British degrees, whilst the others have both Indian and British degrees.

INDIAN DOCTORS EMPLOYED IN EUROPEAN HOSPITALS, ETC.

29. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : (a) Are there any Indian doctors employed in hospitals for Europeans ?

(b) If so, how many ?

(c) Do European patients object to being treated by Indian doctors ?

(d) If so, is there a similar objection on the part of Indians to being treated by Indian doctors ?

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN : (a) to (d). The Honourable Member has not mentioned whether he wants statistics for military or non-military hospitals. In any case, it would be impossible to answer his question without having a referendum of patients.

CREATION OF AN ALL-INDIA MEDICAL COUNCIL, ETC.

30. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : (a) Will Government be pleased to state the result of the Conference of Ministers and heads of the Medical Departments of the different provinces recently held at Simla with regard to the introduction of a Bill for constituting an All-India Medical Council ?

(b) If the said Bill has been dropped by Government, why has it been so done ?

(c) Is it a fact that the provincial authorities were against centralisation of control ?

(d) Is it proposed to appoint a whole-time Commissioner of Medical Education ? If so, were the various Universities concerned in India consulted and what has been the opinion expressed by them ?

(e) If the Universities in India have not been consulted in the matter, do Government contemplate consulting them before coming to any final decision ?

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN :

(a) The views expressed at the Conference are under consideration.

(b) Government have not arrived at any decision.

(c) The opinions expressed by provincial representatives at the Conference were not unanimous.

(d) and (e). The proposal to appoint a whole-time Commissioner of Medical Qualifications and Standards has been accepted by Local Governments. The Government of India did not consult the Universities concerned, and have no information whether these Universities were consulted by Local Governments.

ORGANISATION OF MEDICAL RESEARCH IN INDIA.

31. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : Do Government propose to take any steps upon the report of the Fletcher Committee on the organisation of medical research in India ?

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN : Government have approved in principle the recommendation for the establishment of a Central Medical Research Institute at Dehra Dun, but the details are still under consideration. The attention of the Honourable Member is in this connection invited to paragraph 27 of the proceedings of the meeting of the Standing Finance Committee held on the 29th August 1928 and to the appendix referred to therein. Copies of these proceedings and of the Fletcher Committee's report will be found in the Library of the House.

NUMBER OF GOODS VANS RUNNING EMPTY FROM ONE PROVINCE TO ANOTHER.

32. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : (a) How many goods vans ran empty from one province to another each year during the last five years ?

(b) Do Government contemplate the issue of any concession rates for the utilisation of these empty vans ?

THE HONOURABLE MR. J. A. WOODHEAD : No record is maintained of goods stock running empty from one province to another. As empty running is due to the volume of traffic in one direction being greater than in the other, obviously no Railway Administration will refuse to quote concession rates for traffic in the direction of empty running if thereby additional traffic can be created. But, in doing so, they have to take into consideration the fact that, as concession rates quoted for any commodity cannot be restricted to new traffic only, there might be a loss of revenue on the whole, by reason of the lower rates applying to traffic offering at existing rates.

INTRODUCTION OF LEGISLATION FOR THE CREATION OF AN ALL-INDIA MEDICAL COUNCIL.

33. THE HONOURABLE DR. U. RAMA RAU: (a) Will the Government of India be pleased to state on what grounds the Health Ministers of the various Provinces of India assembled at the recent Health Ministers' Conference in Simla vetoed the introduction of the Medical Council Bill?

(b) Will Government be pleased to lay on the table of the House the full proceedings of the said Conference?

(c) Will Government be pleased to state what further action they propose to take in the matter?

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN: (a) and (b). Government regret they are unable to comply with the Honourable Member's request, as the proceedings of the Conference are confidential.

(c) The matter is under consideration.

APPOINTMENT OF A WHOLE-TIME COMMISSIONER OF MEDICAL QUALIFICATIONS AND STANDARDS.

34. THE HONOURABLE DR. U. RAMA RAU: (a) Are the Government of India contemplating the appointment of a whole-time Commissioner to supervise Medical Education in this country?

(b) Will the post be reserved for an I. M. S. officer?

(c) Are Government considering the advisability of advertising for the said post both in England and India and selecting a suitable candidate, preferably an Indian with British medical qualifications, outside the ranks of the Indian Medical Service?

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN: (a) The Government of India have decided, in consultation with Local Governments, to create the appointment of a whole-time Commissioner of Medical Qualifications and Standards on a temporary footing.

(b) The reply is in the negative.

(c) Government do not propose to advertise the post, nor do they see any reason why officers of the Indian Medical Service should be excluded from consideration merely because of their association with a particular service.

THE MANGALORE-MALPE RAILWAY.

35. THE HONOURABLE DR. U. RAMA RAU: (a) Will the Government of India be pleased to state whether the proposed survey of the alternative routes of the Mangalore-Malpe Railway has been completed, and if so, what route, coastal or inland, has been decided on?

(b) When is the work likely to commence and when is it likely to be completed?

(c) What will be the approximate cost of its construction?

THE HONOURABLE MR. J. A. WOODHEAD: The survey has been found more difficult than was expected and a revised estimate has recently been

sanctioned. The survey report has not yet been received. It is, therefore, impossible at present to answer the Honourable Member's following two questions.

ARRIVAL OF THE WEST COAST MAIL AT MANGALORE.

36. THE HONOURABLE DR. U. RAMA RAU: (a) Are the Government of India aware that according to the present timings of the South Indian Railway the Mangalore mail reaches Mangalore at 6 P.M. daily?

(b) Are Government aware that letters cannot be delivered on the day of arrival of the mail and that great inconvenience and loss is caused to the public, especially to business men?

(c) Do Government propose to direct the railway authorities to so alter the timings as to remove this disability?

THE HONOURABLE MR. T. RYAN: (a) It is a fact that the West Coast mail is scheduled to reach Mangalore at 6 P.M. daily.

(b) Government have not received any representation to the effect that serious inconvenience is caused to the public in regard to their post thereby. A window delivery of the post is effected at 7 P.M., of which the public and the mercantile community avail themselves largely.

(c) The South Indian Railway have now undertaken, with effect from the 15th October, to revise their time tables so that the train will arrive at Mangalore at 4-15 P.M. Ordinarily delivery through postmen is practicable only if the mail arrives at 3-30 P.M., but the Postmaster-General will be asked to consider whether it is not feasible to arrange a postmen's delivery at the later hour if there is any considerable demand for it.

FORMATION OF A SEPARATE KARNATAKA PROVINCE.

37. THE HONOURABLE DR. U. RAMA RAU: (a) Are the Government of India aware that the Madras Legislative Council has passed a Resolution at its meeting held on 8th August, 1929, that urgent steps should be taken for the formation of a separate Karnataka Province?

(b) Are Government considering the advisability of appointing a Committee to enquire into and suggest ways and means for the formation of a separate Karnataka Province?

THE HONOURABLE MR. C. W. GWYNNE: (a) Yes.

(b) The answer is in the negative.

CONVENING OF A ROAD CONFERENCE.

38. THE HONOURABLE DR. U. RAMA RAU: (a) Will the Government of India be pleased to state whether they propose to hold a Road Conference to consider the various recommendations of the Road Committee?

(b) If so, when is it likely to be held and where and what will be its composition?

THE HONOURABLE MR. T. RYAN: (a) A Conference of the nature indicated was held on the 6th and 7th of this month.

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- (b) Representatives of all Local Governments, excepting Madras, were present at the Conference.

REVISION OF THE PAY AND PROSPECTS OF THE MINISTERIAL STAFF OF THE CALCUTTA CUSTOM HOUSE.

39. THE HONOURABLE MR. KUMAR SANKAR RAY (CHAUDHURY (on behalf of the HONOURABLE SRIJUT LOKENATH MUKHERJEE): (a) With reference to the reply given by Government to question No. 196 in the last Session of the Council of State on 30th March, 1929, concerning the revision of the pay and prospects of the ministerial staff of the Calcutta Custom House, is it a fact that while the minimum of the scale of pay of the Printing and Stationery Establishment, Calcutta, is the same as that of the Calcutta Customs, the maximum of the former is higher than that of the latter?

(b) If so, will the Government be pleased to state the reasons for so fixing the scales of pay for two establishments both of which are located in Calcutta?

(c) Is it a fact that the pay of the Lower Division clerks of the Calcutta Custom House is lower than that of the Lower Division clerks of the Bengal Secretariat as well as of the Bombay Custom House and that the pay of the Superintendents of the Calcutta Custom House is higher than that of the Head Assistants and Superintendents respectively of the Bengal Secretariat and the Bombay Custom House?

(d) If so, will the Government be pleased to state the reasons for this differential treatment?

(e) Is it a fact that—

(i) the pre-war minimum pay of the Lower Division clerks in the Calcutta Custom House was Rs. 30 whereas in the Calcutta Post Offices it was Rs. 25;

(ii) that the present minimum scale of pay of the Lower Division clerks in the Calcutta Custom House is Rs. 45 and that of the Calcutta Post Offices is Rs. 50?

(f) If so, will Government be pleased to state what is the reason for fixing such different scales of pay in two branches of their administration?

(g) Is it a fact that since 1919 the scales of pay of almost all the Central establishments in Calcutta excepting the Customs establishment were revised more than once?

(h) If so, do the Government propose to make a further adjustment in respect of the rates of pay in the Calcutta Custom House?

THE HONOURABLE MR. E. BURDON: (a) Yes.

(b) In fixing the rates of pay not only the cost of living but the nature of the duties performed and the chances of promotion to the upper division are also taken into consideration.

(c) Yes.

(d) While rates of pay in the Customs establishment are fixed, so far as possible, in accordance with the rates of pay given by the Local Government to men performing similar duties in the same locality, it is not suitable or indeed possible to have precisely the same graduation as exists in a given office of

the Provincial Government. The graduation has necessarily to be determined with reference to the immediate facts, e.g., the strength and composition of the office, the prospects of promotion, the relative strength of the higher and the lower grades, and so forth.

(e) (i) No: the pre-war pay of the postal clerks also was Rs. 30 per mensem.

(ii) Yes.

(f) The scales of pay in the two branches of the administration were fixed by different authorities, and I have no doubt that to some extent the differences in the scales are accidental, but I would venture to say that the onus lies upon those who would claim that the scales of pay in different branches of the administration should be the same and not different. On the further consideration which has been given to the matter as the result of the Honourable Member's question the Government of India are satisfied that sufficient reason for maintaining the distinction is to be found in the difference in the conditions of service in the two Departments in question.

(g) Yes.

(h) The Government of India are satisfied that there would be grave objections to undertaking a revision of the rates of pay of the clerical establishment of the Calcutta Custom House, unless this could be done as the result of a general survey of the rates of pay of clerks in all Departments subordinate to the Central Government to be undertaken in co-operation with similar surveys by the Provincial Governments.

PROVISION OF AN INTERMEDIATE CLASS WAITING ROOM AT MIDNAPUR ON THE BENGAL NAGPUR RAILWAY.

40. THE HONOURABLE MR. MAHMOOD SUHRAWARDY: With reference to the reply of Government to my question No. 128 (b) in Volume II, No. 6, of the Council of State Debates, dated the 21st September, 1928, will the Honourable Member in charge of the Railway Department be pleased to state what steps have been taken to provide an intermediate class waiting room at Midnapur station on the Bengal Nagpur Railway in Bengal?

THE HONOURABLE MR. J. A. WOODHEAD: The Agent reports that an estimate for a new intermediate class waiting room at Midnapore station is under preparation.

PROPOSED RAILWAY BETWEEN CONTAI AND CONTAI ROAD STATION ON THE BENGAL NAGPUR RAILWAY.

41. THE HONOURABLE MR. MAHMOOD SUHRAWARDY: (a) Will the Honourable Member in charge of the Railway Department be pleased to state if any provision has been made in the current year's budget for the proposed railway line between Contai and Contai Road station on the Bengal Nagpur Railway in Bengal?

(b) If the answer to (a) be in the affirmative, will the Honourable Member in charge be pleased to state why no action has been taken to lay the line and when do the Government propose to begin the actual work of construction?

(c) If the answer to (a) be in the negative, will the Honourable Member in charge be pleased to state why no provision has been made in the current year's Budget, and when do the Government propose to make such provision?

(d) Will the Honourable Member in charge be pleased to state if the Government propose to expedite the work of construction?

THE HONOURABLE MR. J. A. WOODHEAD: No provision for the line has been made in the current year's Budget, because the available funds have been devoted to carrying towards completion of the many other construction projects in progress. I am afraid it will not be possible to allot funds for the project before 1931.

THE DACCA-ARICHA RAILWAY.

42. **THE HONOURABLE MR. MAHMOOD SUHRAWARDY:** With reference to my question No. 88, Volume I, No. 19 of the Council of State Debates, dated the 13th March, 1928—

(a) Will the Honourable Member in charge of the Railway Department be pleased to state what steps have been taken to construct the proposed Dacca-Aricha Railway line?

(b) Will the Honourable Member be pleased to state if the Government propose to take up the work early?

(c) Will the Honourable Member in charge be pleased to lay on the table a copy of the report of the Agent, Eastern Bengal Railway, regarding this project?

(d) Has the attention of the Government been drawn to the report published in the Town edition of the Calcutta paper *The Statesman* of 26th July, 1929, that a public meeting at Dacca presided over by the Nawab Bahadur of Dacca, urged the Government to complete the scheme by 1932-33 and to provide money in the budget for the same?

(e) Will the Honourable Member in charge be pleased to state if the Chief Commissioner of Railways received any deputation at Mymensingh in connection with this project?

THE HONOURABLE MR. J. A. WOODHEAD: (a) and (b). I would refer the Honourable Member to the reply which I have just given to the Honourable Mr. Kumar Sankar Ray Chaudhury on the same subject.

(c) A copy of the report will be placed in the Library.

(d) and (e). Yes.

ENHANCED PRICE OF SALT ISSUED FOR FISH-CURING.

43. **THE HONOURABLE DR. U. RAMA RAU:** (a) Have the fisherfolk of the two districts of Malabar and South Kanara recently submitted a memorial to the Central Government setting forth all their grievances and hardships caused by the doubling of the price of salt issued for fish-curing?

(b) Have the Madras Government collected from the curers of these two districts alone nearly 4½ lakhs of rupees in four years by doubling the price of salt?

(c) Have fish-curers suffered heavy loss by having had to buy and use duty-paid salt from the bazaars owing to the failure of the Madras Fisheries Department to make timely deliveries of salt at the yards?

THE HONOURABLE MR. E. BURDON: (a) The answer is in the affirmative.

(b) The issue price fixed in 1918 was 10 annas a maund, and the price was raised to Rs. 1/4 a maund when the yards were transferred to the control of the Fisheries Department. The figure quoted by the Honourable Member is approximately correct as representing the consequent increase in collections during the years 1924-25 to 1927-28. The sale of salt at 10 annas a maund could only be conducted at a heavy loss to the Government, averaging Rs. 1½ lakhs per year during the three years ending with 1923-24; and the object of the increase in price was to put an end to this loss. The Government of India forego the duty on this salt, but it would be going outside their sphere to go further and grant a subsidy to the fish-curing industry by selling salt at a loss. It seems unlikely then that the salt could be issued at a cheaper rate if the work were transferred from the Fisheries Department to the Salt Department.

(c) The Government of India have no information beyond that contained in the memorial referred to in part (a) of the question but have made enquiries from the Madras Government upon the point.

TRANSFER OF THE FISH-CURING YARDS IN THE MADRAS PRESIDENCY TO THE CONTROL AND MANAGEMENT OF THE CENTRAL GOVERNMENT.

44. **THE HONOURABLE DR. U. RAMA RAU:** Will Government be pleased to state what action has been taken to give effect to the Resolution of the Honourable Mr. Ramadas Pantulu moved on 3rd March, 1927, and adopted by this Council, relative to the transfer of the fish-curing yards in the Madras Presidency to the control and management of the Central Government?

THE HONOURABLE MR. E. BURDON: The recommendation contained in the Resolution adopted by the Council of State was duly considered by the Government of India in consultation with the Government of Madras. The latter Government pointed out that the transfer of the work of issuing duty-free salt for fish-curing to the Salt Department would not necessarily result in a reduction in the issue price, as I have already explained in my reply to the last question; while there was no reason to suppose that the existing arrangement was fraught with any risk to the revenue, or involved any duplication of staff and expenditure. On the other side, the Local Government explained that the retention of the control of the yards in the hands of the Fisheries Department contributed greatly to the efficiency of that Department and thus indirectly to the welfare of the fisherfolk themselves. These yards being situated in important fishing villages on the two coasts enable the Fisheries Department to reach the fisherfolk quickly and effectively and to maintain that close and constant touch with them which is essential in order that the Department might accomplish all

the various purposes connected with the social, moral and economic uplift of the fisher community the attainment of which has been accepted by the Local Government as its goal. The Government of India concluded that there was no substantial argument in favour of the transfer and much to be said against it, and therefore decided that it should not be effected.

PAY OF THE NON-GAZETTED TECHNICAL ASSISTANTS OF THE EPIGRAPHICAL BRANCH OF THE ARCHÆOLOGICAL DEPARTMENT, SOUTHERN CIRCLE.

45. THE HONOURABLE DR. U. RAMA RAU: (a) Will Government be pleased to state the existing scale of pay of the non-gazetted technical Assistants of the Epigraphical Branch of the Archæological Department, Southern Circle?

(b) Was any time-scale fixed in their case; if not, what was the omission due to?

(c) Do all these technical Assistants do the same kind of work and are they required to possess University qualifications, a sound knowledge of Ancient Indian History, proficiency in Sanskrit and one or two South Indian languages and aptitude for patient and intelligent research, besides ability to decipher and study old and worn out stone and copper plate records?

(d) Is there any disparity in their starting and maximum salary and, if so, why?

(e) Were memorials submitted to the Government in December, 1928, by this class of officers praying for the introduction of a uniform time scale and the grant of house rent allowance and other concessions?

(f) Were the said memorials returned by the Director General of Archæology with the remarks that they ought to have come through the proper channel?

(g) Was any action taken on their original memorials; if so, what, and if not, why not?

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN:

(a) and (b). The existing scales of pay are:—

(i) Senior Epigraphical Assistant—Rs. 150—10—250 per mensem *plus* special pay of Rs. 50.

(ii) Second Epigraphical Assistant—Rs. 100—10—250 per mensem.

(iii) Junior Assistants—Rs. 100—5—150 per mensem.

(c) Yes.

(d) The starting and maximum salaries are different because the posts are divided into senior and junior and the responsibilities attaching to them are not uniform.

(e) One memorial was irregularly submitted direct to Government and others to the Director General of Archæology by individual incumbents of the posts.

(f) The Director General returned the memorials because they were not submitted through the proper channel, *viz.*, the immediate head of the memorialists' office and the Government Epigraphist.

(g) No, for the reason given in (f).

ASSISTANT ARCHÆOLOGICAL SUPERINTENDENT FOR EPIGRAPHY, MADRAS.

46. THE HONOURABLE DR. U. RAMA RAU: (a) Was the post of the Assistant Archæological Superintendent for Epigraphy at Madras filled by a reference to the Public Service Commission?

(b) What are the credentials and qualifications of the officer, selected by the Public Service Commission, which entitle him to the said post?

(c) Have the claims of the officers already in the Department been considered before appointing this new incumbent, and, if not, why not?

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN:

(a) Yes.

(b) The officer appointed is an M.A. in History and Economics of the Madras University, received technical training in Epigraphy under Rao Bahadur H. Krishna Sastri, the late Government Epigraphist, and is the author of many articles and papers upon epigraphical and other archæological subjects.

(c) Yes. The latter part of the question does not arise.

THE SWEDISH MATCH FACTORY.

47. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: (a) Was the Swedish Match Factory asked by Government and compelled to issue shares to the public in India and to base their business on a rupee capital and to include a majority of Indian directors?

(b) If so, what is meant by the word "Indians"?

(c) Are similar conditions going to be imposed upon other concerns existing at present or to be opened in future for working the resources of India?

THE HONOURABLE MR. J. A. WOODHEAD: (a) No.

(b) and (c). Do not arise.

RATES FOR PASSENGERS AND GOODS ON THE DIFFERENT STATE RAILWAYS.

48. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: (a) Will Government be pleased to state in a tabular form the rates for passengers and goods of different classes on the different State Railway systems?

(b) Are these rates uniform?

(c) If the answer to (b) is in the negative, why are they not uniform?

(d) Is the variation due to competition; if so, with whom is such competition in each particular case?

THE HONOURABLE MR. J. A. WOODHEAD: (a) A statement of the rates for passengers on all Class I Railways, including the State Railway systems, was laid by Mr. Rau on the table of the Legislative Assembly in connection with his reply to Mr. Gaya Prasad Singh's question No. 1440 to the 3rd April, 1929. As regards rates for goods the information required

by the Honourable Member may be obtained by reference to the General Classification of Goods published by the Indian Railway Conference Association and to the printed Goods Tariffs of the different Railway Administrations. To compile and tabulate this information would involve the publication of a bulky volume.

(b) and (c). Entire uniformity is impracticable as financial circumstances and other conditions vary on different State Railways.

(d) Certain variations in rates and fares are due to competition with other railways and with other modes of transport. The preparation of a statement to cover each particular case would involve a very great amount of labour which is not considered to be justified.

SCOPE OF INQUIRY TO BE MADE BY THE INDIAN CENTRAL BANKING INQUIRY COMMITTEE.

49. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : Does nationalised banking system form part of the scope of inquiry of the Banking Committee. If not, why not ?

THE HONOURABLE MR. E. BURDON : I have inquired and I understand from the Honourable Member that the object of his question is to ascertain whether the establishment of a system of State banks throughout the country comes within the scope of the inquiry to be made by the Banking Committee. I have already supplied the Honourable Member with a copy of the Government of India, Finance Department, Resolution No. F 2 (4)-F./29, dated the 22nd July, 1929, giving the terms of reference to the Committee. These terms were decided upon by Government after consultation with the Indian Central Banking Inquiry Committee, and I am sure, Sir, that the terms of reference are wide enough to cover the head of inquiry suggested by the Honourable Member.

IMPORTS OF COTTON CLOTH FROM ITALY.

50. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : (a) Have Italian manufacturers of cotton cloth invaded the cloth trade of India ?

(b) If so, to what extent ?

(c) Do Government contemplate taking any steps in the matter, and what steps ?

THE HONOURABLE MR. J. A. WOODHEAD : (a) Imports of cotton cloth from Italy have increased during the past few years.

(b) The extent of the increase may be ascertained from the detailed statistics recorded in the sea-borne trade accounts in the Library.

(c) The Government do not propose to take any special steps in the matter.

CONSTITUTION OF THE COUNCIL OF THE IMPERIAL LIBRARY, CALCUTTA.

51. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : (a) Will Government be pleased to state the names of persons appointed to the Imperial Library Committee, and how many of them are Indians ?

(b) Will Government be pleased to state who selects the members of the Imperial Library Committee from the different provinces ?

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN : (a) The names of the members of the Council of the Imperial Library, Calcutta, are :—

- (1) R. Littlehales, Esquire, C.I.E., M.A., Educational Commissioner with the Government of India, *ex-officio* Chairman.
- (2) The Honourable Justice Sir Philip Buckland, Kt., Puisne Judge, High Court, Calcutta.
- (3) Lieutenant-Colonel N. Barwell, Bar.-at-Law, Honorary Librarian, Asiatic Society of Bengal.
- (4) Reverend Dr. W. S. Urquhart, M.A., D.Litt., Vice-Chancellor, Calcutta University.
- (5) Rai Bahadur Dr. Upendra Nath Brahmachari, M.A., M.D., Ph.D., F.A.S.B.
- (6) Mr. H. G. Rawlinson, M.A., F.R.H.S., Principal, Deccan College, Poona.
- (7) Mr. A. C. Woolner, C.I.E., M.A., Vice-Chancellor, University of the Punjab, Lahore.
- (8) Mr. S. Sinha, Bar.-at-Law, Patna.

Two of these members are Indians.

(b) The Government of India select the members of the Council of the Imperial Library from the different provinces after consultation with Provincial Governments.

TREATMENT OF EUROPEAN PRISONERS CONVICTED OF OFFENCES AGAINST PERSON AND PROPERTY.

52. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : (a) Will Government be pleased to state whether Europeans convicted of offences against person and property receive any special class treatment as Europeans in jails, or not ?

(b) How many Europeans convicted of offences against person and property are there in the jails in India, and what treatment do they receive in jails in India as regards their diet and residence ?

THE HONOURABLE MR. C. W. GWYNNE : (a) The rules relating to convicted prisoners vary in detail from province to province. In regard to the differentiation now in question, it may be said, broadly, that the principle adopted is to establish conditions, which will maintain the health of all prisoners and will, at the same time, not impose undue expenditure on the State. In pursuance of this principle regard is paid to the previous mode of living of prisoners in the rules, relating to diet, bedding and, in some provinces, to accommodation. In some provinces the special rules framed for European prisoners do not apply exclusively to Europeans, and provision is made for their application to Indians whose standard of living is similar to that of Europeans. In regard to convicts classed as special class prisoners, no distinction is recognised in the rules between European and other prisoners.

(b) The information desired by the Honourable Member, in regard to the number of European prisoners, is being collected and will be communicated to him in due course. The answer to the first part of the question explains the broad principles on which Europeans are treated. If the Honourable Member desires more detailed information, I would refer him to the Jail Manuals of the different provinces.

STRIKE OF THE TINPLATE WORKERS AT GOLMURI.

53. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : Has the Indian Chamber of Commerce at Calcutta asked the Government of India to intervene in the strike of the tinplate workers at Golmuri? If so, what steps do Government propose to take in the matter?

THE HONOURABLE MR. T. RYAN : The reply to the first part of the question is in the affirmative. As regards the second part, the Chamber has been informed that, under section 3 of the Trade Disputes Act, 1929, the question whether a Board of Conciliation or a Court of Inquiry should or should not be constituted in connection with the strike rests entirely within the discretion of the Local Government.

FORMATION OF A WATERWAYS BOARD IN BENGAL.

54. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : Has the Government of Bengal asked the Government of India to form a committee of experts to help the Government of Bengal to constitute a Waterways Board?

THE HONOURABLE MR. T. RYAN : The Government of Bengal have informed the Government of India that they propose to constitute an expert committee which will examine *inter alia* the advisability of the formation of a provincial Waterways Board.

TRADE OF THE PORT OF CHITTAGONG.

55. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : Did the year 1928-29 close with a heavy decline in the total value of trade of the Port of Chittagong? If so, what is the cause and what steps do Government propose to take in the matter?

THE HONOURABLE MR. J. A. WOODHEAD : Yes, there was a decline of 17.09 per cent. in the total value of trade of the port of Chittagong (foreign and coasting) during the year 1928-29 as compared with the trade of the port in 1927-28, which was a record year. But in comparison with the year 1926-27, the total value of trade of the year 1928-29 showed an increase of 7.16 per cent. Both the foreign and the coasting trade were responsible for the decline in 1928-29, but about 57 per cent. of the total decline was due to the fall in the average prices of imported salt and exported tea, as compared with the prices of these articles in 1927-28. Among the principal articles imported and exported, there was a marked decrease in quantity in the imports of rice and paddy, cotton piece-goods and iron and steel and a comparatively small decrease in the exports of raw jute. On the other hand, the quantity of salt and oil imported showed considerable improvement. Government do not consider it necessary to take any steps in the matter.

SCHOLARSHIPS TO CADETS OF THE TRAINING SHIP "DUFFERIN."

56. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : Were some scholarships offered to deserving cadets of the Training Ship "Dufferin"? If so, how many, of what nature and by whom have they been offered, and was any such scholarship offered by any European firm?

THE HONOURABLE MR. J. A. WOODHEAD : The following scholarships are open to the cadets of the Training Ship "Dufferin" :—

1. *By the Government of India.*—Six scholarships yearly, tenable for three years, entitling the holder to a remission of half the fees. The scholarships are awarded by the Governing Body having regard to the suitability of the cadet and the financial position of his parents or guardians.
2. *By the Scindia Steam Navigation Company.*—Four scholarships—
 - (a) Two scholarships yearly, each tenable for three years and each of a value equal to half the fees. One is awarded to the cadet chosen by the Company whose parents or guardians are not in a position to pay the full fees. The other is awarded to the cadet passing first in all subjects at the examination held at the end of the first year.
 - (b) Two scholarships yearly, each tenable for three years and each of a value equal to the full fees. These scholarships are conditional on the cadet undertaking to join the Company as an apprentice after the completion of his course on the "Dufferin" and to serve as an officer in the Company for five years after obtaining his Second Mate's Certificate.
3. *By the Bombay Port Trust.*—Two scholarships yearly, each of the value of Rs. 100 per month and each tenable for three years after the cadet leaves the "Dufferin", subject to the condition that the cadet goes to sea on ships belonging to an approved firm. These scholarships are awarded by the Governing Body from among those cadets who obtain an extra passing out certificate.
4. *By the Karachi Port Trust.*—Two scholarships of Rs. 30 each per mensem, each tenable for three years, one to the son of a Karachi Port Trust employee and one to the son of a person who has been a resident in Sind for not less than 10 years, preference being given to a Sindhi. If there is no candidate from the former class, the scholarship may be transferred to the latter. Scholarship holders are chosen by the Port Trust.
5. *By the Karachi Municipality.*—Two scholarships of Rs. 30 each per mensem, each tenable for three years, to cadets whose parents have been residents of Karachi for not less than ten years. The scholarship holders are chosen by the Municipality.
6. *By the Madras University.*—Two scholarships of the value of Rs. 60 each per mensem, each tenable for three years to students

domiciled within the territorial jurisdiction of the Madras University, who are eligible for admission to courses of study at the University, are desirous of following a career in the Mercantile Marine and cannot afford to bear the cost of the necessary training. The scholarship holders are chosen by the University.

7. *By Mr. R. H. Patuck.*—Three scholarships each of the value of Rs. 300 per annum and Rs. 300 on leaving, tenable for three years and open to Parsee boys only. The scholars are selected in accordance with rules drawn up by the donor.

All the above scholarships are *only open* to candidates who have in the first place passed the Qualifying Examination and have been selected for training in open competition. With the exception of the scholarships offered by the Scindia Steam Navigation Company, Limited, and Mr. R. H. Patuck, all the scholarships have been granted by Government or Public Bodies, and none have been offered by European firms.

OVERPRODUCTION OF QUININE.

57. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : Is there an overproduction of quinine? If so, to what extent and what is the reason for it? Do Government propose to take any steps to utilise the excess? If so, what steps?

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN : It is much regretted that the question, not being limited by reference to time and space, cannot be answered.

RESOLUTIONS PASSED AT THE EIGHTH ANNUAL CONFERENCE OF THE EASTERN BENGAL RAILWAY INDIAN EMPLOYEES' ASSOCIATION.

58. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : Has the attention of Government been drawn to the Resolutions passed at the eighth annual conference of the Eastern Bengal Railway Indian Employees' Association? If so, what steps do the Government propose to take in the matter?

THE HONOURABLE MR. J. A. WOODHEAD : Government have seen the Resolutions referred to by the Honourable Member. They do not propose to take any action till addressed about them by the Agent, Eastern Bengal Railway.

STOPPAGE OF THE DOWN DARJEELING MAIL AT JALPAIGURI.

59. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : Has the attention of Government been drawn to the correspondence headed "Jalpaiguri Passengers' difficulties" regarding the stoppage of the down Darjeeling mail for two minutes at Jalpaiguri appearing in the Calcutta paper *Liberty* of the 22nd August, 1929? If so, what steps will they take about it?

DIFFICULTIES OF SERAJGUNJ PASSENGERS.

60. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : Has the attention of Government been drawn to the correspondence headed

"Serajgunj Passengers' difficulties" regarding the discontinuance of the running of 86 down train and of severing the connection of 88 down train with 4 down Assam mail appearing in the Calcutta paper *Liberty* of the 22nd August, 1929? If so, what steps will they take about it?

THE HONOURABLE MR. J. A. WOODHEAD : With your permission, Sir, I shall reply to questions Nos. 59 and 60 together. Government have seen the correspondence referred to, but obviously it is not possible for them to take any part in the preparation of time tables. These are matters which might suitably be discussed by the Railway Local Advisory Committee.

EXAMINATIONS IN THE POSTAL DEPARTMENT.

61. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : Has the attention of Government been drawn to the correspondence headed "Examination proposal in Postal Department" appearing in the Calcutta paper *Liberty* of the 22nd August, 1929? If so, what steps will Government take about it?

THE HONOURABLE MR. T. RYAN : Government have seen the letter referred to. The points raised in it have already received full consideration, and Government do not propose to take any action upon it.

NUMBER OF CASES OF SEDITION IN THE LAST FIVE YEARS.

62. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : Will the Government be pleased to state how many sedition cases have cropped up in India in each of the last five years, how many of them have ended in conviction and how many in acquittal?

THE HONOURABLE MR. C. W. GWYNNE : A statement giving the information asked for for the five years from August 1924 to July 1929 has been laid on the table. The Government of India have no information of the results of the trial of 41 persons, some of them are presumably still under trial. Enquiries will be made regarding the remainder and the information in regard to them communicated to the Honourable Member.

Statement of prosecutions for sedition under section 124-A of the Indian Penal Code during the period of five years from August 1924 to July 1929.

Province.	Number of persons prosecuted.	Number of convictions.	Number of acquittals.	Number of withdrawals.	Number of persons in regard to whose prosecution results are not known.	Remarks.
August to December 1924.						
United Provinces ..	2	..	..	2	..	
Punjab ..	17*	11	..	..	5	*Includes one absconder.
Burma ..	12	8	..	..	4	

Province.	Number of persons prosecuted.	Number of convictions.	Number of acquittals.	Number of withdrawals.	Number of persons in regard to whose prosecution results are not known.	Remarks.
1925.						
Bombay	1	1	..	..	..	
Bengal	3	3	..	..	..	
United Provinces ..	5	5	..	..	..	
Punjab	16	6	..	..	10	
Burma	1	..	..	..	1	
1926.						
Bengal	1	1	..	..	..	
Punjab	2	1	..	..	..	
Burma	6	5	1	..	1	
1927.						
Bombay	5	2	1	2	..	
Punjab	3	3	..	..	..	
Burma	29	21	2	..	6	
Bihar and Orissa ..	1	1	..	..	..	
1928.						
Madras	5	5	..	..	..	
Bengal	10	9	1	..	..	
United Provinces ..	1	1	..	..	..	
Punjab	4	4	..	..	..	
Burma	7	7	..	..	..	
Bihar and Orissa ..	2	2	..	..	..	
January to July 1929.						
Bombay	1	1	..	..	..	
Bengal	16	12	2	..	2	
Punjab	21	10	..	..	11	
United Provinces ..	8	6	..	1	1	
Burma	2	2	..	..	..	
Bihar and Orissa ..	6	5	..	1	..	
Total ..	187	132	7	6	41	

ROCKEFELLER FOUNDATION FELLOWSHIPS.

63. THE HONOURABLE DR. U. RAMA RAU: (a) Has the Rockefeller Foundation of America invited the Government of India to select suitable candidates annually for the award of scholarships for post-graduate study in America, in Medicine and Public Health?

(b) If the answer be in the affirmative, will Government be pleased to state the number and names of candidates selected and awarded such scholarships up to the end of 1928?

(c) How many have been selected during the current year?

(d) If none have been selected, will Government kindly explain the reason?

(e) Did candidates demand guaranteed appointments under Government on their return from America?

(f) Was this the main consideration for not sending up candidates this year?

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN: (a) and (b). Fellowships are not granted by the International Health Board of the Rockefeller Foundation every year. Five Fellowships were offered to this country for the first time in 1922 and four more in 1926. The names of selected candidates are—

1922.

1. Dr. Saranjam Khan, B.Sc., M.B.B.S.
2. Dr. C. R. Edibam, M.B.B.S., D.P.H.
3. Dr. H. G. D. Mathur, B.Sc., M.B.B.S., M.R.C.P. (Edin.), D.T.M. & H. (London), D.P.H.
4. Captain (now Major) S. S. Sokhey, I.M.S., M.A., B.Sc., M.D. (Edin.), D.T.M. and H. (Eng.).
5. Dr. A. R. Mehta, M.B.B.S., D.P.H., D.T.M. and H.

1926.

1. Dr. Ram Bihari Lal, M.B.B.S. (Punjab), D.P.H. (Oxon.), D.T.M. and H. (Eng.).
2. Dr. A. C. Banerjee, M.B.B.S., D.P.H.
3. Dr. R. Adiseshan, L.M.S., B.S.S.C., DIP. HYG. (Camb.).
4. Dr. K. V. Krishnan, M.B.B.S., M.R.C.P. (Edin.).

(c) None so far.

(d) The International Health Board of the Rockefeller Foundation are still considering the applications which have been submitted to them.

(e) No. But I may mention for the Honourable Member's information that under the conditions laid down by the International Health Board the Fellowships are granted only to persons who, on completion of their training, have an assured prospect of suitable employment.

(f) Does not arise.

USE OF ALARM CHAINS BY PASSENGERS IN RAILWAY TRAINS.

64. THE HONOURABLE DR. U. RAMA RAU: (a) Have some Railways inserted a clause in their bye-laws that the communication cords in railway trains must be used only in cases of danger to person?

(b) Are prosecutions launched by the South Indian and Madras and Southern Mahratta Railways for pulling the chain in cases where valuable things fall down, and are passengers convicted on the strength of this bye-law?

(c) Have the High Courts in India, to which appeals have been preferred against convictions for this offence, held divergent views with regard to the right of passengers to pull the alarm chain?

THE HONOURABLE MR. J. A. WOODHEAD: (a) and (b). The reply is in the negative.

(c) Government have no complete information on this point, but the question is obviously one to be decided on the facts of each individual case.

THE HONOURABLE DR. U. RAMA RAU: Will the Government call for information?

THE HONOURABLE MR. J. A. WOODHEAD: Yes, Sir.

INTEREST PAID BY THE MADRAS AND SOUTHERN MAHRATTA RAILWAY ON CASH DEPOSITS MADE BY THEIR EMPLOYEES AS SECURITY.

65. THE HONOURABLE DR. U. RAMA RAU: Is interest paid by the Madras and Southern Mahratta Railway on cash deposits made by their employees as security?

THE HONOURABLE MR. J. A. WOODHEAD: Government have not complete information. Inquiries are being made and the Honourable Member will be communicated with later.

GRANT OF PASSES BY THE MADRAS AND SOUTHERN MAHRATTA RAILWAY TO REPRESENTATIVES OF THE TEA CESS COMMITTEE.

66. THE HONOURABLE DR. U. RAMA RAU: (a) Will Government be pleased to state what the functions of the Tea Cess Committee are, where its headquarters are and who its Managing Directors are?

(b) Has the Madras and Southern Mahratta Railway granted first and second class passes to six representatives of the Tea Cess Committee to travel up and down the line to visit the Indian refreshment rooms on this Railway?

THE HONOURABLE MR. J. A. WOODHEAD: (a) The Honourable Member is referred to the Indian Tea Cess Act, 1903, a copy of which is in the Library and also to the Tea Cess Act Rules which were published in the Gazette of India, dated the 12th October, 1904. The headquarters of the Committee are at Calcutta.

(b) Ten representatives of the Tea Cess Committee are granted passes over sections of the Madras and Southern Mahratta Railway.

DEATH OF THE MAHARAJADHIRAJA SIR RAMESHWARA SINGH OF DARBHANGA.

THE HONOURABLE THE PRESIDENT: Before the Council proceeds with further business I have a melancholy duty to perform this morning in asking Honourable Members to associate themselves with me in the reference I am making to the recent death of one of our colleagues, the late Maharajadhiraja Sir Rameshwara Singh of Darbhanga. He was a Member of this Council from

the day of its inauguration, though of late illness had prevented him from devoting any great attention to his duties in this House. Most of us are aware that he suffered from a disease which precluded the probability of his living to any great age, but the news of his death could not but come as a shock to us. I am sure I have the full concurrence of Honourable Members in the action I propose to take. I am conveying on behalf of the Council to the late Maharaja's heir and to the other members of his family an expression of our sorrow and of our deep sympathy with them in the loss that we and they have sustained.

MESSAGE FROM HIS EXCELLENCY THE GOVERNOR GENERAL.

THE HONOURABLE THE PRESIDENT: I have a Message for the Council from His Excellency the Governor General.

PANEL OF CHAIRMEN.

"In pursuance of the provisions of sub-section (2) of section 63A of the Government of India Act, I, George Joachim, Viscount Goschen of Hawkhurst, 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 Rai Bahadur Lala Ram Saran Das; in the second place, the Honourable Sir Sankaran Nair; in the third place, the Honourable Mr. Kenneth Brand Harper; and, lastly, the Honourable Saiyed Mohamed Padshah Sahib Bahadur.

(Sd.) GOSCHEN,

Viceroy and Acting Governor General."

(The Message was received by the Members of the Council standing.)

COMMITTEE ON PETITIONS.

THE HONOURABLE THE PRESIDENT: Under Standing 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 Honourable 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 Rai Bahadur Lala Ram Saran Das, and as members the Honourable Raja Sir Rampal Singh, the Honourable Sir Ebrahim Jaffer, the Honourable Mr. P. C. Desika Chari and the Honourable Sir Manmohandas Ramji.

GOVERNOR GENERAL'S ASSENT TO BILLS.

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 which were passed by the two Chambers of the Indian Legislature during the Delhi Session, 1929:

MICFBCS

The Indian Limitation (Amendment) Act, 1929.
 The Hindu Law of Inheritance (Amendment) Act, 1929.
 The Presidency-towns Insolvency (Amendment) Act, 1929.
 The Indian Tariff (Amendment) Act, 1929.
 The Workmen's Compensation (Amendment) Act, 1929.
 The Indian Finance Act, 1929.
 The Trade Disputes Act, 1929.

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 the following Bills which were passed by the Legislative Assembly at its meeting held on the 9th September, 1929 :—

- A Bill further to amend the Indian Boilers Act, 1923, for certain purposes ;
- A Bill to provide for certain matters in connection with the taking of the Census ;
- A Bill further to amend the Calcutta Pilots Act, 1859, and the Indian Ports Act, 1908, in order to vest the control of the Bengal Pilot Service in the Governor General in Council ; and
- A Bill to provide for the levy of a cess on soft coke despatched by rail from collieries in the provinces of Bengal and Bihar and Orissa.

MOTION FOR THE ELECTION OF A PANEL FOR THE STANDING ADVISORY COMMITTEE FOR THE DEPARTMENT OF COMMERCE.

THE HONOURABLE MR. J. A. WOODHEAD (Commerce Secretary): Sir, I beg to move :

"That this Council do proceed to elect in the manner described in the rules published in the Home Department Notification No. F. 49, dated the 22nd August, 1922, as amended by the Home Department Notification No. D. 794-C., dated the 30th January, 1924, a panel consisting of 6 members from which 2 will be nominated to serve on the Standing Committee to advise on subjects in the Department of Commerce."

I should explain that the Advisory Committee of the Commerce Department was last constituted as a result of elections held in the two Houses of the Legislature in September last and that it came into existence in October last. It is necessary, therefore, that the Committee should be reconstituted for another year.

The motion was adopted.

THE HONOURABLE THE PRESIDENT: That motion having been adopted by the Council, I announce that nominations to the panel will be received in the Council office up to 11 A.M. on Wednesday, the 18th September.

INDIAN TERRITORIAL FORCE (AMENDMENT) BILL.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: Sir, I beg to move for leave to introduce a Bill further to amend the Indian Territorial Force Act, 1920, for a certain purpose.

The Bill, Sir, is of a very simple nature. It has actually only one point in it which is so fully set out in the Statement of Objects and Reasons, that I think there is nothing I need say to explain the Bill to Honourable Members of the House. I therefore move.

The motion was adopted.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: Sir, I introduce the Bill.

INDIAN COTTON CESS (AMENDMENT) BILL.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN (Education, Health and Lands Member): Sir, I beg to move for leave to introduce a Bill further to amend the Indian Cotton Cess Act, 1923, for certain purposes.

The Bill is of a non-controversial nature.

The motion was adopted.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN: I beg to introduce the Bill.

INDIAN REGISTRATION (AMENDMENT) BILL.

THE HONOURABLE MR. C. W. GWYNNE (Home Department: Nominated Official): Sir, I beg to move for leave to introduce a Bill further to amend the Indian Registration Act, 1908, for a certain purpose.

This is a formal non-controversial measure fully explained in the Statement of Objects and Reasons.

Sir, I move.

The motion was adopted.

THE HONOURABLE MR. C. W. GWYNNE: Sir, I introduce the Bill.

BURMA SALT (AMENDMENT) BILL.

THE HONOURABLE MR. E. BURDON (Finance Secretary): Sir, I beg to move for leave to introduce a Bill further to amend the Burma Salt Act, 1917, for certain purposes.

As Honourable Members will see, this is a Bill of very minor importance. The only point of substance it contains is an amendment designed to improve subsidiary procedure on one small point.

Sir, I move.

The motion was adopted.

THE HONOURABLE MR. E. BURDON: Sir, I introduce the Bill.

GUARDIANS AND WARDS (AMENDMENT) BILL.

THE HONOURABLE MR. C. W. GWYNNE (Home Department : Nominated Official) : Sir, I move for leave to introduce a Bill further to amend the Guardians and Wards Act, 1890, for a certain purpose.

The object of the Bill, which is non-controversial, is to make specific provision, which is at present lacking, for the more careful and systematic auditing of guardian and ward accounts of the Courts. It is universally agreed that it is desirable and it would minimise the chances of defalcation of these accounts.

Sir, I move.

The motion was adopted.

THE HONOURABLE MR. C. W. GWYNNE : Sir, I introduce the Bill.

PROVIDENT FUNDS (AMENDMENT) BILL.

THE HONOURABLE MR. E. BURDON (Finance Secretary) : Sir, I move for leave to introduce a Bill further to amend the Provident Funds Act, 1925, for certain purposes.

Honourable Members will see from the Statement of Objects and Reasons that the first two purposes are to remove certain defects in the law which we are advised operate to withdraw from deposits in provident funds the protection which the Act is designed to secure for them. The third purpose is to extend the benefits of the Provident Funds Act to the provident funds of public institutions whose activities are closely connected with the Government. In this respect the Bill merely seeks to extend the policy of the Government in a direction which has already been approved.

Sir, I move.

The motion was adopted.

THE HONOURABLE MR. E. BURDON : Sir, I introduce the Bill.

INDIAN SUCCESSION (AMENDMENT) BILL.

THE HONOURABLE MR. C. W. GWYNNE (Home Department : Nominated Official) : Sir, I move for leave to introduce a Bill further to amend the Indian Succession Act, 1925, for certain purposes.

This Bill is designed to serve two purposes which are clearly explained in the Statement of Objects and Reasons. It is intended to remedy a defect and an omission in our previous legislation.

Sir, I move.

The motion was adopted.

THE HONOURABLE MR. C. W. GWYNNE : Sir, I introduce the Bill.

CONGRATULATIONS TO MEMBERS ON THE HONOURS CONFERRED ON THEM.

THE HONOURABLE THE PRESIDENT : Before I adjourn the Council this morning, I think the House would like me to tender its congratulations, along with my own, to two Honourable Members who have since we last met in Delhi received honours at the hands of His Majesty the King. (Applause.) It is a matter of great pleasure and great satisfaction, I am sure to all of us, that the services of the Honourable Sir Charles Watson and the Honourable Major-General Sir Henry Symons, both as servants of the Government and as Members of this House, have been so recognised. (Applause.) I am sure the House is with me in offering them both our heartiest congratulations. (Applause.) The remarks that I have made apply equally to another, who was till recently also a distinguished Member of this House ; and I propose to convey on behalf of the Council to Sir Charles McWatters our warm congratulations on his Knighthood.

THE HONOURABLE MAJOR-GENERAL SIR HENRY SYMONS (Director General, Indian Medical Service) : Sir, I wish to thank you for the kind references you have made to the honour conferred on myself and the Honourable Members for the way in which they have received them. I can assure you that probably no one was more surprised at it than myself. This is not an occasion for lengthy remarks. I therefore thank you again and resume my seat. (Applause.)

STATEMENT OF BUSINESS.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN (Education, Health and Lands Member) : Sir, the list of business for Tuesday, the 17th September, 1929, is already in the hands of Honourable Members. On Wednesday, the 18th September, 1929, motions will be made for the consideration and passing of the seven Government Bills which have been introduced to-day, copies of which were circulated to Honourable Members on Saturday last. Thursday, the 19th, will be devoted to non-official business.

The Council then adjourned till Eleven of the Clock on Tuesday, the 17th September, 1929.

COUNCIL OF STATE.

Tuesday, 17th September, 1929.

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

RESOLUTION *RE* ESTABLISHMENT OF A JUDICIAL COMMITTEE OF THE PRIVY COUNCIL IN INDIA.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY (East Bengal: Non-Muhammadan): Sir, I beg to move the Resolution which stands in my name and runs as follows:

"This Council recommends to the Governor General in Council to take steps to have the Government of India Act so amended as to enable the Governor General in Council to establish a Judicial Committee of the Privy Council to His Majesty in India composed of persons who are or have been Judges of High Courts in India and are chosen one from each High Court in India by the Judges of the said High Courts to hear appeals therefrom as a Circuit Court and to perform other judicial functions assigned by law to it from time to time."

The history of this Resolution, Sir, is an old one. A Resolution for the establishment of a Supreme Court for India was moved in the Assembly by Dr. Sir Hari Singh Gour in 1921. Dr. Tej Bahadur Sapru, who was then Law Member, wanted time to collect public opinion on the establishment of such a Court, and moved an amendment for that purpose which was accepted by Dr. Gour, and the amendment was carried. After opinions had been collected, Dr. Gour again moved another Resolution in the Assembly for the same purpose, but it was defeated in the Assembly. Sir Alexander Muddiman, then Home Member, in opposing the Resolution, stated:

"When Dominion Status is acquired by India, then would be the time for the immediate consideration of the proposition in regard to the establishment of a Supreme Court of appeal here."

and other Members also contended that the Resolution was rather premature.

Now that the political constitution of India is going to be recast and public opinion in India has been unanimous in the demand for Dominion status, it is time that we should formulate our proposition about the establishment of a Supreme Court in India. Moreover, the question of the jurisdiction of the Privy Council over the Dominions is going to form one of the subjects of discussion before the next Imperial Conference. It is therefore all the more necessary that we should formulate our demands now. Having thus shortly dealt with the necessity and appropriateness of my Resolution, I will now try to explain the objects of my Resolution and state how they are intended to meet the various objections that have been raised against the scheme. The first objection raised was that a court established in India could not and should not interfere with the prerogative of the King who was the fountain of all justice. I may at the outset say that it is now almost an exploded theory, for

[Mr. Kumar Sankar Ray Chaudhury.]

the dealing out of justice involves such legal knowledge as the King can hardly be expected to possess. Moreover, it hardly lies with the British people to advance an argument like this when they have themselves allowed their House of Lords to usurp this function of the King by becoming the highest court of appeal in the British Isles. But I do not, however, propose in my Resolution to deprive the King of his prerogative, and all that I want is that His Majesty should consult his Indian subjects when dealing with Indian matters by appointing Privy Councillors from amongst them who shall be residents in India for the purpose of affording ready relief to his litigant Indian subjects instead of dragging their cases to England, so that not only justice might be done to them more readily, but they might see for themselves that justice is being done to them by enabling them properly to instruct their lawyers for the purpose.

Another objection that was raised was that the litigant public in India should not be deprived of the benefit of the learning, efficiency and independence of the Judges in England. Without however admitting in any way that Indian Judges are at all less learned, less efficient and less independent, rather on the contrary venturing to submit that they are better versed in local laws, I may say that my scheme of a proposed Privy Council in India leaves the litigant public here quite free to carry their appeals to England if they so choose or are allowed to do so by the British people in future.

The third objection raised was as regards cost. It was argued that we were getting the benefit of the Privy Council in England without having to pay for it. This is no longer so, and we have to contribute to some extent for its upkeep now and cannot expect to get this benefit for any long time to come; specially when India becomes more or less self-governing. Moreover, the cost of the Privy Council and its establishment in England is not very high, a large part of the preliminary work is already being done in India by way of preparation of the paper books, and I do not understand why the cost of the Privy Council should be very high in India under similar circumstances. The services of the High Court Judges are pensionable in India, and if Judges to the Privy Council are recruited from them, the cost is not likely to be exorbitant.

The fourth objection that was raised was about its location and the difficulty of getting efficient legal advice at one particular place. To meet this objection I have proposed that the Privy Council should be peripatetic and hold its sessions at the seats of the different High Courts in suitable seasons when dealing with appeals arising from those courts so as to enable the litigants to get the best legal help locally and cheaply.

Another argument raised was that we cannot expect to get men of sufficient calibre in India to fill up the posts of the Judges and that the offer of such posts would tend to take away the independence and prestige of the High Court Judges. As regards calibre, I venture to submit that one of the few professions in which Indians as at present circumstanced shine and excel is the profession of law, and it is idle to say that we shall not get men of sufficient calibre. As regards independence I beg to state that that would depend upon the method of selection adopted. To secure it, Judges are selected in England by the party in power, but once selected they are made removable only by a vote of censure being passed upon them by the Legislature and this scheme has been adopted

by the Nehru Committee for its Supreme Court. This no doubt secures independence in Judges to some extent, but it does not secure independent Judges but party men, and Judges have not infrequently and not unnaturally been found to have leanings towards the views of their party. Judges of High Courts in India, on the contrary, hold office during the King's pleasure and this rule should be altered and made similar to that of England. But I am not at present concerned with High Court Judges. Judges of the Supreme Court in the United States, with whose functions the functions of the Judges of the Privy Council in India are expected to be very much identical, are on the contrary elected by the President acting in consultation with the Senate and hold office for life and are removable by impeachment. So long as we have not an elected President, we cannot have Judges elected by the head of the Government, nor can we leave the selection to popular election as has been done with very bad results in the case of the subordinate judiciary in the United States. I have therefore proposed that the Privy Council Judges should be selected by and from amongst the past and present Judges of the High Courts themselves. This will not only serve to secure the independence of the Judges of the Privy Council but raise the prestige of the High Court Judges as well and enable the best of them to come to the Privy Council by a process of semi-popular selection without any of the defects of a popular election or nomination on party lines. I propose to confine the selection from amongst the Judges themselves in order to make the position of the High Court Judges more attractive so as to make it acceptable to the best legal talents in the country. I have no objection to throw it open to the legal talents in the profession directly, should it be thought more advisable, but the choice must be in the hands of a limited circle, preferably the Judges alone.

Another objection raised, and that by the leader of our party, Pandit Moti Lal Nehru, was that so long as the judicial system in the country was defective and judicial and executive functions remained in one hand and under the control of the executive, it was no good crying for the establishment of a Supreme Court in India. Improvement of the judicial system prevailing here is not only not due, but is long overdue and we have been crying for it ever since the Congress came into existence; but that, I submit, is no reason why we should not have an independent Supreme Court in India. We all know how the old Supreme Courts of India and their successors, the present High Courts, with the independence they possess, have acted from time to time as the bulwark of popular freedom against the vagaries of executive high-handedness, and but for their existence how sorry would have been the plight of the people in India.

Objection was also raised on behalf of the British commercial classes in India about different views being taken by the Supreme Courts in different countries upon common points of trade and commerce. This is bound to happen when there are different courts in different countries and cannot even be avoided by the establishment of one Supreme Court for all parts of the Empire because of the facts of its personnel changing from time to time and newer light being thrown upon any point in subsequent cases. The idea of having one Supreme Court for the Empire was mooted before 1921, but subsequent Imperial Conferences have assumed a very cold attitude towards any idea of a federation of the Empire. So long as that does not take place, India cannot but have a Supreme Court of her own.....

[Mr. Kumar Sankar Ray Chaudhury.]

(At this stage the Honourable Mr. Mahmood Suhrawardy crossed between the Speaker and the Honourable the President.)

THE HONOURABLE THE PRESIDENT: Order, order.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: and the best way of solving the difficulty of a conflict of decision lies in making the jurisdiction of the different Supreme Courts concurrent and co-ordinate so as to make their rulings equally operative and citable. The establishment of the branches of the Privy Council to His Majesty in the different parts of the Empire with co-ordinate powers is perhaps the only way to meet the situation, and it was advocated by no less a person than Lord Haldane.

Another objection hinted on behalf of the British commercial classes was that they were not ready to give up their right of an appeal to the British Privy Council in favour of one to any court established in India composed necessarily of Indians. With the cry of non-discrimination loud in their mouth, it is, I venture to state, rather ungracious on their part to advance this claim of extra-territoriality at this stage. If they want to be treated as foreigners in this matter let them be treated as such in all other respects as well.

I shall now bring my remarks to a close by meeting the observation of Sir Alexander Muddiman about opinion not being unanimous in the country. Unanimity of opinion cannot be expected upon any matter in a country so vast as India; besides, the diversity that has arisen is due to the various points of objections which I have already tried to meet. Apart from these there is no question of any two opinions having been advanced about the desirability of establishing a Supreme Court in India and, in the words of Sir Alexander Muddiman,

"The time has come for the immediate consideration of the proposition in regard to the establishment of a Supreme Court here."

My proposal, therefore, is that a Privy Council of His Majesty be constituted in India composed of Judges to be elected one from each of the different High Courts in India, by and from amongst the past and present Judges thereof to hold their courts at the seats of the different High Courts from time to time. It shall have powers like those of the present Privy Council in England in respect of civil and criminal matters. The constitution of the Government of India having to be based on Statute and being somewhat federal in its nature, various questions about its jurisdiction and proper function in relation to the provinces and the Indian States will arise from time to time in future which will require to be decided by a superior tribunal independent of Government control, as in the United States. I have therefore left the powers and functions of the Privy Council quite wide and open for such contingencies and tried to make it as independent of Government as possible.

With these words I commend my Resolution for the acceptance of the House.

THE HONOURABLE MR. G. S. KHAPARDE (Berar Representative): May I ask, Sir, whether I should move my amendments together or as each is disposed of? They relate to the same thing and the Resolution is not in clauses.

THE HONOURABLE THE PRESIDENT: I think the Honourable Member might move all his amendments at once.

THE HONOURABLE MR. G. S. KHAPARDE: Thank you. I have four amendments. I move:

"(a) That after the words 'High Courts' where they first occur, the words 'or Courts exercising the powers of a High Court' shall be inserted;

(b) That for the words 'each High Court' the words 'each such Court' shall be substituted;

(c) That after the words 'Judges of the said' the word 'High' shall be omitted; and

(d) That at the end the following shall be added, namely:

'provided that litigants have the option of appealing either to the Circuit Court or to the Judicial Committee of His Majesty's Privy Council'."

Sir, I am in sympathy with the Resolution and I have no intention of opposing it. My amendments are intended merely to make explicit what is more or less implied both in the Resolution and in what the Honourable Mover has said. The reason for the first amendment is that he has confined the whole thing to constituted High Courts, but there are other courts in India, namely, Chief Courts and Judicial Commissioners' Courts, and there is no reason why they should be excluded. In the Privy Council there are as many as 29 Judges, and when we file an appeal we have to file 29 copies of the proceedings, 29 grounds of appeal, and so on. So why should the Indian Privy Council be confined only to a small number? It should be large and it should be in the discretion of the Chief Justice, whoever he is, or the Chancellor as he is called in England, to constitute a Bench to try each case, which is very convenient. So the object of my first amendment is to enlarge the circle of persons who can be selected for sitting on this new Privy Council; and they will really all be persons of experience in India having exercised all the powers and are likely to help the cause of justice. In connection with this I may say that the last amendment follows naturally. The establishment of a Court here should not debar us from carrying our case to the Privy Council in England if we wish to—not by way of appeal of course. The litigant must choose from the beginning whether he will appeal to the Court here or take his case to England. The reason for that is, that there are some cases which may be tried with greater advantage in India—cases based on local custom and tradition—whereas in other cases involving difficult points of jurisprudence, they may better be taken to England where there are greater constitutional lawyers. So litigants would have to choose from the beginning whether they should file an appeal here or in England.

The other two amendments are merely verbal ones. In the place of "High Courts" I have put in "courts exercising the powers of a High Court", while the other is merely a nominal or verbal amendment. My chief amendments are that the circle of selection should be larger than it is put in the Resolution, and option should be given to litigants here either to carry their cases to the highest court here or to take them to England as they think most convenient. These are not against the Resolution, and I hope the Honourable Mover will see his way to accepting them.

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces: Nominated Non-Official): Sir, I regret I have to oppose the original Resolution as well as all the amendments of my Honourable friend Mr. Khaparde.

[Sir Maneckji Dadabhoy.]

On two previous occasions the Assembly had the opportunity of discussing this question in fuller detail and with a larger wealth of information and in the presence of many able and eminent lawyers which are to be found in that body. This Resolution has now come before this House with a small modification only. As I understand, on the two previous occasions in the Assembly the establishment of a Privy Council in some part of India was advocated. Here my Honourable friend has introduced an innovation by saying that the Privy Council should not be located in any one place but should be a sort of itinerant Privy Council moving from place to place as the exigencies of the case required. My objections to this Resolution are mainly of a two-fold character. In the first instance, I think this Resolution is entirely premature and untimely. I use both these words advisedly. It is very untimely. My Honourable Colleagues will agree with me that if my Honourable friend wanted to bring in the highest Council of the Indian Legislature a Resolution of this kind, it was absolutely necessary that he should have done that before the Simon Commission embarked upon its onerous duties. It has been brought too late, just about the time when the Simon Commission in England is about to write its Report. We do not know what the nature and character of that Report is going to be. There are many speculations on the subject, but so far we are not in a position to judge what will be the scope of that Report as to the future constitution of this great Empire; whether we are going to have Dominion status, as is asked for by some of my Colleagues, or whether we are going to have a constitution on a more or less modified form analogous to the present constitution is a matter of mere speculation; and to ask the Government of India to advise His Majesty's Government for the modification of the Government of India Act at this particular juncture seems to my mind not only inadvisable, but a most inappropriate and unwise thing to do. But, Sir, it is not only on the ground of the premature character of the Resolution that I am opposed to it. I am opposed to it on more substantial grounds. I should be very sorry—and I am speaking as one connected with law for many years, I was called to the Bar over 40 years ago and I have practised in various courts in this country for a period of 30 years before I drifted into the commercial line, and I can therefore claim to speak with some amount of knowledge and information on the subject—I for one should be very sorry for India if the seat of the Privy Council is shifted from England to this country, and I say so with great earnestness and determination. I think India will have everything to lose and nothing to gain, nothing substantial to gain, if the seat of the Privy Council is shifted from one place to another. I attach a great deal of importance to contact with eminent lawyers. There is no gainsaying that in England we have a Bar with all its long tradition, one of the finest, most eminent, most cultured and most instructed Bar in the world. There are men of colossal ability there, colossal merits, men of such great talents, that it would be impossible to compare—and I speak without any disparagement of the Indian Judges—it would be a great mistake to compare the combined learning, knowledge, legal culture and information of these Judges with the legal standard of knowledge prevailing in this country, whether at the Bar or on the Bench, and I say that the Indian litigant to-day has the splendid opportunity of having his case heard by men of great learning and talent assisted by most eminent lawyers which it is impossible to obtain in this country. Are you really mov-

ing this Resolution in the great interests of this country, or are you moving it from a sentimental point of view? If you regard the question of sentiment, if you think that India must have a Privy Council,—and why should India be deprived of it—this is another matter. But if you as practical men, as practical politicians, as men of business, reflect, you will find that it would be a great inconvenience, the balance of advantages will be against such a scheme which is contemplated by my Honourable friend Mr. Chaudhury. Then, Sir, there is the question of the standard of efficiency. Whatever may be the position, whatever may be the status of the Indian Bench—and there is no doubt, as you are aware, our High Courts as a rule are free from bias and prejudice—are you going to get the same standard of merit and efficiency, the same freedom of action between a case tried in this country and a case tried and decided in England? Those Judges are not in contact with Indian conditions of life, with Indian state of affairs; they will only base their decisions on the evidence and on the arguments which they find and on the merits of the brief which has been despatched from India....

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY:
Let us go to Timbuctoo.

THE HONOURABLE SIR MANECKJI DADABHOY: They are and will be beyond the plane of bias, beyond the blame of reproach in any way, and is not that a very great thing to look forward to? I attach great value to contact. Whatever may have been the reasons assigned by my Honourable friend, I feel very strongly that the balance of advantage lies in the maintenance of the present constitution and in not making any departure from the precept and tradition which have been followed in this country ever since the days of British occupation.

Sir, there is another substantial argument which goes to the root of the matter and my Honourable friend Mr. Chaudhury has partially referred to it. The establishment of the Privy Council in England is based on a constitutional tradition. The tradition is that His Majesty the King has the privilege and reserves to himself the right and the prerogative of consulting men of great learning, men of acknowledged ability and talent on particular occasions when it pleases His Majesty. The fundamental basis on which the constitution is based is the access which these men appointed to the Privy Council have, the privilege of audience with His Majesty, who is in a position to summon them at any time to consult not only in connection with legal matters but all matters affecting the good government of the Empire. You want now to detach that tradition, and you think that by constituting a court in this country to be able to exercise the same privileges and powers as the Judicial Committee of the Privy Council, you will acquire a great thing. But it is not so. The very elementary object of that is His Majesty's supreme right of consultation and you will be depriving him of that. His Majesty cannot come out to this country and consult Indian Privy Councillors. It would be absurd to destroy the old, ancient and well-rooted tradition and constitution and to ask for that tradition to be substituted by a peripatetic Privy Council composed of Indian Judges who would hear final appeals in this country.

I, Sir, also protest against this Resolution on the ground of cost. The establishment of a Court in India will involve us in a huge expenditure. The

[Sir Maneckji Dadabhoy.]

Reforms have already made the administration of this country top-heavy. All the provinces are grumbling to-day because they are not able to make both ends meet; and on the top of that you now want the tax-payers in India to pay for the establishment and expenditure of another Supreme Court, and my Honourable friend wants an itinerant court travelling from Bombay to Calcutta, from Calcutta to Madras, from Madras to Rangoon and from Rangoon to the Central Provinces if Mr. Khaparde's amendment is passed. And you want to incur this sort of expenditure. First, there will be a criminal waste of time, in my opinion, apart from the question of expenditure and delay in the dispensation of justice. And what will happen? If, for some reason, the Judges go from Madras to Bombay and in Bombay counsel are not ready or for some unforeseen reasons they are not able to hear the appeal, the Honourable Judges of the Privy Council will be required to disperse and to go to Calcutta, absolutely to my mind a farcical method of dispensing justice. My Honourable friend, Mr. Chaudhury, wants to import the principle of circuit administration in India. The Judges will go out in circuit for dispensing justice as they do in England. Such a procedure will not work satisfactorily to my mind in this country. On the other hand, the cost of the present Privy Council is practically paid by His Majesty's Government in England. The cost of the present Privy Council is fully paid. It is true that we do contribute towards the salaries of two Judges under the new Act. But that is a very small sum as compared with the total expenditure on the establishment of the Privy Council. Then, apart from that, where is the great advantage to be derived from the appointment of the Judges in this country and the selection of retired Judges who have already left the country? These appointments may or may not be suitable, and after ten years my friend Mr. Chaudhury, if he is living, will advocate or, if not he, some other Member of the Assembly will ask for the Indianisation of the Privy Council. That is the sort of thing that is going to take place in this country. God save us from our friends! I ask Honourable Members if it is a practical and feasible scheme to be applied to this country.

My friend endeavoured to make some capital by asserting that the Indian Judges are more conversant with local laws and are in a position to administer local laws with greater efficiency than the English Judges. I demur to that proposition with great deference to my Honourable friend, Mr. Chaudhury. The seat of preliminary training and learning of our Judges is England: practically all our Judges in India have acquired their knowledge in England, and the Judges in England, I mean the Privy Council Judges, will be in a supremely better position to my mind to consider the validity and the legality of decisions given in this country than the Indian Judges who by long contact and association with the administration of our law in this country are imbued with a sort of predilection in favour of certain preconceived views. Therefore, in my opinion, there is a great deal more to be gained by association with the English courts than with Indian courts. And then, as for special laws, to which my friend Mr. Chaudhury referred.....

THE HONOURABLE THE PRESIDENT: Order, order. I saw the Honourable Member glance at the clock a moment ago.

THE HONOURABLE SIR MANECKJI DADABHOY: I will just conclude my remarks, Sir. We have got two Indians of great eminence in the Privy Council now. Practically one Englishman who had practised in this country for many years, Sir George Lowndes, and who was formerly Law Member with the Government of India, and Sir Benode Mitter, an Indian lawyer of great reputation. We have got two men of great ability and eminence and they can certainly be trusted with the administration of Indian laws.

Sir, my limited time prevents me from going further into the matter. I will say one word only as regards my friend Mr. Khaparde's amendment that he wants a duplicate machinery, one in India and the other in England. Some people may resort to the Indian machinery if they choose: the others may go to England. I should be very sorry for the constitution of our courts in this way, not to say anything of the criminal waste of money and the prodigal expenditure on the establishment of a duplicate machinery of this character.

THE HONOURABLE MR. NARAYAN PRASAD ASTHANA (United Provinces Northern: Non-Muhammadan): Sir, I rise to oppose the Resolution as well as the amendment—not because I am not in sympathy with the establishment of a Supreme Court or a Judicial Committee of the Privy Council in India, but because I cannot reconcile myself to the constitution which has been suggested in the Resolution. My friend Sir Maneckji Dadabhoy....

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: You ought to have suggested a better constitution if you are in sympathy with this Resolution.

THE HONOURABLE MR. NARAYAN PRASAD ASTHANA: I think a constitution has in the past been suggested and therefore it is not necessary for me to suggest one now. My friend, the Honourable Sir Maneckji, has expatiated upon the excellence of the constitution of the present Privy Council. Although I do not say anything against the eminence and ability of the Privy Council Judges, I think India should be self-sufficient and it must have a Supreme Court for the decision of its own cases. Moreover, that will save a good deal of expenditure that is needlessly incurred by litigants now-a-days. My main objection to the Resolution is that the constitution which has been suggested, namely by election of the Judges by the High Court Judges, does not commend itself to me at all. If a Supreme Court or a Judicial Committee of the Privy Council is to come into existence in India, the Judges must be appointed by His Majesty the King-Emperor and not by anybody else. The opening of such posts to election would always bring such corruption as now exists in the United States. However eminent the voters, however eminent the persons who go to elect the body, they can be influenced by considerations which may not be quite proper, and I am therefore opposed to the constitution which has been suggested in the Resolution....

THE HONOURABLE THE PRESIDENT: Order, order. The Honourable Member from Bengal has been sufficiently long in this Council to know that it is grossly disorderly of him to move about in the House between the Chair and any Honourable Member who is speaking. This is the third time he has offended this morning.

THE HONOURABLE MR. NARAYAN PRASAD ASTHANA: Then, Sir, the other thing that I am opposed to is the peripatetic nature of the Court

[Mr. Narayan Prasad Asthana.]

which has been suggested to be established. As it has already been said, it will cause waste of a good deal of time and money. Moreover, it will lose in dignity and if a Supreme Court is to be established in India it must have a fixed abode and a fixed place. Therefore, what I am at now is that the constitution which is embodied in this Resolution is not such as to commend the Resolution to the Council, and therefore I oppose it.

THE HONOURABLE MR. C. W. GWYNNE (Home Department: Nominated Official): Sir, the speeches that have been made in opposition to this Resolution do not leave very much for me to say; but I propose to develop to some extent some of the points made by my Honourable friend, Sir Maneckji Dadabhoy, and to reply, as far as possible, to some of the practical considerations put forward by the Honourable Mover. The Resolution in form is a suggestion that the Government of India Act should be amended, and I would like to make a preliminary observation on that point. The Statutory Commission is now inquiring into the general constitutional position, and therefore prior to the submission of their Report, it would seem premature seriously to recommend an amendment of the Government of India Act in a particular direction when we do not know what the future constitution will be or what changes will be recommended by the Commission, or what changes the Government of India Act will have to undergo. Piecemeal alteration now will only have to be reviewed in a short time in reference to the actual recommendations of the Commission as a whole. I would therefore urge upon the House that it is premature and inappropriate to take up such questions now. No useful purpose will be served by undue haste, and on this occasion there is no justification for a plea of urgency. The existing arrangement by which appeals are heard by the Judicial Committee of the Privy Council sitting in Whitehall has worked satisfactorily for many generations. Not only has it not, so far as I am aware, led to any serious complaint, but has met with almost universal approbation. The question, somewhat analogous to the present question—and which indeed the Honourable Mover appears to think is the same question—of establishing a Supreme Court in India has from time to time been discussed in the Central Legislature during the last few years. But every time that it has been forced to a division it has been defeated by an overwhelming majority, and that majority has included eminent lawyers of this Legislature. And why have they voted against this proposal? The Leader of the Party to which the Honourable Mover belongs himself said that the Resolution was premature. But the real and fundamental reason for the opposition to this suggestion is the wide-spread and general confidence both of the public and of counsel in the Judicial Committee of the Privy Council, which is one of the most authoritative judicial tribunals in the world (Applause) consisting as it does of famous lawyers and jurists of ripe experience, proved capacity and world-wide reputation. And on that Committee India is well represented. The names of the present representatives, Sir George Lowndes and Sir Benode Mitter, who have learned their law in India, should be sufficient to reassure the Indian public that Indian cases receive adequate attention. There are of course other reasons, but I need not dilate on them at the moment, for the Resolution, in form, does not advocate the establishment of a Supreme Court but the establishment of what the Honourable Member calls a Judicial Committee of the Privy Council in India.

There is, I beg to submit, some evidence of confusion of thought in the framing of this Resolution, and, if I may say so, some misapprehension as to the constitutional position and functions of the Judicial Committee of the Privy Council. Reference has been made by the Honourable Sir Maneckji Dadabhoy to the theory underlying the present constitutional position, and I do not wish at this stage to weary the House with an elaborate historical disquisition on the origin and functions of either the Privy Council or its Judicial Committee. The Judicial Committee was only established by Statute in the reign of William IV though it had functioned for many centuries, and it was established for a special purpose namely, to dispose of appeals to the Sovereign in Council. That is a very important point. The constitutional theory underlying it is that the final judicial authority in all the dependencies of the Crown including British India is vested in the Sovereign in Council. Appeals to the Sovereign from beyond the seas have been made from the time of Henry VIII in virtue of the fundamental principle that it is the duty of the Sovereign to administer justice to his subjects. This jurisdiction is founded essentially on prerogative. The right of the subject to claim relief under it in certain self-governing colonies where Supreme Courts have been established has been restricted by express provisions in the Statutes creating such courts, but even so, the power of the Crown to exercise this prerogative still remains and cannot be taken away by the creation of any court under whatsoever name it may be described....

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: How was it taken away by the House of Lords?

THE HONOURABLE MR. C. W. GWYNNE: I think the Honourable Member is incorrect in that statement. So far as I know, no power has been taken away. The power remains. The power cannot be taken away....

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: Is there any appeal from the decision of the House of Lords to the King in Council?

THE HONOURABLE MR. C. W. GWYNNE: I am speaking of appeals from the dependencies of the Empire beyond the seas from whom the appeal is to the Judicial Committee of the Privy Council. In the course of this debate reference has been made to the high quality of that Committee. If I may be permitted to mention its composition, this will be obvious at once. This Committee consists of the Lord Chancellor, the Lord President and ex-Lord Presidents, six Lords of Appeal in Ordinary and such other members of the Privy Council as shall from time to time hold or have held high judicial office, six Judges of High Courts in England or Ireland or the Court of Session in Scotland, and not more than seven Judges of the Superior Courts of the self-governing colonies or other possessions fixed by Order in Council and not more than two Judges of any High Court in India that shall be nominated by the King. The Indian representation has of course recently been modified by the Appellate Jurisdiction Act, 1929, by which any person may be qualified who is a Privy Councillor and has been a Judge of the High Court in India or is a Barrister, Advocate or Vakil of not less than 14 years' standing. The Committee thus is composed of very eminent and experienced lawyers, is greatly strengthened by the presence of the Law Lords and does provide for the adequate representation of Indian interests. It is important to realise the procedure of this Committee. This Committee does not give judgments like

[Mr. C. W. Gwynne.]

other courts by a majority of votes. Its decisions are unanimous and take the form of a recommendation to His Majesty in Council, and are promulgated as Orders in Council. It is the highest court of appeal for cases which arise in any part of His Majesty's dominions and possessions beyond the seas.

The Honourable Member's suggestion that the Judicial Committee should be appointed by the Governor General in Council to sit exclusively in India thus runs entirely counter to the whole constitutional history and theory. The analogy of the Privy Councils in Canada and Ireland does not help the Mover in the slightest. These Privy Councils perform nominally administrative functions. They exercise no judicial functions and, though a Supreme Court of Judicature has been established both in Ireland and Canada and some other dominions, the right of appeal to the Sovereign in Council, *i.e.*, the Judicial Committee of the Privy Council, may still be exercised. It may be limited; it may be circumscribed; but it cannot be entirely extinguished or withdrawn.

So much for the constitutional aspect. I now wish to refer to one or two practical points. The Honourable Mover maintains that his suggestion will bring about an improvement in the legal machinery of India, and if it could function in India it would afford vast relief to the Indian litigant both in time and in money and would save him the expense of seeking justice in London. But while one may feel in entire sympathy with these objects, one may question whether his suggestions will secure the objects he has in view. Any proposals designed to modify or to improve the existing machinery, especially in its ultimate form as concerning the Sovereign in Council who is the fount of justice, require wide consultation and close deliberation with lawyers both in India and in Great Britain. Such proposals concern not only India but the whole fabric of the Empire, and it is important that, while local needs may justify local treatment, the general constitutional theory underlying the administration of justice throughout the Empire should remain unimpaired. The modifications now suggested seem to have been conceived in haste and to be based on analogies which do not strictly apply. I think it is possible to overestimate the minor inconvenience of distance and to overlook the fact that the proposal of the Honourable Mover deprives India of the ripe experience and great learning of the members of the Judicial Committee—a tribunal to which Indian appeals have been submitted and which is regarded by the Indian public and the Indian lawyer as a weighty and authoritative tribunal.

Then as to speed and cost. Can it be seriously contended that the cost of litigation before the Privy Council is so much greater than the cost of such litigation would be before a Committee functioning in India? The Honourable Mover proposes that this Committee should tour throughout the country. If it tours throughout the country, it is difficult to understand how appeals to it from any particular High Court can be disposed of more speedily or more cheaply than they are at present by reference to the Judicial Committee. Either appeals will have to await the arrival of this Court which has been described as a peripatetic court or a circular court in the course of this debate, or parties will have to follow it to some convenient place. Counsel will come

from every High Court in India to practise before it and will be in a position to demand higher fees than they charge when appearing before the High Courts. The cost to the litigant would in all probability, even if this court of appeal were absolutely final, be at least no less than it is at present. But as I have endeavoured to explain at some length, an appeal to this Court could not under the constitution be final. The right would still remain of appeal to the Privy Council, that is, to the Sovereign in Council; and consequently parties to suits might find that the establishment of this Committee in India only added one more to the series of appellate courts or, as the Mover of the amendment would have it, a duplicate court.

In conclusion, there is one practical consideration of some importance which has been referred to by two speakers and which I will put in a little more detail. At present the cost of the Judicial Committee of the Privy Council to Indian revenues is £4,000 per annum; that is, about Rs. 54,000. For this small sum India obtains the services in the exercise of the highest appellate jurisdiction in the Empire of some of the most eminent English, Indian and Colonial lawyers. The proposed peripatetic or itinerant court would consist according to the Honourable Mover of presumably seven members, and if the amendment of my Honourable friend Mr. Khaparde is accepted, of perhaps 10 or even 12 members, including as members Judges of Chief Courts or Judicial Commissioners of various courts. These 10 or 12 Judges would have to be paid very high salaries, considerably higher than are now paid to High Court Judges. An expensive establishment will have to be maintained. At the lowest computation the cost to the tax-payer, instead of the small sum of Rs. 54,000 would be a good many lakhs per annum. Why then change without most careful and mature deliberation a system which gives to India a tribunal which is a repository of legal lore, a tribunal whose work has always been of the highest merit, a tribunal which has commanded and now commands the confidence of counsel and client alike?

Sir, I oppose both the Resolution and the amendment. (Applause.)

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY:
Sir, with regard to the Honourable Mr. Khaparde's amendments, my submissions are these. I have no objection to the amendment except that it would increase the number of Judges, as has been observed by the Government Member, and that it will introduce even Judicial Commissioners. I want the Judges to be select men, and the choice should therefore be confined to High Court Judges. Then, as regards the second amendment, about making it quite clear that an appeal may be lodged with the Privy Council in England, my submission is that my Resolution gives the litigant that opportunity and the amendment is therefore redundant, unless of course it is necessary to make the point clear. My Resolution, I submit, is quite clear because the Privy Council to be established in India is a Privy Council to His Majesty in India and does not take away the right of a litigant and compel him to file an appeal to this Court only and not to the other.

I now come to Sir Maneckji Dadabhoy's observations. He said at one point that this Resolution is too late. The Simon Commission has already formed its opinion and is soon going to submit its report. Again he

[Mr. Kumar Sankar Ray Chaudhury.]

said that it is premature because the Government of India has not come to a conclusion about it. I do not understand....

THE HONOURABLE SIR MANECKJI DADABHOY : I did not say anything of the sort.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : If he did not say so, I withdraw my remarks, but my idea was that he said so. My submission is that now that the constitution of the Government of India is going to be recast this is the most opportune time for the people of India and their representatives in this House to voice their opinion about the matter. The Government no doubt cannot commit themselves to any view, but that does not prevent the representatives of the people from coming to this House and getting a Resolution carried expressing the views of the country. Sir Maneckji Dadabhoi then said that it is necessary that we should keep in contact with the eminent Judges in England. My reply to that argument is this. The contact that is necessary is an intellectual contact, not rubbing shoulders with one another, and that contact can be preserved by consulting the decisions of the different Privy Councils....

THE HONOURABLE SIR MANECKJI DADABHOY : You do not think there is anything in contact by association ?

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : I shall come to the other points. He said that option should be left to the people to go to England with their appeals if they are disposed to think that the English Judges are of a far superior type and the English lawyers are of a far superior type than those obtaining in India. I have no quarrel with him ; if he is so minded, he can carry his appeal to the Privy Council, but that should not prevent other people who cannot afford to carry their appeals to England on account of their poverty or other causes, and why should they not be allowed an opportunity to have their litigation finally decided in this country ? Then he said that a Circuit Court will not be a convenient one. I will remind him that the practice in the Privy Council also is like that ; cases are made ready and then the Judges sit. It is not that the Judges are always in session ; they take up the cases as they crop up. Cases are got ready and then the Judges sit from time to time. (*The Honourable Sir Maneckji Dadabhoi* : "At one place".) That can be adopted here also in the different provinces. Appeals are filed from time to time and as a certain number of them get ready in different provinces, the Judges may select which province to take first and dispose of the cases that have become ready there. If some cases happen not to be ready, they may be taken later on along with other cases when they are ready. I think these are the most important points dealt with by Sir Maneckji Dadabhoi.

Then I come to the Government Member. He said the motion was inopportune. I have already dealt with that point. I submit that this is the most proper time for the House, at least the representatives of the people in the House, to express their opinion upon the matter. He also dealt with the opposition previously advanced by the people on the ground of the people having confidence in English Judges. I have already stated that I leave the people quite free to carry their appeals to England if they so choose, but that

should not prevent others who want to have the final decision arrived at in this country. Then he dealt upon the constitutional point of view. With regard to that I have already tried in anticipation to meet his arguments. I have already stated that the prerogative of the King is now a fiction. It has been taken away so far as the Privy Council is concerned even by the Statute of 1833. The Privy Council as it now exists is a statutory body and does not depend upon the prerogative of the King. The King cannot choose any body and every body he likes to work on the Judicial Committee, and I have already said that it does not lie in the mouth of Englishmen, when they have deprived the King of his prerogative by making the House of Lords the final court of appeal, to say that we cannot interfere with the prerogative of the King. As regards cost, my submission is that it is unavoidable. As soon as we get self-government, or a modicum of it, at any rate, the British people are sure to say : " Well, we will not allow you to carry your appeals to England at our cost ; you will have to establish a Privy Council of your own ". They have already raised an objection on that ground and we have to pay a contribution of Rs. 54,000 already ; and therefore, sooner or later, we will have to undergo the cost, and it is better for us therefore to be prepared for it.

THE HONOURABLE THE PRESIDENT : The original question was :

" That the following Resolution be adopted, namely :

' This Council recommends to the Governor General in Council to take steps to have the Government of India Act so amended as to enable the Governor General in Council to establish a Judicial Committee of the Privy Council to His Majesty in India composed of persons who are or have been Judges of High Courts in India and are chosen one from each High Court in India by the Judges of the said High Courts to hear appeals therefrom as a Circuit Court and to perform other judicial functions assigned by law to it from time to time ' "

Since which amendments have been moved :

- " (a) That after the words ' High Courts ' where they first occur, the words ' or Courts exercising the powers of a High Court ' shall be inserted ;
- (b) That for the words ' each High Court ' the words ' each such Court ' shall be substituted ;
- (c) That after the words ' Judges of the said ' the word ' High ' shall be omitted ; and
- (d) That at the end the following shall be added, namely :

' provided that litigants have the option of appealing either to the Cionis Court or to the Judicial Committee of His Majesty's Privy Council ' "

The first question I have to put is :

" That those amendments be made in the original Resolution. "

The motion was negatived.

THE HONOURABLE THE PRESIDENT : The question then is :

" That the Resolution be adopted. "

The motion was negatived.

RESOLUTION RE MOST SUITABLE LOCATION FOR THE CENTRAL MEDICAL RESEARCH INSTITUTE, ETC.

THE HONOURABLE SIR IBRAHIM HAROON JAFFER (Bombay Presidency : Muhammadan) : Sir, I rise to move the Resolution which has been submitted and which runs as follows :

“ This Council recommends to the Governor General in Council that a Committee consisting of officials and non-officials, with a non-official majority, be appointed to inquire into and report on the following points :

- (i) the most suitable location for the Central Medical Research Institute ;
- (ii) the constitution of the Governing Body of the Indian Research Fund Association ; and
- (iii) recruitment for the Medical Research Department.”

My Resolution, Sir, is based on the assumption that, in the near future, the Government of India will commence definitely to carry out the recommendations of the Fletcher Committee, particularly in connection with the establishment of a Central Medical Research Institute, the constitution of the Governing Body of the Indian Medical Research Fund Association, and the recruitment for the Medical Research Department.

But I must admit, Sir, that we, non-officials, are feeling that we have been left right out in the cold in this matter. Only yesterday we were informed in reply to question No. 31 that a copy of the Report has been placed in the Library. Apart from a very incomplete summary in the form of a press note, the general public have not yet been favoured by Government with the publication of the Report and its full recommendations. It is not for me, Sir, to attempt to excuse Government for this delay. It may be that they have very good reasons for their action ; but at the same time we are entitled to presume that when a Committee is appointed on such a vital subject, and when that Committee has submitted a report that need not for any reason be considered as confidential, public interest alone would almost demand its publication at the earliest possible moment. But what do we find ? The Report was actually printed a year and a half ago ; but except that a copy was placed in the Library of which even Honourable Members of the Council were unaware and despite many requests and representations from various medical organisations throughout the country, Government have persistently retained their secret, not even giving the universities an opportunity of expressing their views on a subject which is obviously so vital to them. And because it is now a fact that the Government intend going ahead in the establishment of the Research Institute at Dehra Dun, I feel that it is my duty, Sir, at least to obtain from Government their reasons for all this secrecy.

Now, Sir, I would emphasise at the beginning that I hold no brief for any place in India in this matter. I only desire that such an important Institute as this should be located at the most suitable place,—suitable, of course, for the work which it has to do. And, Sir, I cannot see that Dehra Dun fulfils any of the stipulations which seem to me to be so necessary. I admit, of course, that in selecting Dehra Dun, the Government are carrying out one of the recommendations of the Fletcher Committee. The great body of medical opinion, I am informed, is strongly against this place for the Institute ; and surely, Sir,

that influential and trustworthy opinion should at least be given consideration. That at present there is no agreement as to any particular place, is no reason why Dehra Dun should be selected.

Now, what are the supposed advantages of Dehra Dun ? As far as we can see with our limited information, these advantages are, at the most, four in number, namely, climate, convenience, space, and ready accommodation. But, Sir, none of these considerations seem to be exclusively confined to Dehra Dun only, nor are they absolutely essential for medical research. In fact, if those four factors are to be made the final reasons for decision, I should imagine that other places might be found which would conform to them all even more satisfactorily.

Let me first of all deal with climate. If all other necessary conditions were fulfilled satisfactorily, I would have no hesitation in agreeing to Dehra Dun ; but I do not think that climate should be placed first. The Haffkine Institute in Bombay and the School of Tropical Medicine at Calcutta are sufficient examples of the way in which it has always been recognised that climate must always be made subservient to necessity ; and the history of India is replete with examples of the way in which men of all professions and branches of science have recognised this. Willing workers are forthcoming despite the difficulties and inconveniences of climate. Although I do not for one moment believe that there can be any such idea at the back of Government's mind, I must at least voice the feeling, which has been expressed to me that any insistence of location at Dehra Dun on grounds of climate will at once give grounds for belief that the staff of the Research Institute will mostly be Europeans for whom special climatic facilities have to be provided.

Now, Sir, let me deal with the question of convenience. This is, in fact, the weakest of all the four claims, for no place could be more inconvenient for medical research than Dehra Dun. Research always presupposes an abundance of team work, a multiplicity of co-workers, an atmosphere of real discovery. It is true that Dehra Dun already has one or two research institutes, but they are not of the medical type ; whereas in both Calcutta and Bombay there are already in existence world-famous research institutes doing excellent medical work. Likewise, Dehra Dun, lacks an university atmosphere, it lacks suitable co-operation of, and intercourse with, medical colleges and well-known doctors and students of various sciences ; it lacks the essential clinical facilities which can only be provided by large hospitals ; and, finally, it lacks that informed critical medical opinion which is indispensable as a stimulus to research work. From all these points of view, Dehra Dun is most inconvenient ; and surely Government will not put forward a small claim for convenience of supervision in face of such an array of disadvantages as that.

The third argument, that of available space, is hardly worth considering. India is a very large country, and in almost every large town and city the Government have land which can easily be transferred by a book entry to locate the proposed Institute.

Similarly, the question of accommodation needs more than a cursory examination. There may be a building available at Dehra Dun, but I understand that it will require extensive alterations to make it suitable. But is Dehra Dun the only place in India where Government buildings are available

[Sir Ibrahim Haroon Jaffer.]

for such a purpose? I myself could mention two good spots in the Bombay Presidency if this is the sole guiding reason. Economy is most decidedly necessary in making arrangements, but too great an economy often results in extravagance. I do not wish to make any concrete suggestions here lest I should be accused of endeavouring to get this Institute for the Bombay Presidency, but I wish to emphasise that the whole question needs a very careful examination before coming to a decision.

Now, Sir, I think I have said sufficient about location. The advantages of Dehra Dun appear to me to be very poor when compared with the disadvantages. There are others, of course, which will occur to this Honourable House; but they will be for the proposed Committee to deal with.

But there are other considerations besides that of location, and they are of such a nature that only an expert Committee can adequately deal with them. I refer to the Governing Body of the Indian Research Fund Association, which at the present time is, with one exception, wholly official. Now, Sir, every Member of this Honourable Council will agree with me that the tendency now-a-days is to seek the co-operation of non-officials on all such matters as these; and if we may accept the Royal Agricultural Commission's Report as being of a similar character, I would remind this Council that the Central Council contains a bountiful sprinkling of non-officials. It stands to reason, Sir, that if Government desire to make medical research popular in India, if they desire that money should not be grudged for that purpose, they must invite in the Governing Body the willing and helpful co-operation of the medical profession and the Legislatures.

And lastly, Sir, I think I need only call the attention of this Honourable Council to the fact that it is now generally demanded that the Recruitment and Appointments Board can no longer be composed solely of Government representatives in the persons of I. M. S. officers. I admit that the Fletcher Committee has overweighted this Board with the official element, but, Sir, I think Government will realise that they cannot, they dare not, accept such a recommendation if they desire to retain the confidence of the medical profession and the general public. The Medical and Science Congresses held in India have proved that there is an abundance of remarkable talent available in the medical and scientific professions to permit of placing members on the Recruiting Board, with the greatest confidence. This would ensure, moreover, that all posts in the Research Department would be thrown open to selection. Government have, it is true, recently agreed not to reserve any new appointments in the Research Department for I. M. S. officers, but why should not the same procedure be followed in the existing 30 posts in the Research Department whenever a vacancy occurs? There are now no valid reasons for such reservations; and all appointments must be made solely on the grounds of merit.

Therefore, Sir, I think this Council will agree that I have made out a strong case for the appointment of the proposed Committee. These are questions that need a thorough examination. And that is all we are asking for. We do not wish to dictate as to where and how these things are to be done. We are prepared to leave them to the Committee, knowing full well that justice will be done in every case.

Therefore, Sir, I commend this Resolution to this Honourable House. I am glad that we have now at the head of the Health Department a gentleman—I mean Sir Fazl-i-Husain—who is known to be very sympathetic towards any reasonable and just non-official demand. I am sure this Resolution also will receive full consideration at his hands and that Government will accept it.

I notice that the amendment of Dr. Rama Rau is almost identical with my motion except that he proposes a Committee of nine members. The cost of such a large Committee would be prohibitive and I would not like to tie the hands of Government and would leave it to their discretion to determine the number of its members; and it is for this reason that I disagree with his amendment.

THE HONOURABLE RAO SAHIB DR. U. RAMA RAU (Madras: Non-Muhammadan): Mr. President, I move:

“That for the original Resolution the following be substituted:

“This Council recommends to the Governor General in Council to appoint a small Committee, consisting of two official and two non-official medical men, two members elected from the elected Members of the Legislative Assembly and two members similarly elected from the Council of State with the Director General of the Indian Medical Service as Chairman, to enquire into and report on the following points, namely, (i) the most suitable locality for the establishment of a Central Medical Research Institute, (ii) the constitution of the Governing Body of the Indian Research Fund, (iii) Indian recruitment for the Medical Research Department, and (iv) such other matters relative to Medical Research in India as the Committee may consider necessary.”

Sir, in moving this Resolution, I do not propose to traverse at length the past history of Medical Research in India. Suffice it to say that the Government of India exhibited all along a sort of inertia and step-motherly attitude towards this all-important question of Medical Research in this country, being guided solely by the researches made in other countries and applying them freely to Indian conditions with often negative results. I am not alone in this accusation of the Government of India's past policy or want of policy in regard to Medical Research. Sir Pardy Lukis, at one time Director General of the Indian Medical Service, urged the need for research into the nature of the tropical diseases peculiar to India and pointed out the futility of applying the result of researches made in England and other Western countries to Indian climate and conditions. Colonel Christophers, not long ago, made a similar observation which I had better quote in his own words:

“No Government, however enlightened, can combat disease without knowledge, and were they prepared to lay out vast sums on the Public Health, their efforts would be nugatory without the contributions of Medical Research. Both Sanitation and Medical Relief are based on the findings of Medical Research and are powerless to advance except as a result of advance in the branches of science dealing with disease. The vastness of the problem at issue should not be ignored. It is no question of applying such knowledge as we now have, nor of purchasing the necessary knowledge from Europe. Europe cannot help, for her problems are different and she knows nothing of India's requirements. Only by the encouragement of Research in her own territories can India arrive at a proper basis for effectively combating the many diseases that affect her population and it is the duty of an enlightened Government to allocate a due proportion of her revenues for this purpose.”

Goaded partly by this inward pressure and partly moved by the rapidly increasing and alarming mortality from preventable diseases, the Government

[Dr. U. Rama Rau.]

of India were awakened to their sense of responsibility and had established in 1906 the Bacteriological Department, now called the Medical Research Department. In 1911, the Research Fund Association was established, to which the Government of India had been making an annual contribution of 5 lakhs. In 1920 the idea of establishing a Central Medical Research Institute came into their head and Professor Starling was invited to frame concrete proposals for the same. Owing to financial stringency, his scheme was shelved for some time. In 1923 the scheme had been revived in a modified form, as the result of an *ad hoc* enquiry conducted by a Committee of medical experts under the Chairmanship of Sir Walter Fletcher, K.B.E., F.R.S., Secretary of the National Medical Research Council of Great Britain.

The Fletcher Committee's Report has not yet seen the light of day. Except that it is available in the Library now, it is not available to the members of the medical profession all over India to study it.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN: No.

THE HONOURABLE RAO SAHIB DR. U. RAMA RAU: It is only available now, Sir. It was not available some time back. But it may safely be presumed that most of their recommendations, if not all, have been embodied in the Government's proposals sanctioned by the Standing Finance Committee on the 29th August, 1928, and approved of by the Assembly. This scheme is estimated to cost 6.56 lakhs for annual maintenance and 9 lakhs for initial expenditure. This then, in brief, is the history of the Central Medical Research Institute proposed to be established at Dehra Dun.

The Government of India may now be said to have been acquitted of their original charge of apathy and inertia but they are committing another serious offence in locating the Research Institute at Dehra Dun. The points urged by the Government in favour of Dehra Dun are (1) climate; (2) facilities for control and supervision by the Government of India; (3) availability of plenty of space either free or at very low cost; (4) availability of a ready-made Government building called Chandbagh and a grant of 6 lakhs by the Indian Research Fund Association to meet the cost of alterations thereto to make it suitable for a Central Research Institute. The location of the School of Tropical Medicine at Calcutta, of the Haffkine Institute at Bombay and the King Institute at Guindy near Madras and their successful working in spite of the trying climate of these three cities should help us to throw the question of climatic considerations overboard. No scientific atmosphere whatever exists at Dehra Dun and existing offices there have no bearing on Medical Research. In strange contrast with the Government of India's decision selecting Dehra Dun as a suitable locality we find that the Rockefeller Foundation, who have made an endowment for the establishment of the Public Health Institute, have insisted on Calcutta as the suitable place for its location. The reasons are as stated by the Government themselves (1) that with its large population and numerous hospitals, Calcutta offers the clinical material adequate in measure and variety, and (2) that the School of Tropical Medicine, a centre both for instruction and research, which is maintained jointly by private contributions and with the aid of the Govern-

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ment of Bengal, will provide complementary facilities which, were the proposed Public Health Institute located elsewhere, would have to be duplicated at an extra cost. Colonel Graham, the permanent Public Health Commissioner with the Government of India, and Lieutenant-Colonel Mackie, Director of the Haffkine Institute, Bombay, and Acting Public Health Commissioner with the Government of India, both have regarded these reasons as conclusive and the condition itself as unexceptionable. The same argument holds good in respect of the Central Research Institute. The benefits of team work and clinical work, the presence of educated and well-informed medical opinion and the existence of medical colleges and teaching hospitals and such other facilities as provincial cities can afford are entirely absent at Dehra Dun. The presence of a large Central Research Institute in a city where medical colleges and teaching hospitals exist, would act as an incentive to many young medical graduates to undertake investigations and thus help the country generally. This would not be the case in a place like Dehra Dun, where no medical instruction is or is going to be imparted.

In all foreign countries such institutes are located in large cities like Tokio, Berlin, Vienna, London, etc. While so, I am at a loss to know, why the Government of India should persist in having the headquarters of the Research Institute at Dehra Dun, and, if it is merely for the sake of the salubrious climate and the small savings in buildings and equipment, it must certainly be the outcome of the penny-wise policy which the Government of India generally pursue and with which they are often credited. Even the views of the medical experts of America were of little avail in influencing the Government of India and weaning them from their short-sighted course. Public opinion, not to mention medical opinion, in India has never been consulted in the matter. It is therefore incumbent on the Government to appoint a small Committee, as suggested in my Resolution, to go into the whole question carefully and pitch upon a suitable locality for the location of the Central Research Institute, before launching on this scheme. I propose that the Committee shall consist of official and non-official medical men with the elected Members of the Central Legislatures duly represented on it and with the Director General of the Indian Medical Service as Chairman.

Incidentally, the Committee may be entrusted with the task of enquiring into and making proposals for overhauling the constitution of the Governing Body of the Research Fund Association. As at present constituted, the Governing Body consists entirely of Government officials. Neither the Legislatures nor the independent medical profession in India are represented on it. As in the case of the Agricultural Research Council, there should be at least two Members of the Legislative Assembly, one Member of the Council of State as also the representatives of the independent medical profession in the Governing Body of the Research Fund Association which obtains its grant from Government. I must not be understood to mean that I intend introducing politics into those bodies, by suggesting the inclusion of the Members of the Central Legislatures therein. Far from it. On the other hand their presence will have a salutary influence on the working of this Association. In the Advisory Board, the independent medical profession

[Dr. U. Rama Rau.]

and research workers should find a place, as also the various Indian Universities, the All-India Medical Congress, the Indian Science Congress and the Indian Chemical Society.

Then comes the question of recruitment for the Indian Medical Research Department, for the Central Medical Research Institute and the Public Health Institute proposed to be established at Calcutta. The "Recruitment and Appointments Board" should not be heavily weighted with I. M. S. officers. Such a Board should have on it representatives of the Medical Colleges, official as well as non-official, of the independent medical profession, of the Indian Chemical Society and of the Indian Science Congress. I understand that, according to the Fletcher Committee's report, 23 out of the 30 appointments in the Medical Research Department are reserved for I. M. S. officers and 7 are open to non-I. M. S. medical men. I fail to see why such a disparity should exist at all. The policy of reserving a large number of research posts for members of the I. M. S. and of creating a separate grade of inferior service, members of which can never aspire to higher appointments, however competent they may be, is largely responsible for retarding the progress of Medical Research in this country. Such a state of affairs should not be allowed to continue long.

There are also other matters, such as the composition of the Selection Board recommended by the Fletcher Committee, the emoluments of the higher staff, the award of scholarships to Universities for research work and post-graduate study, which may be usefully tackled by the Committee. I therefore commend my Resolution for your kind acceptance.

THE HONOURABLE MAJOR-GENERAL SIR HENRY SYMONS (Director General, Indian Medical Service): Sir, I may say straightaway that Government are very pleased that this Resolution and amendment have been brought forward to give them a chance of making perfectly plain and clear the reasons why they have taken such action as they have and also to clear up some misunderstanding which exists at present abroad, that is, amongst the public. With your permission I will deal first with that part of the Resolution and amendment which deals with the suitable location for the Central Medical Research Institute. My Honourable friend the Mover of the amendment has more or less covered some of the ground which I had proposed to talk about, but I will fill in some lacunae which he omitted. He said that as far back as 1896 this question of the location of the Institute—or, as it was then called, the Central Bacteriological Laboratory—came up. Sir Alembroth Wright, whom you all know by repute, happened to be in India at the time and he with other members who were doing plague work in Bombay considered certain places in India where this Bacteriological Laboratory could be situated. Amongst other places which my Honourable friend did not mention were Agra, Calcutta, Delhi, Bombay and Mukhtesar.

THE HONOURABLE SIR IBRAHIM HAROON JAFFER: Not Lucknow or Lahore?

THE HONOURABLE MAJOR-GENERAL SIR HENRY SYMONS: No. After due consideration of these places, these big towns were ruled out, and in

course of time the Central Bacteriological Laboratory came to be concentrated at Kasauli. This became known as the Central Research Institute and with it the Indian Research Fund Association was formed, *pari passu*, and also the Indian Medical Research Department. It was found by the Government of India that the Institute at Kasauli was not sufficiently large for the amount of work which was being done, and therefore in 1920 Professor Starling was brought out from England to report on the advisability of shifting its location. He travelled about India and eventually settled on Delhi. That was in 1920. Delhi, as you are aware, has not got the best of hospitals and his scheme included not only the building of the Central Medical Research Institute, but also hospital buildings, and the whole scheme was to cost something in the neighbourhood of 24 lakhs. I may say that that scheme was sanctioned by the Standing Finance Committee and the Assembly. It was however held over for some time and considered further. Government were not quite sure in their minds of the advisability of locating the Central Research Institute in Delhi. So in 1926, when money became easier, the Government of India again broached this subject. I remember it very well because I had come to the Government of India in April of that year, and in July 1926 the Department of Education, Health and Lands instructed me to go into this question of the location of the Central Medical Research Institute. I considered Professor Starling's report and submitted a note in July or August. In a way I was a true prophet. I suggested to the Government of India almost exactly what the Fletcher Committee recommended in their report. After my note the Government of India considered that it would be better, instead of having an individual opinion, to have a Committee; also they thought, very naturally, that a Committee consisting of scientists from England or a mixed board would be much more likely to be unbiassed, impartial and uninfluenced by local conditions than a purely local Committee such as we are asked to form now. I will read out the names of this Committee to you, if you will forgive these details. The Committee was constituted as follows: Sir Walter Fletcher, K.B.E., M.D., F.R.C.S., a Doctor of Science, an LL.D. and a Fellow of the Royal Society, and incidentally he is also Secretary of the Medical Research Council in Great Britain. The next is Lieutenant-Colonel S. P. James, an M.D., D.P.H., a retired I. M. S. officer, who is the Medical Officer and Adviser on Tropical Diseases, Ministry of Health, Great Britain. He retired from the Indian Medical Service in 1916, i.e., 13 years ago. He is also the head of the Intelligence Section of the Ministry of Health in Great Britain. Those were the two representatives who came out on the Committee representing Great Britain. Then we put an Indian medical practitioner on the Committee, Dr. Row, M.D., D.Sc., Professor of Pathology, Grant Medical College, Bombay. He is employed by the Government, but he is an independent medical practitioner. Then we had to put on some one from the Medical Research Department and we put on Colonel Christophers. Colonel Christophers is well known; his work is well known; he is well known internationally and is a C.I.E., K.H.P., Fellow of the Royal Society; he is Director, Central Research Institute, Kasauli. The Dutch Government also struck a special medal for his work. Now, the composition of this Committee was such that it was more likely to come to an absolutely impartial, unbiassed opinion, than any Committee which can be formed of Indian officials and non-officials. Now, this Committee travelled about India

[Sir Henry Symons.]

and visited various places which I will mention presently. But before so doing, I would say that the instructions which they received from the Government of India were as follows :

"The Committee were to investigate :

- (a) the framework of Professor Starling's scheme for the establishment of a Central Research Institute with special reference to recent developments in the field of medical investigation and research in India and elsewhere.
- (b) the relations of the proposed Institute to research activities now in progress under the auspices of—
 1. The Government of India,
 2. The Indian Research Fund Association,
 3. Agencies under the control of Provincial Governments (so far as consistent with the constitutional position established by the Reforms),
- (c) the manner in and the extent to which the proposed Institute can co-ordinate the activities of the various agencies referred to in (b),
- (d) the most convenient venue for establishing the Institute, regard being had to its projected activities,
- (e) the strength and constitution of and method of recruitment to the Medical Research Department,
- (f) the training of assistants for medical research work,
- (g) the future of research on the problem of human and animal nutrition.

The Committee were also to make recommendations together with estimates of cost."

You will see that the Committee were instructed to go into the whole question of medical research, the composition of the Indian Research Fund Association, and the Medical Research Department.

Now, the Honourable Mover has said that this has been a confidential document. Let me remind him that this is the report of a Committee, on a subject which is scientific in its nature. It has been available for anyone who asked for it in the Education, Health and Lands Department. It is not a report, say, like the Report of the Royal Commission on Agriculture, on big subjects of that nature. Therefore, what is the use of a report of this nature being put on the book-stalls of railway stations? Any medical man who applies for it is supplied with it at once. Therefore, I maintain that this has not been kept confidential. Anyone who wanted information with regard to the report of the Committee could have had it by asking the Department for it.

THE HONOURABLE SIR IBRAHIM HAROON JAFFER: Have copies been sent to the Universities for their opinion?

THE HONOURABLE MAJOR-GENERAL SIR HENRY SYMONS: Inasmuch as the Government of India had appointed a special Committee on the subject, it was not necessary to ask the opinion of the Universities. Now, this Committee, the composition of which I have just explained to you, travelled about India. They came out to India at the end of 1927 and they arrived at Calcutta when we had a Conference which represented all the research workers anywhere between Suez and New York or California; and they were asked to come in time for that Conference, so that they might get the local atmosphere and get some idea of what work was being done in India. After that Conference

was over, it was Christmas time and afterwards the Committee travelled and went to Kasauli, Dehra Dun, Delhi, Calcutta, Madras, Coonoor, Mysore, Bangalore and Bombay. After they had gone round and got the opinions from the various Directors of Institutes and medical men in those places, they returned to Delhi and wrote their report, and in their report they suggested the location of the Central Research Institute at Dehra Dun. Now, the reasons for selecting Dehra Dun were as follows: (1) Climate. I am afraid I am repeating but I have to enlarge. (2) Buildings available. (3) Different kinds of research. (4) Research atmosphere. Now, about climate, we have all heard a lot about it; it comes up every year in connection with the exodus—climate, as regards working in suitable or unsuitable climates. Some of us find our work in unsuitable climates, some in suitable climates. I am sure the Mover of the Resolution will not say that the climate of all places in India is the same. I come from Madras where in extreme heat it is difficult to concentrate, and there are other such places in India. The Mover of the Resolution comes from Poona where the climate is better and more pleasant. If our work lies in a place where the climate is unsuitable, we have to do our work there. But, as I shall point out later on, it is not necessary to locate this Institute in, shall I say, a place which has an undesirable climate. Therefore the Committee—and quite rightly, I maintain—did not recommend the location of this Institute in climates like Bombay, Calcutta and Madras.

Now, we come to buildings available. In Dehra Dun we already have 50 acres of land. We already have buildings which can be adapted and we have excellent land which can be made use of.

THE HONOURABLE RAO SAHIB DR. U. RAMA RAU: How many lakhs have you put in to make it up?

THE HONOURABLE MAJOR-GENERAL SIR HENRY SYMONS: That is being gone into at the present moment. Now, as regards the

THE HONOURABLE THE PRESIDENT: From the various remarks that have fallen from the Honourable Member's lips, I gather he has still a great deal to say, he has promised to revert to various subjects in the rest of his speech. He is putting the Chair in rather an awkward position in regard to this.

Honourable Members are aware that the time limit for speeches is 1 P.M. 15 minutes, and that there are only two exceptions. The Mover of a Resolution has half an hour and the Member of the Government in charge of the Department to which the Resolution relates has also half an hour. But the Member in charge of the Department may delegate his functions in respect of a Resolution to another Member of the Council. I have made inquiries and have ascertained that the Honourable Member in charge of the Department has not delegated his functions in regard to this Resolution to the Honourable Member who is Director General of the Indian Medical Service. Now, it is clear to my mind that it is not fair to the Honourable the Mover of the Resolution to allow two Members to speak on behalf of the Government and for each of them to have half an hour. And I wish to make it clear that if one Member speaks for half an hour, I shall have to treat him as the Member in charge of the Resolution and the other Member of Government will have to confine himself to 15 minutes.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN: Quite. I bow to that, Sir.

THE HONOURABLE MAJOR-GENERAL SIR HENRY SYMONS: I am sorry, Sir. But I think it is a very important question and takes time to explain. However, the other reason, and this I maintain is the most important one, is that there are various kinds of research. This again is a technical subject which I am sure the Members of the House will forgive me for going into in a few words. There are two kinds of research work carried out in the medical institutes—one which is called basic or long range, and the other clinical. The basic or long range deals with epidemic diseases—such as cholera, plague, malaria, kala azar, small-pox, and general types of disease. Now, these diseases, you will admit, are universal. They occur all over India—north, east, south and west. Therefore, your Institute can be put anywhere. Again, the workers in connection with this have to go abroad into the field and they do their work in the most unhealthy climate as a rule, and then they fall back on their Central Medical Research Institute and carry on their investigation. Now, it stands to reason then that it is most advisable that these workers should have a good climate to fall back upon, a good climate in which to work and think. No one can think easily, thoroughly and soundly in an unsuitable climate. As I have said, I have been in Madras for many years and I know what it is. Now, I come to the clinical research. Clinical research is a different thing and that is the one on which my friend the Mover based his arguments. He said we must have this Central Institute where we have got all the material. I have just told you that in the basic work, there is material everywhere. It is not in Bombay, Calcutta or Madras. It is in the mofussil. Your clinical work is in big towns, I admit, and you have already in these big towns clinical research institutes. You have the Parel Institute in Bombay. You have the King Institute in Madras, and the Tropical School in Calcutta. Then there is another in Rangoon, and so on. The Fletcher Committee recognised that, and they suggested that you should have a clinical research unit which would be based on wherever your Central Research Institute is, and that this clinical institute should consist of a Director and two or three assistants, and, if necessary, more. Now, that clinical institute would be at the disposal and at the beck and call of every Local Government. If you wanted it in Bombay to inquire into any disease, it would be available. You could call upon it, and it would be at your command. Now, that is exactly the same thing as exists in England at the present moment. Let me read this out to you:

“The Medical Research Council finances the National Institute for Medical Research at Hampstead which fills a role almost identical with that of the proposed Central Research Institute at Dehra Dun in so far as basic and other researches are concerned, and does this without a hospital being attached to it. This Institute, together with the Mill Hill farm laboratories in association with it, deals with problems in biochemistry and pharmacology, experimental pathology, bacteriology and protistology, applied optics, applied physiology, biological standard, production of standard cultures and sera; it houses the national collection of type cultures, and the central research library; and it runs a Publications Department. Meantime, it has a Department of Clinical Research based on University College Hospital, London, and directed by one of the physicians to the hospital, and it has medical units or individual workers attached for various enquiries at St. Thomas', St. Bartholomew's, Guys and the London Hospital in London, at the Royal Infirmary in

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Sheffield, Edinburgh and Cardiff, and at the James McKenzie Institute for Clinical Research, St. Andrews. Other research schemes in some 30 different subjects are being carried out at present by special workers directed by representative committees of experts from all over Great Britain and these would correspond to much of the work now being undertaken by the I. R. F. A. in India but with due appreciation of the difference in resources both of men and money.”

Therefore, the Fletcher Committee recommended that we should have exactly the same as they have got in England. I would mention also, as the Honourable the Mover knows, that disease varies greatly all over India. We have a disease peculiar to Madras which we have not got in the Punjab. There are more gastric diseases in Madras whereas in the Punjab you have a large amount of bone diseases. I ask you, therefore, what is the good of putting an institute, say, in Madras, which is to deal with these local diseases? The clinical unit would be at the beck and call of any province. We can send it to Madras or the Punjab as it is required.

Now, as to the objections raised by the various bodies—I may say there are 12 bodies and 5 of these bodies are in Bombay. The Honourable the Mover said he might be accused of wanting it in Bombay. I have no doubt what they want in Bombay. Although they did not say so definitely, one member of the Committee said: “We have 12 acres of land in Bombay, please come and make use of it”. Some of the other societies I have never heard of. There is the small one—the Dharwar Medical Society—that I have never known the existence of. The only outside bodies are the Central Provinces, Berar, and the United Provinces. Allahabad said, we do not want Dehra Dun; Lucknow said, we do not want Dehra Dun. We do not know what they want. None of them have come forward with a constructive policy. None of them have said where to put it.

THE HONOURABLE RAO SAHIB DR. U. RAMA RAU: So appoint a Committee.

THE HONOURABLE MAJOR-GENERAL SIR HENRY SYMONS: Sir, I am afraid I have encroached upon the time of the House to-day. But I felt it my duty to go into details because Government have been so much misunderstood. Government have been accused of going slowly, whereas there is no doubt that Government have taken the best possible advice and have acted upon it and, I maintain, quite rightly.

(The Honourable Mr. G. S. Khaparde rose in his seat and then sat down. The Honourable the President called his name twice, but the Honourable Member did not again get up to speak.)

THE HONOURABLE THE PRESIDENT: Does the Honourable Member wish to speak?

THE HONOURABLE MR. G. S. KHAPARDE (Berar Representative): Yes, Sir, I wish to speak.

THE HONOURABLE THE PRESIDENT: I called him twice.

THE HONOURABLE MR. G. S. KHAPARDE: I wish to speak for specially two reasons. One of it is that I really feel a difficulty about voting on this matter. A good deal has been said about the location, but nobody has spoken much about the constitution of this body. The constitution of this body at

[Mr. G. S. Khaparde.]

present is this. We have a President, a Secretary, the Director General, the Public Health Commissioner, Assistant Director, etc. All of them are officials, and the only non-official is the Raja of Parlakimedi, a gentleman whom I do not know. With this constitution for this institution, I do not agree at all. Unless it is more popularised and you get representatives from the medical profession and from the various other bodies, I do not feel inclined to vote for anything at all. There are *ex-officio* people whom I do not know, to whom I could not possibly go and complain. If I do, I will probably get an answer in the official way that the matter has been considered and disposed of. So, unless this constitution is put on a better basis, I do not feel inclined to speak about it.

There has been a good deal of talk about the location. I proposed Betul in the Central Provinces for the seat of the Government of India at one time. If it is good enough for the seat of the Government of India, why should it not be a good seat for this institution? It is on the Satpura mountains where medical plants grow and its climate is equable and you can wear English clothes throughout the year. And what is more, there are no dances, no dramas, no cinemas, and these people who are investigating problems will be something like educational recluses, living together, studying their subjects and making proposals. They will be removed from all the attractions of dances, dinners, etc. Let them be put on a mountain where they have no dramas, no cinemas and no entertainments, and no dinners, and then they will do something. Otherwise, if you put them in Bombay, they will get a thousand invitations and they will do nothing. So, I think that this constitution should be put on a proper basis so that it may be possible for the local talent as well as for the European talent to come together. Otherwise, it is not worth while going on with it. The constitution is the chief point. As to the location, *prima facie*, the Government are in favour of Dehra Dun. But I suppose that if the constitution is put right, they will be able to make suggestions, and we will be in a better position to decide as to whether we want this institution or not. That is all I wish to say, Sir.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN (Education, Health and Lands Member): Sir, this has been a very interesting debate. Before I studied the case, I was told that the case was an extremely important one, and that there were considerations of vital importance which the Government had ignored, and that the demand for a Committee was such an inevitable one that the Government could not refuse it. So, in studying this problem I more or less started with a bias in favour of the Resolution. Having studied it, and having had advice from experts I was most anxious to meet the Honourable the Mover of this Resolution as well as the Honourable Member who has moved the amendment, as far as it lay in my power to do so, and this is the result. So far as the second part of the Resolution is concerned, namely, the demand for making the constitution of the Association more representative and less of *ex-officio* members, I wish to state to the Council that Government has been able to meet that demand. Not only will there be seven *ex-officio* members of whom the Honourable Mr. Khaparde knows many and the eighth one who has been in the Association for ever so long, but there will be six more, and the Council will no doubt be satisfied when I tell

them that three of them will be as suggested by the Honourable Member who moved the amendment, that is to say, two representatives of the Assembly to be elected by that body, and one representative of this Honourable Council to be elected by it. Besides these three, there will be two representatives of the medical faculties of the Indian Universities; and one who will be a non-medical scientist to be nominated by the Governor General. I have no doubt that this constitution of the Association will make it truly representative and is more or less as desired by the non-official Members of this House.

As regards the Recruitment Board, Sir, its constitution is under consideration and I am not in a position just now to state to what extent non-*ex-officio* members will be taken, but I am in a position to state definitely that Government will probably give it the same sort of constitution as it has already given to the Association. Therefore, it must be patent to the House that as regards parts (ii) and (iii) of the Resolution, the need for a Committee does not exist.

Now, I turn to the first part of the Resolution, that is to say, the location of the Institution. The history of this case has been dealt with at length. I must frankly state to the House that the location was definitely decided by the Government of India two or three months ago, after the matter was thoroughly considered in all its aspects. This has been mentioned in the Assembly in answer to a question put there. During the last Budget Session some Members of the Assembly had seen the Honourable Member in charge of this Department about this very matter; and after he had fully considered those representations and such representations which the Medical Association of Bombay had sent to him he held another consultation with his officers and Government finally decided in favour of Dehra Dun. At one time I thought perhaps the medical profession in Bombay was not as much occupied as the medical profession in other places, because of the length and number of representations which they sent to the Government of India on the subject. I cannot but admire the close reasoning of those representations and the great persistence which those who wanted a change displayed in those representations. I have no doubt that the authors of those representations are to no small extent responsible for our having had the pleasure of discussing this subject in the Council to-day, and, as the Director General, Indian Medical Service, has pointed out, for enabling the Government to place the whole case frankly and fairly before the House. Well, the location at Dehra Dun having been already settled, all I could do was to see whether the arguments in favour of a change are so strong and so convincing as to make me reconsider the matter. The argument of the Honourable Mover is that Dehra Dun is a place which is comparatively nice for living as against Bombay or Calcutta or even places like Lucknow and Lahore. He said that this selection is due to the fact that most of the workers of that Institute will be Europeans. I am sure he was not at all serious in his contention, because he cannot possibly be unaware of the fact that most of the hill stations in Upper India nowadays are patronised more by Indians than by Europeans. The population of what I may call the civil station of Simla to-day does not show that the majority of that population is European. Is he not aware that whenever he takes a constitutional in the evening along the Simla streets the number of Indians he meets is as large as, if not very much larger than, that of Europeans. According to my way of reckoning it is. Therefore, to say that

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[Khan Bahadur Mian Sir Fazl-i-Husain.]

the selection of a nice cool place, a good place to work in, can but indicate only one thing—that it is intended for European workers—to my mind is not a fair argument at all. Those who have to do brain work, those who have to put in good work, be they European or Indian, do want a good climate. And I am not sure whether it can be reasonably urged that Indians possess a constitution which can put forth really good sustained work in Calcutta or Bombay to the same extent as they can in Dehra. This general argument, an argument which a layman might consider and which may appeal to the public, was the only one which the Honourable Member urged. As for his other arguments, such as the necessity for a University atmosphere and things of that kind, surely the Honourable Member is not unaware of the fact that the distractions of Calcutta, be they political or social, and of Bombay also, are not conducive to the sort of atmosphere in which research workers can be expected to do their best. I am at one with what has been said by previous speakers that you do want for a research institute a place with a good climate—a place like Dehra Dun for instance, from where you can get to a higher altitude, to Mussoorie, in an hour or so or again to lower altitudes, e.g., to Hardwar, if you so desire.

THE HONOURABLE SETH GOVIND DAS: Why should it not be in the Central Provinces? No such all-India institution exists in the Central Provinces at all.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN: I really appreciate this interruption very much. Had I been myself on that Committee I would have tried to explore some place in the Central Provinces to locate the Central Institute in. I have a liking for the Central Provinces myself, but not having been on that Committee, and that Committee having been composed of four experts, four absolutely impartial men, none of whom belonged to the Central Provinces, I do not think that ground by itself would justify my re-opening the case which is already decided. As a matter of fact, if you examine the constitution of that Committee of four experts, you will see that one was an *ex*-Director of the Tropical School of Medicine in Calcutta. Surely, if he did not stand up for Calcutta, it hardly lies in the mouth of any one, however great a patriot of Bengal he may be, to press for Bengal. If Dr. Row, a representative of the medical profession of Bombay and now an ornament of the Grant Medical College, Bombay, did not stand up for the Bombay Presidency, it does not lie in the mouth of a critic to say that Bombay has not been fully considered. Similarly, if Colonel Christophers, who knows Kasauli well, did not press for the Punjab, I will not re-open the matter. (An Honourable Member: "What about Madras"?)

These interruptions are always most helpful, because I belong to the Punjab. If the Director General of the Indian Medical Service, a better Madras than whom it is not easy to find, did not stand up for Madras, well the Honourable Mover of the amendment can hardly expect this Council to vote for Madras.

To sum up, Sir, Government have already actually accepted the second part of the proposal, and have given an assurance to the House that Government will deal with the third part of the Resolution more or less on the lines of the second part. I have also stated that Government have already arrived at a definite decision on the first part and the arguments urged against that

decision are in no way such as to justify my re-opening the case. I trust therefore that the House will persuade the Honourable Mover to withdraw his Resolution, failing which the House will refuse to accept it.

*THE HONOURABLE SIR IBRAHIM HAROON JAFFER: Sir, as anticipated, I think I have received sympathetic replies from the new Member in charge to two out of the three demands I have made before the Council. I am sorry to say that he does not agree to the chief point, the location of the Research Institute. Well, Sir, the chief reason is the report of the Fletcher Committee. Well, we have some experience of Committees and we know that in the face of new facts sometimes their reports are altered. I think it can be altered also in this case. I have no desire, Sir, to enter into any lengthy discussion when there are only two minutes left for lunch, but in case this Resolution is defeated I appeal to the Honourable Member to call a conference of medical men and again discuss this point with them, and I think some *via media* can be found.

With these words, Sir, I ask the Council to pass the Resolution.

THE HONOURABLE THE PRESIDENT: It is not very easy to arrive at the decision of the Council in this matter in view of the fact that the Resolution raises various points and that there is an amendment and in view also of the attitude taken by the Government towards the various parts of the Resolution. I think the Council can only satisfactorily give its decision if I put the various points separately to the Council. First it will be for decision whether there is to be a Committee; then, if there is to be a Committee, what is to be the constitution of the Committee, and after that what will be the various points of reference to them. I will therefore put the first part of the Resolution to the Council.

The original Resolution ran:

"This Council recommends to the Governor General in Council that a Committee consisting of officials and non-officials, with a non-official majority, be appointed to enquire into and report on the following points."

To that part of the Resolution an amendment has been moved.

THE HONOURABLE RAO SAHIB DR. U. RAMA RAU: I beg leave to withdraw my amendment.†

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

THE HONOURABLE THE PRESIDENT: The question is:

"That the following words stand part of the Resolution:

"This Council recommends to the Governor General in Council that a Committee consisting of officials and non-officials, with a non-official majority, be appointed to inquire into and report on the following points:—"

* Speech not corrected by the Honourable Member.

† "That for the original Resolution the following be substituted:

"This Council recommends to the Governor General in Council to appoint a small Committee, consisting of two officials and two non-official medical men, two members elected from the elected members of the Legislative Assembly and two members similarly elected from the Council of State with the Director General of Indian Medical Service as Chairman, to enquire into and report on the following points:—"

The Council divided :

AYES—12.

Govind Das, The Honourable Seth.	Ray Chaudhury, The Honourable Mr. Kumar Sankar.
Jaffer, The Honourable Sir Ebrahim Haroon.	Sinha, The Honourable Mr. Anugraha Narayan.
Khaparde, The Honourable Mr. G. S.	Suhrawardy, The Honourable Mr. Mahmood.
Mahendra Prasad, The Honourable Mr.	Surpat Singh, The Honourable Mr.
Mookerjee, The Honourable Srijut Rama Prasad.	Zubair, The Honourable Mr. Shah Muhammad.
Ramadas Pantulu, The Honourable Mr. V.	
Rama Rau, The Honourable Rao Sahib Dr. U.	

NOES—23.

Akram Husain Bahadur, The Honourable Prince A. M. M.	Gwynne, The Honourable Mr. C. W.
Asthana, The Honourable Mr. Narayan Prasad.	Harnam Singh, The Honourable Raja Sir.
Basu, The Honourable Rai Bahadur Suresh Chandra.	Harper, The Honourable Mr. K. B.
Burdon, The Honourable Mr. E.	Latifi, The Honourable Mr. Alma.
Charanjit Singh, The Honourable Sardar.	Maqbul Husain, The Honourable Khan Bahadur Sheikh.
Clayton, The Honourable Mr. H. B.	Muhammad Hussain, The Honourable Mian Ali Baksh.
Dadabhoy, The Honourable Sir Maneckji.	Ryan, The Honourable Mr. T.
Dutt, The Honourable Mr. P. C.	Symons, The Honourable Major-General Sir Henry.
Fazl-i-Husain, The Honourable Khan Bahadur Mian Sir.	Thompson, The Honourable Sir John.
Fyfe, The Honourable Mr. J. H.	Watson, The Honourable Sir Charles.
Graham, The Honourable Mr. L.	Weston, The Honourable Mr. D.
	Woodhead, The Honourable Mr. J. A.

The motion was negatived.

THE HONOURABLE THE PRESIDENT : In view of the decision of the Council, it is not necessary to put the rest of the Resolution to the Council.

RESOLUTION RE ACCOUNTANTS IN POST OFFICES.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE (West Bengal : Non-Muhammadan) : Sir, I beg to move the Resolution that stands in my name :

"This Council recommends to the Governor General in Council to raise the posts of the accountants in all the first class Head Post Offices, and those in the second class Head Post Offices under Postmasters in the grade of Rs. 250—350, to the lowest selection grade of Rs. 160—250."

Sir, my position has become much easier on account of the attitude that has been taken up by Government in some of the different provinces. When a proposal is made for putting officers in the selection grade, two questions are considered. The first is the intrinsic value of the work done by the officers concerned : if the work is of a really important, intelligent and responsible character, then the officers are placed in the selection grade. Next, there is the other test applied by Government, namely, how many subordinate clerks work under the superior officer. But this test is not applied by Government in all cases ; because there are instances where officers have been placed in the selection

grade in spite of the fact that they have either no clerk under them or less than five clerks under them. To go into the question whether the work of these accountants is of such a nature as would entitle them to be put in the selection grade, I need refer only to the observations that have been made by the different superior officers of the Department from time to time. An accountant is appointed in each of the district Head Post Offices. He is in charge of all the accounts not only of the district head office, but also of all the sub-post offices in the district. He has to do the work of an audit officer over and above the work of keeping accounts, because the Postmaster of the Head Post Office is responsible for sending up the accounts of all the subordinate Post Offices and he is responsible for the correctness thereof. Although the Postmaster is theoretically speaking responsible for the correctness of the accounts, the accountant is really responsible for the work for the simple reason that it is not physically possible for the Postmaster to scrutinise the accounts in all the details and then certify the accounts as correct. He has to depend on the accountant for the correctness of the accounts. There are cases in the office codes where the accountant is made responsible for the incorrect statements that may appear in the accounts, as for example, on account of the incorrectness of the accountant, if leave is allowed to a person to whom leave is not admissible, or if a person is allowed a leave allowance in excess of what he would be entitled to under the rules, the accountant is held responsible and not the Postmaster.

Then, Sir, if we look to the pay given to the accountants in the other departments of Government, we find that the pay is much higher than what is given to the accountants in the Post Offices. In the Post Offices, the salary is the salary of an ordinary clerk with an addition of Rs. 10 or Rs. 15 or Rs. 20 as a special allowance. But when we come to the Military Department accountants or the Public Works Department accountants, they are put either in the grade of Rs. 125 to Rs. 200 or even in a higher grade and in the case of the Military Accounts, they are always put in even higher grades. Over and above this, the examination which has been introduced by Government during the last four or five years to test the capacity of these accountants is a real and searching test which entitles the accountants to be put in the higher grade automatically. The examination is thrown open to all the clerks and officers in the Post Offices and although there are thousands of officers entitled to appear during the last four or five years only a few hundred officers have taken care or thought themselves competent to appear in the test. For passing the examination the candidate must show his knowledge of the different Codes, the Civil Service Rules, the Fundamental Rules, the special Rules and Regulations passed in the different provinces from time to time and over and above that the Life Insurance Rules, the Provident Fund Rules and a host of other rules. And not only that. Each candidate must obtain at least 60 per cent. of the total marks to get a pass certificate. Officers who satisfy such a test should certainly be given proper emoluments. And I find that this principle has been accepted in the Bombay, the Madras and one or two other Circles. It has not been accepted in all parts of Bengal.

My Resolution may be divided into two different parts. One is to raise the posts of the accountants in all the first class Head Post Offices. I do not think that Government will have any objection to the introduction of the selection grade in first class Head Post Offices. The next group is the second class Post Offices, not all of them, but only such as are under Postmasters in the

[Srijut Rama Prasad Mookerjee.]

grade of Rs. 250—350. Post Offices are divided into two classes, first class Post Offices and second class Post Offices, not on account of the intrinsic importance of the work that is being done there but on account of the volume of the work in the Post Office, and the salary of the Postmaster. The quality and quantity of the work done by the accountant is the same, whether it be in a first class Post Office or a second class Post Office. But I have intentionally kept out the second class Post Offices that are under Postmasters in the grade of Rs. 160 to Rs. 250, because there may be overlapping of the grade between the superior and subordinate staff in the same Post Office. Personally I shall be satisfied if the selection grade is introduced in the case of officers who are subordinate to Postmasters in the higher grade of Rs. 250—350. This would not entail a very great additional cost to Government. If all the second class Post Offices had been included the cost would have run up to two lakhs or two lakhs and a half. But the adoption of this Resolution—I speak subject to correction—would mean about 80 to 90 thousand rupees per annum including the amount which Government is now spending by converting the accountantships in the first class Post Offices.

With these few words I commend my Resolution for the acceptance of the Council.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: (East Bengal: Non-Muhammadian): Sir, I do not propose to move my amendment.*

THE HONOURABLE MR. G. S. KHAPARDE (Berar Representative): I wish to support the Resolution, seeing that they are poor people and specialists in their own way. They should be treated well by introducing a special reform for them. They should be put on the same basis as in the Military or other Departments.

THE HONOURABLE MR. T. RYAN (Industries and Labour Secretary): Sir, I hope I shall not lay myself open to the charge of discourtesy if I am somewhat brief in replying to the Resolution. The Government are in complete sympathy with the desire which animates the Honourable Mr. Rama Prasad Mookerjee in moving the Resolution. They are anxious that all their staff, and not less than others, accountants in Post Offices, should be adequately remunerated, but I regret I must oppose the Resolution because it would involve the adoption of a scheme which would have very inconvenient results. There is a great number of Post Offices in India, most of which are Branch or Sub-Post Offices, working under Head Post Offices. These last are divided into two classes, first and second. Apart from the three Presidency General Post Offices which are not in question, there are about 34 first class Post Offices and about 217 second class. Every Post Office is in charge of a Postmaster on an appropriate rate of pay, and in each Head Post Office there is an Accounts Branch consisting often of a single man, sometimes of several men, whose responsibilities vary from office to office. The accountants in charge

* That for the words "those in the second class Head Post Offices under Postmasters in the grade of Rs. 250—350 to the lowest selection grade of Rs. 160—250" the following words be substituted, namely, "all the second class Head Post Offices."

—each may be a single man actually doing the work or a man at the head of the Accounts section—are either in the selection grade or are time scale clerks with special pay in addition. Now, it is to be inferred from the Honourable Member's Resolution that he thinks that the pay of the Postmaster is a criterion of the importance and responsibility of the accounts work. Certainly in an important office, where the Postmaster is highly paid or comparatively highly paid, the accountant has in general more responsibility than in the smaller offices, but the pay of the Postmaster does not afford an actual precise test of the importance or status of the accounts work. The adoption of this rule would involve various anomalies and would give rise to claims from other members of the staff, and it would be quite impractical for Government without incurring considerable difficulties in other directions to accept the Resolution. At the same time, I may say that the Government are far from being uninformed as to the grievances of the Accounts staff. We have now under consideration a very full statement—I have a copy here, it is 19 to 20 pages of print—dealing with their grievances. This is at the present time receiving the consideration of the Honourable Member in charge of the Department of Industries and Labour in consultation with the head of the Post and Telegraph Department. And I do not think I need assure anybody here who knows the gentlemen I have just referred to—I do not think they need any assurance that any statement of grievances will receive the most sympathetic and careful consideration. Actually, within the last year or two, a number of accountants' posts in particular Post Offices have been raised to the selection grade and we have now under examination the question of a suitable criterion for deciding other cases, all of which will receive the most careful consideration. I can therefore assure the Honourable Member that Government are giving the matter full consideration. They are entirely sympathetic to the staff, but it would be impracticable and would give rise to inconvenience in various directions if a rule—if I may say so without offence—if a rule of thumb were adopted. The observations made by the Honourable Member will be recorded and will be given the fullest weight in considering the matter; and with that assurance I hope I shall not seem unsympathetic if I oppose the Resolution on behalf of Government.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: Sir, after the statement that has been made by the Honourable Member opposite, I do not think I ought to press this Resolution at this stage. I have brought to the notice of Government only one of the many grievances that are now being considered by Government. The Honourable Member has not referred to one fact which I stated in my opening speech, and that was the disparity in the pay between accountants in the Postal Department and the pay that is drawn in the other Departments under Government.

THE HONOURABLE MR. T. RYAN: May I say with reference to that point, Sir, that accountants vary greatly in magnitude and importance, and it is really hardly fair of the Honourable Member to suggest that an accountant in the Post Office is necessarily comparable in the exacting nature of his work or the qualifications required of him with accountants in highly organised departments like the Military Accounts Department. I am not belittling the Post Office accountant in any way, but I could not subscribe to the proposition that one accountant should necessarily be paid the same as another accountant.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: I do not suggest that they ought to be placed at once in the same grade as the accountants in the Military Accounts Department, but they might at least be given, I suggest, some higher grade than at present, especially when the accountants in the Military Accounts Department have to pass an examination in which they are to get only 40 to 45 as pass marks whereas these Post Office accountants have to get 60 marks as pass marks. I therefore say that they deserve some consideration. But in view of the statement made that Government is looking into all these matters, I do not wish to press this Resolution at this stage.

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

The Council then adjourned till Eleven of the Clock on Wednesday, the 18th September, 1929.

*This Council recommends to the Governor General in Council to raise the posts of the Accountants in all the first class Head Post Offices, and those in the second class Head Post Offices under Postmasters in the grade of Rs. 250—350, to the lowest selection grade of Rs. 160—250.

COUNCIL OF STATE.

Wednesday, 18th September, 1929.

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

INDIAN TERRITORIAL FORCE (AMENDMENT) BILL.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: Sir, I move that the Bill further to amend the Indian Territorial Force Act, 1920, for a certain purpose, be taken into consideration.

As I explained to the House when introducing this Bill, the matter is of an extremely simple nature. As the Act stands at present, I might explain that the subjects of Indian States are as a matter of fact not debarred from enrolment in the Territorial Force. Owing, however, to the nature of the Force itself, its members must reside in the local area for which the Force is constituted. The units of the Territorial Force are constituted for local areas in British India and therefore those subjects of Indian States who reside in the territory of their States are debarred from the Force. Actually as a matter of fact, owing to a misapprehension of the law, a few subjects of Indian States residing within the borders of their States have been enrolled in the Territorial Force, and it is partly to regularise the position of these individuals that legislation is now required. I might mention that the proposal for legislation has already been put before the Central Advisory Committee of the Indian Territorial Force and also the Standing Committee of the Chamber of Princes. Neither of those bodies has raised any objection to it and I trust it will meet with the approval of this House.

Sir, I move that the Bill be taken into consideration.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY (East Bengal: Non-Muhammadan): Sir, I want to say a few words about this Bill. I approve the idea underlying the Bill but what I want to know is, suppose there are recruits from these States, can we compel their attendance in times of need if the States are opposed to it and want their subjects to remain in their territories? I would like His Excellency the Commander-in-Chief to throw some light upon that.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: Sir, I can only say that we do not anticipate any difficulty regarding that. We have experienced no difficulty regarding such men coming out for their annual training and we certainly do not consider that the Indian States themselves would put obstacles in the way of their people who join the Territorial Force from coming out when called upon to do so.

THE HONOURABLE THE PRESIDENT: The question is:

"That the Bill further to amend the Indian Territorial Force Act, 1920, for a certain purpose, 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.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: Sir, I move that the Bill be passed.

The motion was adopted.

INDIAN COTTON CESS (AMENDMENT) BILL.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN (Education, Health and Lands Member): I beg to move that the Bill further to amend the Indian Cotton Cess Act, 1923, for certain purposes, be taken into consideration.

In support of this motion I need hardly do more than invite the attention of Honourable Members to the Statement of Objects and Reasons which establishes the contention that it is a measure of a non-controversial nature and due to certain changes introduced in pursuance of a recommendation included in the Report of the Royal Commission on Agriculture.

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 KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN: Sir, I move that the Bill be passed.

The motion was adopted.

INDIAN REGISTRATION (AMENDMENT) BILL.

THE HONOURABLE MR. C. W. GWYNNE (Home Department: Nominated Official): Sir, I beg leave to move that the Bill further to amend the Indian Registration Act, 1908, for a certain purpose, be taken into consideration.

This is a formal and non-controversial measure and I move at once for consideration, both on that ground and because Local Governments have already been consulted and expressed their concurrence. Section 56 of the existing Act, which it is now proposed to repeal, lays down that a sub-registrar shall prepare duplicate copies of all entries made in certain documents. This compulsory preparation of duplicate copies leads to much unnecessary labour and it is much objected to by Local Governments. Moreover, registration

of deeds and documents is a Provincial transferred subject, subject to Central legislation. As long therefore as uniformity is maintained in matters of principle, matters of detail and of procedure can be left to Local Governments. This is particularly the case when the procedure laid down, as in this instance, tends to waste of time and money. I therefore beg to move that the Bill 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. C. W. GWYNNE: Sir, I move that the Bill be passed.

The motion was adopted.

BURMA SALT (AMENDMENT) BILL.

THE HONOURABLE MR. E. BURDON (Finance Secretary): Sir, I move that the Bill further to amend the Burma Salt Act, 1917, for certain purposes, be taken into consideration.

As I said the other day, Sir, when introducing the Bill, the measure is of the simplest possible character and the Statement of Objects and Reasons leaves me nothing to add. The merits of the measure are, I think, self-evident.

Sir, I move.

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. E. BURDON: Sir, I move that the Bill be passed.

The motion was adopted.

GUARDIANS AND WARDS (AMENDMENT) BILL.

THE HONOURABLE MR. C. W. GWYNNE (Home Department: Nominated Official): Sir, I beg leave to move that the Bill further to amend the Guardians and Wards Act, 1890, for a certain purpose, be taken into consideration.

This, though a very short Bill, serves a very important object. As I explained when I introduced the Bill, it is designed to make specific provision, now lacking, for the more careful and systematic audit of the guardian and ward accounts of the courts. The measure is non-contentious; it has been accepted by Local Governments who have been consulted, and it is being enacted with a view to minimise the chances of defalcation in these accounts. I do not suggest that such defalcation actually takes place, but the absence of a

[Mr. C. W. Gwynne.]

specific provision of law and of rules regarding the proper auditing of such accounts is an omission which should be rectified. This is all that the Bill does.

Sir, 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. C. W. GWYNNE: Sir, I move that the Bill be passed.

The motion was adopted.

PROVIDENT FUNDS (AMENDMENT) BILL.

THE HONOURABLE MR. E. BURDON (Finance Secretary): Sir, I have been approached from the other side of the House and have been told that it would be convenient, at any rate to some non-official Members, if the Bill, which stands in my name, were not taken up to-day and were postponed to another day. I understand that at any rate one Honourable Member desires to propose certain amendments and that he has not had sufficient time to enable him to settle the exact form of the amendments which he proposes. Government have no objection to the Bill being postponed, if that has your permission.

INDIAN SUCCESSION (AMENDMENT) BILL.

THE HONOURABLE MR. C. W. GWYNNE (Home Department: Nominated Official): Sir, I beg leave to move that the Bill further to amend the Indian Succession Act, 1925, for certain purposes, be taken into consideration.

I move at once for consideration as the Bill, though of some importance, is formal and non-controversial. The Indian Succession Act, 1865, defined the term "District Judge" as a judge of a principal civil court of original jurisdiction. This term was wide enough to include a Judge of the High Court exercising probate jurisdiction on the Original Side, and in fact such jurisdiction was exercised. The Act of 1925, which was an Act consolidating the law relating to succession, omitted this definition of the term "District Judge" on the ground that the definition in the General Clauses Act was more suitable. The latter definition, however, would not include a High Court Judge exercising jurisdiction on the Original Side. The result of this omission has been—although it was not foreseen at the time—that the law has been changed in substance. The law as it stands at present would thus exclude a Judge of the High Court exercising original jurisdiction and such Judge therefore will have no power to entertain applications for the grant of probate and letters of administration. The result of this amendment in 1925 has been to raise great difficulties and it is represented that the omission should be remedied without delay. It is therefore proposed in this Bill to restore the definition of the term

"District Judge" which was contained in the Act of 1865 and thus put an end to an anomalous situation.

The second portion of the Bill relates to a very technical subject. The object is to remove a defect in the amending Act passed in 1926 by which certain Hindu wills are required to be in writing and attested as provided by section 63 of the Indian Succession Act. In enacting that provision by oversight the Legislature in fact made a distinction between wills mentioned in section 57 as amended by Act XXXVII of 1926 and of a third class of wills, that is, wills made by Hindus otherwise than those mentioned in clauses (a) and (b) of section 57, that is outside the Presidency-towns of Bombay and Madras and outside the provinces of Bengal and Bihar and Orissa. There is, however, no justification for this exclusion of the latter class of wills. Such exclusion may lead to the erroneous conclusion that different principles govern them. But once it is decided that wills should be in writing, signed and attested there is no reason for such differentiation. Similarly, rules as to revocation, obliteration, alteration, etc., should govern all these classes of wills. The Bill now before the House secures this object.

Sir, I move that the Bill be taken into consideration.

The motion was adopted.

Clauses 2, 3, 4 and 5 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. C. W. GWYNNE: Sir, I move that the Bill be passed.

The motion was adopted.

ELECTIONS TO THE PANEL OF THE STANDING ADVISORY COMMITTEE OF THE DEPARTMENT OF COMMERCE.

THE HONOURABLE THE PRESIDENT: Six nominations have been received for the six vacancies on the panel of the Standing Advisory Committee of the Department of Commerce. I hereby declare the following six Members to be duly elected to the panel:

The Honourable Mr. J. H. Fyfe.

The Honourable Mian Ali Baksh Muhammad Hussain.

The Honourable Mr. Mahmood Suhrawardy.

The Honourable Mr. Rama Prasad Mookerjee.

The Honourable Khan Bahadur Sir Ibrahim Haroon Jaffer.

The Honourable Rai Bahadur Lala Ram Saran Das.

The Council then adjourned till Eleven of the Clock on Thursday, the 19th September, 1929.

COUNCIL OF STATE.

Thursday, 19th September, 1929.

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

MEMBER SWORN :

The Honourable Khan Bahadur Nawabzada Saiyid Ashraf-ud-Din Ahmed, C.I.E. (Panjab) : Nominated Non-Official). *Bihar Union*

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 the following Bills which were passed by the Legislative Assembly at its meeting held on the 18th September, 1929 :

A Bill further to amend the Transfer of Property Act, 1882, for certain purposes.

A Bill to supplement the Transfer of Property (Amendment) Act, 1929.

RESOLUTION RE EXPORT DUTY ON RICE.

THE HONOURABLE RAO SAHIB DR. U. RAMA RAO (Madras : Non-Muhammadian) : Sir, I beg to move the following Resolution which stands in my name :

"This Council recommends to the Governor General in Council that, in order to determine the propriety or otherwise of the present export duty on rice from the viewpoints both of the producer and consumer in India and Burma, a reference be made to the Tariff Board on the subject, at an early date, for a thorough investigation and an authoritative pronouncement, as suggested by the Taxation Enquiry Committee in paragraph 157 of their Report".

Sir, it is a known fact that rice forms the principal staple food of India and is pre-eminently the most important crop in this country, being 35 per cent. of the total cultivated area. This article of food has been subjected to an export duty for a very long time and for some years was the only article on which export duty was levied. The Indian Fiscal Commission have formulated certain conditions for the levy of export duty and they are :

- (1) That export duties should only be levied on articles of which India has a complete or at any rate a partial monopoly.

[Rao Sahib Dr. U. Rama Rau.]

(2) That in any case the rates should be low.

(3) That an export duty should not be utilized for the purpose of protecting an industry.

So far as numbers (1) and (2) are concerned, the Taxation Enquiry Committee have held that rice is not a monopoly of India and still they contend the rate is low and a proper one to impose.

As regards No. (3) one of the members of the Committee, Dr. R. P. Paranjpye, an eminent authority on economics, held the view that export duties are justified in cases where an essential raw material is exported to another country, manufactured there and returned to the country of origin. He was also of opinion that "export duties should be levied for the purpose of discouraging the export of such materials as it is to the interest of the country to retain at home".

Now, what is the position of rice in India as judged by this formula of Dr. Paranjpye? Rice was sold in India in 1857 at 18½ seers per rupee, in 1890, at 12 seers and in 1918 it had come down to 4 seers and it has gone down still lower now. This abnormal decline tells its own tale, and no wonder that people in India are reputed to have hardly one meal a day. That a large quantity of rice is being exported to foreign countries to the detriment of the people here none can gainsay. The yield of rice in India has been varying from 24 million tons to 32 million tons annually during the past ten years, and it may safely be said that every alternate year there has been a failure of crop and famine in some part of the country or other due to floods or drought. The exports during this period were about two million tons every year. If this horrible drain of rice is prohibited, there will be more rice available at a cheap rate and there will be less starvation in the land. India, therefore, needs a protective duty so far as rice is concerned, and that is what Dr. Paranjpye has urged, and it must be even prohibitive if people have to be protected from starvation and death. Burma, however, wants the abolition of the export duty on rice. Being the largest exporter of rice, it does not wish to suffer in competition in the foreign markets with the other rice-exporting countries in the world, such as Siam and Indo-China. The Honourable Mr. W. A. Gray in his budget speech on the 5th March, 1927, in this House urged its abolition on the ground that it is a burden on the producer. But the Honourable Sir Basil Blackett in his reply maintained that it was the consumer who paid this export duty and, therefore, from the point of view of the producer it was in no way harmful. It is said that "doctors differ". Now we find economists also differing. Burma is the largest exporter of rice to other provinces in India also, and Mr. Gray has told us that during the last 20 years India has imported from Burma approximately eight tons of rice for every five tons which she has exported to other countries, from which it is clear that, if there were not a sufficient surplus crop produced in Burma, India could not export rice at all. To allow India therefore to export its rice to foreign countries and herself get her supplies from Burma is in my opinion an economic folly. In the other house on the discussion of the Budget on the 12th March, 1928, the question of the abolition of the export duty on rice was raised by means of a token cut by the Honourable U. Tok Kyi,

Member from Burma. The case for Burma was then ably put forward both by the Mover and the nominated official Member from Burma.

In reply, Sir Basil Blackett observed :

"We obviously cannot undertake to alter the present position at the present moment, but I am quite willing to agree on behalf of the Finance Department that a special investigation will be made in the course of the year into the question of the incidence of this duty to see whether there is justification for the view that it is not falling on the purchaser abroad and perhaps also the investigator will look into the question how far the duty is the cause or one of the causes of the large numbers of murders that take place in Burma."

Sir, I do not know if these words have been translated into action yet, and, if not, what causes the delay and whether the Finance Department has made up its mind to move at all in the matter. There is no doubt that Burma's case deserves sympathetic consideration; but what about India? In my opinion, India deserves a heavy protective duty, if she wants to save her sons from starvation and death. India's interests clash with those of Burma, and it is necessary that in the interests of both an expert tribunal should decide as to the propriety or otherwise of the imposition of the export duty on rice in India and Burma. It is therefore meet that the whole question be referred to the Tariff Board for a complete investigation, at an early date.

With these words, Sir, I move my Resolution.

THE HONOURABLE MR. V. RAMADAS PANTULU (Madras : Non-Muhammadian) : Sir, I rise not because I have very much to say to this Council on the Resolution itself, because I confess to a want of knowledge on the subject, but to put a few points on which I feel some difficulty to my Honourable friend on the Treasury Bench so as to receive some enlightenment from him before I record my vote one way or the other. My Honourable friend Dr. Rama Rau stated that one of the principles which ought to determine the propriety of an export duty is that the article should be one in which India has a monopoly or at least a partial monopoly. That, I believe, is accepted by everybody. When the Taxation Enquiry Committee made its report they said that India had not a monopoly but only a partial monopoly, but that other countries, like Siam and Indo-China, which also exported rice, themselves imposed an export duty, that the duty was low and its weight was decreasing on account of rising prices; so they held, on these considerations, that the export duty on Indian rice might stand. They did not recommend an increase of it nor did they recommend its abolition. The question is whether those considerations still hold good to-day.

But now, Sir, I find from the statement made by the Honourable the Finance Member in his Budget speech that even the partial monopoly of India in rice is decreasing. Sir George Schuster said :

"Exports of rice however have gone down by as much as seven crores as a result mainly of Japan's temporary prohibition of imports of the commodity into the country and to increasing competition of rice-producing countries on the Mediterranean sea-board. And it appears that about a crore of rupees worth of rice was imported into this country last year. If that is so, the question is whether the data of the Taxation Enquiry Committee still hold good. If they do not, I think my friend Dr. Rama Rau's suggestion to increase the export duty on Indian rice—I am not speaking of Burma—should be voted down."

[Mr. V. Ramadas Pantulu.]

The facts disclosed by Sir George Schuster show that there ought to be no export duty on Indian rice, just as in the case of Burma, or that it ought to be at least reduced. Another factor is the price of rice. If there was a steady decline in the price of rice of late that would also be an argument for reducing the export duty. Therefore I feel somewhat puzzled by the way in which Dr. Rama Rau has put his case for increasing export duties on Indian rice while abolishing them on Burma rice. I rather think the facts as they exist lead to the conclusion that the duty should be abolished in India as well as in Burma. He referred to two considerations which Dr. Paranjpye urged, namely, that in the case of articles which are sent to other manufacturing countries and after being manufactured are sent back to the country of production, some kind of export duty is justified to encourage local manufacture. But certainly rice is not one of those. It is not sent for manufacture and is not brought back as a manufactured article....

THE HONOURABLE RAO SAHIB DR. U. RAMA RAU: It is manufactured into liquor.

THE HONOURABLE MR. V. RAMADAS PANTULU: That must be a very small proportion. It is essentially an article of consumption as food. Anyhow, if I am wrong, I shall be corrected. The second point which Dr. Paranjpye urged was that if it was necessary to retain an article in the country, an export duty of a protective character would be justified. I am not quite convinced that India does not need to export rice, or that she needs all the rice she herself can produce. An increase in the price of rice is not the sole criterion by which you have to judge of the insufficiency or otherwise of rice in this country. It appears to be not a sufficient criterion. I think we have to export our surplus rice which is one of our chief products in order to purchase other necessities which we import from foreign countries. If the balance of trade is to be in our favour I think we ought not to put any restraint upon the export of raw materials like rice. The duty will hit the producer. These are some of the difficulties which I feel—whether Dr. Rama Rau has made out his case for increasing the duty on Indian rice, whether those conditions which Dr. Paranjpye laid down are satisfied in the case of Indian rice, whether India's monopoly is decreasing, whether the price of rice is not going down and whether the producer of rice in India will not be hurt by an increased duty. These are matters upon which I have no information and I shall be delighted if the Honourable Mr. Burdon will enlighten me on these points. I speak as a layman, but the case seems to me to point to a conclusion other than the one which Dr. Rama Rau has reached in so far as he asks for an increase of duty on Indian rice and to treat it differently from Burma.

THE HONOURABLE MR. E. BURDON (Finance Secretary): Sir, my Honourable friend from Madras has brought before us this morning a topic of great importance and interest and one that he knows to represent a live issue. My Honourable friend mentioned the undertaking given by Sir Basil Blackett to the Legislative Assembly, the undertaking that an investigation would be made into the question, whether the export duty on rice is in present circumstances being borne by the consumer or borne by the producer. I can assure my Honourable friend that the undertaking is being fulfilled.

It has not yet been completed but it is in process of completion. The Government of India have been examining this matter of the export duty on rice very closely for some time past, and they have been in correspondence on the subject with the Government of Burma who of course are very materially interested in rice cultivation and in the question whether, and if so to what extent, the rice trade and rice cultivation are affected by the export duty. Actually communications have passed between the two Governments since I received notice of my Honourable friend's Resolution.

It will perhaps be convenient if at the outset I give a brief account from the Government side of the course of the recent official discussions. The earlier history is of course well known. The Council is aware that the Fiscal Commission reported that the export duty was moderate, that it was probably falling on the consumer and did not appreciably affect the producer and they raised no objection to its continuance. At a later date the Taxation Enquiry Committee also reported more or less favourably on the continuance of the duty, saying that any alterations in rates must depend on world prices and the situation in other exporting countries, and they ended with the observation that an examination by the Tariff Board would be an essential preliminary to any change. But I must make it clear that this observation of the Taxation Enquiry Committee was in no sense a recommendation that an enquiry by the Tariff Board should be held either then or at any specified time. Then, in 1925, the Burma Government forwarded to the Government of India a Resolution adopted by their Legislative Council recommending that the rice export duty should be allocated to the Local Government as a source of provincial revenue. That, however, raised an entirely different issue, with which we are not immediately concerned to-day. It is of course common knowledge that the recommendation could not be accepted by the Government of India. The next stage came in March 1928 when U. Tok Kyi moved in the Legislative Assembly the reduction of the Customs demand with a view to remove export duties in general, and the duty on rice in particular. This is the occasion to which the Honourable Mover himself referred. The motion was withdrawn on Sir Basil Blackett giving the undertaking which I have already referred to, and I will repeat one observation which he made in that connection, namely, that he would be in favour of reducing or abolishing the duty the moment he was convinced that it was falling upon the producer and not upon the consumer. This was followed by enquiries from the Burma Chamber of Commerce, the Burma Government and U. Tok Kyi himself as to when the investigation would be undertaken. The Burma Legislative Council also passed a Resolution recommending the early abolition of the duty. The Local Government did not express any definite views on this occasion in view of our promised enquiry. Later in 1928 the Government of India addressed the Burma Government on the subject. This was in fulfilment of Sir Basil Blackett's promise, and I will read out to the Council the most important passage from the communication sent. After recapitulating the previous history of the matter, the Government of India said:

"The Government of India cannot feel sure that a fresh investigation in itself will make any material addition to the actual information at present existing on the subject. In the circumstances, before definitely deciding upon an investigation in pursuance of the promise given by Sir Basil Blackett, it is considered desirable that the views of the Government of Burma on the correctness or otherwise of the conclusions arrived at by the Indian

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Fiscal Commission and the Indian Taxation Enquiry Committee, should, in the first instance, be ascertained, and that it should be ascertained also whether the Government of Burma think that a further investigation would be fruitful, and, if so, to what points it should be directed. I am accordingly to request that, with the permission of His Excellency the Governor in Council, the views of the Local Government on these two matters may now be stated to the Government of India. If the Local Government dissent from the conclusions of the Fiscal Commission and the Taxation Committee, it is requested that their reasons for taking a different view may be set forth in full detail and supported by a statement of the relevant facts and figures. The Government of India are of course well aware that the position of Burma rice in the markets of the world has in the recent past been adversely affected. But it does not follow that this is attributable to the export duty or to the export duty alone, and it will be important to have the views of the Local Government as to the potency of other factors in the present situation, both foreign and domestic. Finally, the Government of India would be glad to know what results the Government of Burma anticipate would follow from a reduction or abolition of the export duty and the reasons for their anticipation. In particular they would be glad to know to what extent any benefit likely to arise from a reduction in or the removal of the duty would accrue to the cultivator and to what extent it might result merely in an increase of the merchants' profits."

The Government of Burma in a letter, dated the 9th of August, 1929, have submitted their reply. The contents of this letter are far too lengthy and elaborate to admit of any brief summary being given, but it will suffice, I think, to read out one passage, the important passage, in which the Government of Burma state their recommendation :

"The Government of Burma, while not prepared to express a final opinion on what is in essence a problem for economic experts, holds the view that the conclusions of the Fiscal Commission and the Indian Taxation Enquiry Committee, though they may have been justified by the facts and figures available to them, may probably not now hold good. The consideration of the subject by these bodies was, so far as is apparent from the records of their deliberations, not detailed. It must have been attended by the difficulties arising from the disturbance of trade during and after the war : and the developments which have taken place since the advent of more settled conditions were not apparent. There is now a demand by the public of Burma for further consideration of the question ; and the view that the duty is not to the disadvantage of the producer is no longer general. It will be within the knowledge of the Government of India that, on the motion of the representative of the Burma Chamber of Commerce, the Associated Chambers of Commerce of India and Ceylon recently adopted a resolution advocating the immediate abolition of the duty on the ground that it falls entirely on the cultivator. The subject has been discussed in articles in the press as well as in the Legislative Council. I am to submit for the information of the Government of India a pamphlet containing an article by Mr. E. H. Solomon, Lecturer in Economics at University College, Rangoon, which appeared in the "Rangoon Times" in January 1929 and in the Indian Journal of Economics in April 1929. In this article, after an examination of the statistics with reference to economic theory, the conclusion is stated that in the present circumstances the export duty falls almost entirely on the producer ; and that since Burma is the sole effective exporter of the Indian Empire, it falls almost entirely on the producer in Burma.

The difficulties of the rice trade have naturally induced a more critical attitude towards the duty than was prevalent at a time when the trade was more prosperous. The same attitude has developed in regard to other conditions of the trade, for example, freights and the question whether the price of paddy is affected by combinations among millers. In the February 1929 Session of the Burma Legislative Council a Resolution recommending the appointment of a Committee to enquire into the conditions of the paddy and rice trade generally, and in particular regarding the effect of freights and combinations, was adopted ; and this Government has appointed a Committee for that purpose. The Committee will no doubt consider the question of the export duty. But that will not be its sole or main function, and it is doubtful whether the Committee, will be in a position to devote sufficient

time to the subject or to bring to its consideration the necessary knowledge of relevant economic conditions existing outside Burma.

In these circumstances the Governor in Council thinks that a further investigation should be instituted under the authority of the Central Government, to which the proceeds of the duty accrue. That there is a field for further investigation is clearly indicated by the changes in production and trade to which reference has been made. The investigation might be specially directed to an examination of these changes and their causes, and their effect on the incidence of the duty. Some of the important points bearing on the subject have been mentioned above, and other points which require examination will probably become apparent in the course of the investigation. In particular it seems desirable to obtain information regarding the rice export trade in Siam and Indo-China in order to ascertain how far conditions in these countries correspond to the conditions of the Indian trade which suggest that the duty now falls on the producer. If it is found that the duty falls wholly or mainly on the producer, the question of the substitution for it of a cess to be applied to the improvement of the cultivation, milling and marketing of rice and to other objects in aid of the rice cultivator might be considered."

Simultaneously, the Government of Burma have forwarded a note on the rice export duty by Professor Stanley Jevons, Professor of Economics in the University College, Rangoon. Here, again, this is a document which cannot be readily summarised. It will, however, suffice, I think, for our present purposes, if I say that the conclusions arrived at by Professor Stanley Jevons are, like those of the Government of Burma, very cautious. He considers that there is a *prima facie* case for investigating the extent of the benefit which might accrue to the rural population of Burma by the removal of the duty. He is not, however, prepared to say definitely himself that the province would benefit by the removal of the duty unless it can be assured that public expenditure on beneficial services in Burma will not, as a result, be diminished. In other words, he is not able to predicate that the relief to individuals who would no longer pay the tax would be equal to the benefit resulting from the expenditure by the State of the proceeds of the tax spent collectively. Further, he suggests that, if the Government of India abolish the tax, it should be reimposed as a cess by the Government of Burma, the proceeds of which should be utilised for promoting improved cultivation and other cognate purposes. It will be seen, therefore, that the latest developments, so far as the Government of Burma are concerned, support my Honourable friend's proposition to a very considerable extent. But it is necessary to be very precise in these matters, and I must point out that the Government of Burma have not asked that the inquiry should be undertaken immediately or should be undertaken by the Tariff Board.

There is another aspect of the matter which also supports Dr. Rama Rau's proposition. The Government of India themselves recognise that it is impossible to say now quite so confidently as it was possible to say it before that the export duty falls upon the consumer and does not affect the producer. In this connection the following facts and figures may be of interest :

The prosperity of the Burma rice trade depends on two important factors, firstly, the demand for Burma rice from India proper and secondly, the strength of the demand of the world's markets for rice and the extent of competing supplies. During 1928 the total Burma crop amounted to 4,886,000 tons, of which slightly over 3 million tons were available for export. The demand, however, from Europe, America and the Far East was poor, and, if it had not been for India's purchases, which were on a satisfactory scale, Burma's

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export trade would have seriously suffered. As it was, it fell short of the estimated total of 3 million tons. Prices fell as low as Rs. 367-8-0 for big mills specials, but recovered to Rs. 427-8-0 during September. One important fact is that Burma rice has now to face much severer competition than in former days, and while it is possible to argue that Burma rice may yet do well even if the duty is retained, it is hardly possible to say that the existence of the duty had nothing to do with the difficulties through which the trade has passed. On the other hand, in the current year there has been an improvement in the position. The 1929 crop is estimated at 4,841,000 tons or slightly less than that for 1928, while the surplus available for export is estimated at 2,880,000 tons. The demand from India is less this year than last, but demands from foreign countries have improved, so that by the end of August exports to foreign countries amounted to 1,089,000 tons as compared with only 941,000 tons during the same period of 1928. The price of big mills specials, which fell steadily during the first four months of the year from Rs. 392-8-0 in January to Rs. 370 in April has since recovered to Rs. 420 in August and Rs. 445 during the first week of September. The London price of Rangoon rice, which had fallen to 12s. 7d. per cwt. in May has since recovered to 14s. 3d., indicating a better demand from the United Kingdom.

In overseas markets and particularly those of the United Kingdom and the Continent, much depends on the ability of Burma rice to hold its own in competition with Italian, Spanish and American rice. That, I think, will be of special interest to my Honourable friend, Mr. Ramadas Pantulu, who inquired regarding India's position as a monopolist supplier. Fortunately, there is evidence to show that in the United Kingdom, at all events, the demand for Burma rice is increasing. The Empire Marketing Board assisted this movement by means of an intensive newspaper campaign last July. The High Commissioner, Sir Atul Chatterjee, followed this up by organising an attractive exhibit of Indian rice at the Newcastle Exhibition in August, and by calling attention in a speech, in which he opened the Indian section of this exhibition, to the attractive qualities of Indian rice. One feature of the work of the Empire Marketing Board, which is perhaps not sufficiently known in India, is the advertisement which it gives to Empire products by means of notices posted in all factories of the United Kingdom at which work is being executed to the orders of Empire Governments. For example, the Empire Marketing Board sends to each British factory manufacturing stores to the order of the Government of India or of Local Governments, a notice calling the attention of the work people to the fact that this order has been placed by India and asking the workers to express their gratitude by purchasing Indian products in return. Indian rice figures prominently in these notices.

I have here, as a matter of fact, a few cartons which came from London only a few weeks ago and advertisements which are distributed by the Empire Marketing Board at these various exhibitions where they conduct their activities, and which are designed in order to attract people to buy Indian and Burma rice. Perhaps the Honourable Member would like to see these afterwards.

Now, Sir, I turn to matters which are of special importance from the point of view of the Government of India, and of these, the first is that the

export duty on rice exists for revenue purposes, and that it brings into the Central treasury an annual revenue of about one crore of rupees. The other consideration to which I wish to draw attention is that the tax, as my Honourable friend himself has said, has existed for many years, and for far the greater part of this time has been regarded as an entirely justifiable and harmless impost; while even now those whose interests are not directly identical with those of the Government of India are not in a position to say that the tax is so harmful that it should be immediately and entirely abolished. As regards the first point which I have mentioned, the revenue of 100 crores, anyone who has studied the Budget of the Government of India for 1929-30, will realise that the Government of India cannot be in a position here and now to say that they could do without the revenue of one crore of rupees at present derived from the export duty on rice. I do not think I need labour this point, as the very full and careful analysis of the financial position given by the Honourable the Finance Member in his Budget speech must be fresh in the memories of all the Members of this Council. I am sure that the Honourable the Mover of the Resolution will himself realise what the implications of the abolition of the export duty might be. These implications are indeed obvious. There would be questions of new taxation to take the place of the old; there would, as an alternative, be questions of curtailing expenditure on beneficial Central services. A further consideration which I think is specially relevant to the Resolution is that the ordinary requirements of administration make it necessary that such questions should not be gone into, or at any rate finally settled, at this time of the year: they can only be appropriately and effectively dealt with when the dispositions for another financial year are under consideration and the prospects of that financial year can be more clearly viewed. There are, too, certain special circumstances at the present time which make it essential that we should proceed cautiously. It is possible, I understand, that the report of the Statutory Commission will be published before another financial year commences. It may be presumed that the report of the Statutory Commission may portend important changes in the existing financial relations between the Central and Provincial Governments and in the financial settlements, and it has to be recognised that this question of the export duty on rice may become a very important factor in the readjustments which may have to be made as between the Government of India and the Government of Burma.

Now, Sir, with all these considerations before them, the Government of India, having given the matter most serious thought, have come to the conclusion that it is not advisable to have an enquiry by the Tariff Board in the immediate present. The following are the more specific reasons which have led the Government of India to this conclusion. In the first place, as I have shown, the existing trade conditions render it probable that, at the moment, the export duty is not doing much, if any, harm. In the second place, a Tariff Board enquiry, owing to the work which the Board already have in hand, could not commence until next summer, and, further, the Government of India are doubtful, notwithstanding what the Fiscal Commission have said, whether the matter is one which the Board can suitably investigate. In regard to this latter point, the Government of India are still inclined to the view which they expressed at an earlier stage of the discussions, namely, that it is doubtful whether an enquiry by the Tariff Board would add materially to the information which we already possess on the subject. It is possible

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that the matter might be capable of decision in a more summary manner. In the third place, the Government of Burma, as I have said already, have a Committee investigating the whole question of the rice trade and they may have something to say about the export duty on rice. Finally, as I have said, the Government of India are not, and cannot be, in a position to say that they can do without the revenue which the export duty at present brings in. This is the most material consideration of all. There is a tendency and indeed it is only natural to assume that when a Tariff Board inquiry is set up Government has made up its mind that at any rate it would be in a position to give effect to any recommendation likely to be made, subject of course to the recommendation being approved. This being so I am afraid it would lay the Government of India open to misconstruction if they were to launch a Tariff Board inquiry now: and accordingly they could not very well do so, without prejudice to the very important interests of which they are the guardians. In all these circumstances, the Government of India would prefer to postpone decision on the question raised in my Honourable friend's Resolution for some months to come. It will be obvious to my Honourable friend that it is not intended, and indeed it would be impossible, to allow the matter to drop. Active consideration of the problem will have to be renewed before very long, and all that the Government of India ask is that they may be permitted to wait a little for a more opportune moment to arise.

In view of what I have said, I hope the Honourable Member will agree to withdraw his Resolution. I think he may rest satisfied that he has achieved a sufficient public service in eliciting the information and the pronouncements which have been made to-day. I need only add that the proceedings of this debate will be communicated to the Government of Burma without delay, and that, if the Government of Burma should make any strong demur to the comparatively short postponement which the Government of India desire, the Government of India will once more consider whether earlier action is feasible.

THE HONOURABLE RAO SAHIB DR. U. RAMA RAU: In view of what the Honourable Member has said, I do not wish to press my Resolution.

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

RESOLUTION RE GRIEVANCES OF THE NON-GAZETTED STAFF OF THE CURRENCY OFFICES IN INDIA AND BURMA.

THE HONOURABLE MR. G. S. KHAPARDE (Berar Representative): Sir, the Resolution which I propose to move is:

"This Council recommends to the Governor General in Council that he may be pleased to appoint a Committee of official and non-official members to enquire into the grievances

* "This Council recommends to the Governor General in Council that, in order to determine the propriety or otherwise of the present export duty on rice from the viewpoints both of the producer and consumer in India and Burma, a reference be made to the Tariff Board on the subject, at an early date, for a thorough investigation and an authoritative pronouncement, as suggested by the Taxation Enquiry Committee in paragraph 157 of their Report."

regarding the scales of pay, Provident Fund and other service conditions of the non-gazetted staff, both menial and clerical, of the Currency Offices in India and Burma, and to suggest ways and means for their redress."

When I tabled this Resolution I had it in my mind that everybody would ask me why I brought this Resolution here at all. The reason for it is that the people in whose interest I speak now tried all possible remedies, sent deputations, petitions and memorials, but after all, they met with what I may call a wall of negation. They got the reply, "We do not want to look into this matter; this matter has been finally settled; there is nothing more to be done." Having got this reply, from the executive side of the Government of India, these poor people thought that they would try their chance in the legislative portion of the Government of India and see if they can do anything. When they came to me, I looked into their grievances and I went through all their papers and it appeared to me that this was a proper subject to be brought before this Council. For this reason and not with a view to casting any slur on the heads of the Department or to censure them in any way did I bring forward this Resolution. One consideration weighed with me and it is that the Government of India, as it is constituted and as it is worked, is always working under financial stringency. I have not known within my life time any time when Government has said, "Look here, we have got money; and any of you who want it can come here." Government never says that and it never has any money to spare. It has always only just enough, perhaps a little less than the minimum that is required to carry on the administration, and therefore every head of a Department has his eyes carefully upon the expenditure and tries to minimise it as far as he can. So, this consideration of financial stringency does not weigh with me. We have got to knock at the door, and if they cannot do it this year, they can do it next year or at some other time. But you have got to knock. So I undertook to move this Resolution.

Another point is this. The statement that I made here, that they met with a wall of negation may be disputed. Lest it may be disputed I brought this book* with me, and if you look at pages 20 to 27 of it you will find all the petitions submitted by these people and the replies that they got. I am willing to put this book on the table so that any Honourable Member who has any doubt about my statement may see for himself.

(The Honourable Mr. Khaparde made over the book to the official Reporter.)

Then there came a further point. What is it that these people are taking so much trouble about? Their trouble is common nearly to every Government servant, namely, his pay, his allowances, his position and his status in life and other conditions of service. This is a grievance which, I think, is common to the whole staff of the Government of India, and for the matter of that, to the staff of all Empires in the world. I think everybody wants a little more than he gets, everybody wants a little more consideration shown to him. There is nothing wrong in what these poor people ask for. There is the further consideration again arising

* A Brief Statement of the Main Grievances of the Currency Office Staff—prepared by the Bombay Currency Office Association.

[Mr. G. S. Khaparde.]

from the point as to why they want this. They want it because for the last 20 years and more these poor people have been entirely neglected and nothing has been done for them. I will give their history more in detail, as I have put it down; but I will mention that when subordinates quarrelled and when they submitted petitions and did all the things they could do, then the Government moved a little and complained about financial stringency and the rest. And so it came to this—when a thirsty man comes to you, you give him about half an ounce of water and tell him to slake his thirst, but what you have actually done is to increase his thirst; you might as well have starved him altogether. But in 1920 they did something. The history of this matter is rather interesting and I have put it down in some detail, but to save time I shall not give you all the items. Until 1908 the Accountant General's office and the Auditor General's office and the office of the Commissioner of Currency were one and the same. One officer held all these posts and looked after the whole thing. Naturally he had a large Department under him. Then, in 1910, it was found that the pay was very inadequate and Government granted what was called a local allowance—that is, these poor people received an increase of three or four or five rupees each. But this local allowance was given to the Accounts Branch only, and the branch which dealt with coins and notes, etc., was altogether omitted. Of course if you throw one bone to two or three dogs, naturally they will quarrel about it, and in this case numerous representations were made about this distinction. But the next date on which anything was done was 1913. Then it was that Mr. (now Sir Frederick) Gauntlett got the allowances given to the Currency Branch. Then the Accountant General's office and the Controller's office got separated from the office of the Currency Commissioner, and the difference in pay, etc., became even more acute from that time. Sir Frederick Gauntlett tried to get them allowances and did what he could, and the matter went on like that till 1914 when the Commissioner of Currency made representations which were accepted by the Government of India and would have been granted, but unfortunately the world war began in that year and the financial troubles became more acute than ever, and nothing could in fact be done till the year 1919. After peace was declared a move was again made and the proposals were accepted by the Government of India. I shall read out a passage from the note of Mr. McWatters, who, I regret to say, is not here; otherwise he would have corroborated me in all these particulars. The claim of these men was resisted on the ground that the position of these men was not the same as those in the Accountant General's office. The work, it was said, was mechanical and not deserving of any higher pay. In that view the matter was considered by Mr. McWatters who wrote two notes on the subject, one in a letter No. CY 2861/276/21, dated 10th November, 1921, as follows:

“However much stress may be placed on the mechanical nature of the work of the Currency Office it can hardly be contended I think that the work differs so greatly from that of the Post Office, the Customs Department or the Accountant General's office as to justify such a large discrepancy between the prospects of the clerks concerned.”

—So that after being head of the department for a long time he came to the conclusion that the work was very nearly the same—

“The rates now shown by the D. C. C. are proposed to allay the existing discontent, but I do not see any justification for even the slight disparity between the scales of local

allowances of the Currency and A. G.'s offices. I recommend therefore that the present scale of local allowances for the clerks should be raised to the level of the scales of the Accountant General's office.”

That is what Mr. McWatters wrote on the 10th November. Later, in December of the same year, Mr. McWatters wrote again:

“There is no doubt that the revision which was made in 1920 did not give a very substantial advance to most of the clerks and in addition has been more than swept away by the subsequent rise in the cost of living. Many of the men are in debt and it is impossible for the work to be continued satisfactorily unless a substantial improvement in their condition is made. The undersigned has received representations from practically every Currency Office and personally interviewed two deputations from the Calcutta Currency Office and he is quite satisfied that there is a very strong case for improving the scales of pay.”

Now after this was said in 1921 we thought the matter had come to an end and the proposal given effect to. But again this bogey of financial stringency came up and nothing was done till 1925 and for that matter nothing has been done till to-day. Here are these people, clerks, menials, *chaprasis*, *daftris* and people of that kind, and no notice has been taken of them. Nothing has been done for them. I could give you many more details; of attempts made and afterwards abandoned, and all the time these people are in very serious straits. I can give one instance which is rather heart-rending. There are in these offices people who are called shroffs. They receive notes and give out coin, and it is their job to detect forged notes. Now the detection of a forgery is rather a difficult task, more especially in these days when science is available not only to the honest man and good worker but to the dishonest man and thief. Counterfeit notes are prepared in such a way that these poor devils cannot always detect them, and if any forgery is passed as genuine the man concerned has to make it good. So here you have a man drawing Rs. 60 a month who perhaps has to make good a note of Rs. 100, and at the end of the month he finds himself with nothing left to maintain himself and his family. Similarly, in the case of coins. If he has passed any bad coin he has to make it good. It frequently happens that he works in a defective light, or it may be that he is rushed, but nevertheless every bad coin passed is recovered from him afterwards. So I say that some of these people have hardships which it is hardly possible for them to bear. That is why I have brought their case before you here. After all what is it we ask for? We do not ask at once for so much increase or so much of this or that. We only say that since the executive side have declared that they can do nothing for us we will try the legislative side and ask for a Committee both of officials and non-officials, and let them look into the matter carefully and come to a conclusion, and we shall be bound by the conclusion whatever it may be. All these people are after all poor Government servants and they cannot afford to give up their jobs. So our prayer taken altogether is nothing very extraordinary.

It may be said, “Why do you go over the heads of the heads of the departments?” I do so for this reason. There are heads of departments who are always in sympathy with their sub-

ordinates and when the subordinates approach them for any advance, they say: “Look here, the financial stringency is so great that if I put up any recommendation it is not likely to be passed, and if I put in a recommendation which is not passed it is not very good for me. So, I cannot do anything for

[Mr. G. S. Khaparde.]

you." If, on the contrary, the question is taken up here and talked about and passed in the Council, the head of the department will be pleased, because he wants to do it, but he could not do it. What I do is not against the present or former head of the department. In fact, this is in consonance with their wishes; this is exactly what they want to do, but could not do on account of financial stringency. Financial stringency is not a thing which will disappear in a day or two. It is a war legacy which might last for a century; meanwhile poor people will suffer in this way. I urge this matter before this Council and the principle which I ask for and for which I contend is one with which everybody will agree, namely, same work same pay, equal work equal pay, similar work similar pay; only the last must be a living wage; it cannot be that the last man lives on nothing at all; he must have enough to feed himself. The Accountant General's staff, and the military office people, who do this work, receive certain remuneration. Why not give a remuneration like that? Other branches receive better pay and why should not these people get the same pay? That is our case and that is the case which I wish to submit to the judgment of this Council. I have not brought forward this Resolution by way of appeal but to help really these heads of departments to carry their schemes through. They had the schemes and they had even submitted them to the Secretary of State, but this unfortunate financial stringency came in and everything was upset.

I commend my Resolution for your acceptance.

THE HONOURABLE MR. V. RAMADAS PANTULU (Madras: Non-Muhammadan): Sir, I rise to support this Resolution. I have given an undertaking to my friend Mr. Khaparde that I will try to deal with grievances on which he may not have time to touch. I may be permitted, Sir, to inform this House that I approached this Resolution with a bias against it. My friends on the opposite side sometimes profess to approach Resolutions with a bias in their favour even after they have made up their minds to turn them down. But I assure you, Sir, that I started listening to the grievances of the Currency staff like a bureaucrat trying to discredit the popular views. After listening to them I must say that I was convinced of the existence of certain grievances which require to be redressed. The Honourable Mr. Khaparde has told the House that things in the Currency Department have considerably changed at two or three stages. Honourable Members might like to know a few facts about this ill-paid staff which is doing very important work. There are seven Divisions, seven Currency Divisions. They are, Madras, Bombay, Karachi, Lahore, Cawnpore, Calcutta and Rangoon, and in the headquarters of each of these Currency Circles, there is a Currency Office. Before 1908 the Currency and Accounts Department were under the Accountant-General. I am told that there was no disparity then between the Accounts staff and the Currency staff in the clerical branches; there might have been some disparity but not very much. After the division in 1908 of the Currency and Accounts Departments, the Currency Department was placed under the Controller of Currency and since then they seem to have got into some little trouble. The Currency Department is again divided into two divisions, the general side and the treasurer's side. People on the general side seem to do

more or less the same kind of work as the people on the Accounts side. The Currency clerical staff do not compare favourably with those on the Accounts side and I am told that those who serve on the Currency side suffer in comparison in regard to emoluments, prospects and promotion, with those on the Accounts side. I have got the figures but do not want to make a lengthy statement to the Council; this will serve as an illustration; in the Accounts side the clerks start on Rs. 60 and their pay is Rs. 60—8—140—6—230. The same kind of people in the Currency Offices start on Rs. 60 and their scale is Rs. 60—5—110—6—150. Therefore a man on the Accounts side after 20 years' service, starting with Rs. 60, gets something over Rs. 200; a man starting on the same pay on the Currency side, starting also on Rs. 60, after 20 years of similar service can only get Rs. 150.

THE HONOURABLE MR. E. BURDON: My Honourable friend has omitted the selection grade, which takes him up to Rs. 170. After Rs. 150, the scale is Rs. 150—10—170.

THE HONOURABLE MR. V. RAMADAS PANTULU: Even then it does not improve the position. The selection grade is only for people of particular merit, and even then the selection grade man can go up to Rs. 170 only; he cannot go up to Rs. 230 as a man on the Accounts side could. The disparity still exists. Much of the point in my argument is not taken away by the correction for which I, however, thank my Honourable friend.

Then, Sir, with regard to the men in what is called the treasurer's branch, they seem to be suffering under severe disadvantages which require sympathetic consideration of the Government. To start with, a certain set of people were recruited on the treasurer's side from 1915 on a non-pensionable scale. Till then they had the pension. The promise was that they would get some sort of provision for provident fund. But, Sir, from 1915 to 1919 nothing was done. In 1919 they started a system of provident fund for these people who were recruited on a non-pensionable scale from 1915. It was actually started in 1919. The system of provident fund vouchsafed to them happens to be materially different from the system of provident fund obtaining in other Government offices. Government itself does not make any contribution. Only the employees make the contribution and the Government seems to pay them a bonus at the end of their service which is on the basis of one-twelfth of the yearly salary, provided they satisfy certain conditions. I am aware that at the beginning there was greater hardship, because unless they satisfied the rules for eligibility to pension, they could not get this bonus. A man who died before completing 10 years' service did not get anything. It is removed now and people do get something in the case of death happening within 10 years of service. However, the whole system still seems to work very prejudicially to the employees. They get no interest as they get no monthly contributions from Government. In the other cases Government pays a monthly contribution and the contributions accumulate; they get interest on it. Therefore at the end of their service, 20, 25 or 30 years, employees in this branch get substantially less than the employees in other Departments where the provident fund system prevails. Therefore I think the question of the provident fund does require looking into. I hope something will be done to remove this grievance.

[Mr. V. Ramadas Pantulu.]

Then, Sir, with regard to the scales of pay of the inferior servants, I took some trouble to go into the figures relating to the Currency Department and compare them with other Departments. There also the grievance seems to be genuine; these inferior servants start on Rs. 20 to 25 and they get a house rent of Rs. 7, while people in the Postal Department, who are by no means well paid, start on Rs. 25 and go up to Rs. 30 by small annual increments, and they get a house rent of Rs. 8/8. So the inferior Currency staff compare very unfavourably with inferior servants in other Departments. I think their case really requires consideration. This House, Sir, will remember that these people live in places which are very costly. Karachi, Bombay, Calcutta, Lahore and Rangoon are exceedingly costly places and poor servants require liberal payment. They cannot be so well off as those who live in the mofussil on the same pay. Then with regard to the clerical staff, too, there seems to be some real grievance. I do not wish to take up the time of the House because the Honourable Member on the opposite side is fully aware of these facts and knows how matters stand. I only wish to say that there is a true complaint which requires looking into.

Then with regard to the shroffs, of whom my friend Mr. Khaparde spoke at length, I have been looking into the very lengthy statements of the sums the shroff are required to make good from time to time. There is the note section and the coin section in which these shroffs work. Those in the note section sometimes have to make good large deficiencies due to overpayment and passing forged and mismatched notes, and such occasions are not rare. Those in the coin section have fifteen different coins to sort and examine and they are made responsible for loss on counterfeit coins and defaced coins and various other things. I find from the monthly statement for 1928 that 31 shroffs in the Bombay office were asked to make good during that year something like Rs. 1,200 and odd. So that every month these poor people have to lose from their pay more than Rs. 100 to make good the losses. With regard to defaced coins, it is difficult to spot them. It is only when the coins go to the Mint and are pronounced defaced it is actually known that they are defaced. Therefore, these people work under great disadvantages and a severe handicap. Their case requires consideration. I am not speaking from theoretical considerations. I myself am in charge of a bank, charged with the duty of checking periodically cash balances and I know what the duties of shroffs are. What we do to relieve them is to give them assistance so that in handing over the notes they pass through two or three hands. But I am told that in the Currency Offices they do not get any help of this kind to detect mistakes. In the case of the shroffs in the coin section what they are asked to is to weigh and examine coins and sort them out into 15 varieties, and then put them into bags with a chit showing the name of the shroff; and he is held responsible indefinitely as it is not known when the particular bag will be sent to the bank and when the fraudulent or defaced coin is detected. The thing is kept hanging over their heads and at the end these men may have to pay large sums. All the time they are doing work of a responsible character. And so, Sir, when they say their scales of remuneration ought to be revised, I think they have made out a good case. I find that, except in Bombay where they start on Rs. 50 and go up to Rs. 80, these shroffs start on Rs. 30 or 40 and go up to Rs. 70. This compares very unfavourably with the pay which similar men get in the banks. For instance, in the Imperial Bank of

India, they get Rs. 70 to Rs. 135; in the Central Bank of India, Rs. 70 to Rs. 175; in the Bank of India, Rs. 60 to Rs. 125; in the National Bank of India, Rs. 60 to Rs. 175; and in the Chartered Bank of India, Rs. 60 to Rs. 150. The shroffs who are doing the same kind of work in the banks are much better paid than the shroffs in Currency service. Having regard to the onerous character of the work that they do and the great risks that they are running over it, I feel that their case requires some consideration.

I only wish to say one word with regard to the pension of menials. I am told that, whatever may be the pay of the menial, he only gets a pension of Rs. 4. That is hardly fair. The Government of India has been promising to revise these things when the Local Governments have revised their scales. Now, some Local Governments have done so. Bombay has, for one. But I am told the Government of India now say: let us wait and see what all the other Local Governments do and that they are not bound to follow the example of Local Governments. But in the case of these men, I think Rs. 4 is hardly adequate for the long and faithful service which they rendered in this Department. They should get half pay as pension. To retire a man on Rs. 25 with a pension of Rs. 4 is to make him virtually starve. Therefore, I hope that this matter also will receive the sympathetic consideration of the Government of India.

There are various other grievances which are detailed in the books presented to the House by my Honourable friend, Mr. Khaparde, and I do not wish to take up more of the time of the House. There is just one thing more and that is the case of the supervising and superior staff which seems to be also suffering from real disabilities. The prospects of the people in the lower grades depend on the number and prospects of superior posts available. I am told that the revision of 1924 did not include the superior staff; the result leads to anomalies; there is an instance in the Bombay Currency Office in which a clerk in the section draws Rs. 170 while his Supervisor in charge of that section is only in the grade of Rs. 175—10—225. Therefore, the matter requires looking into.

I think, Sir, I have said enough to show that there are grievances. I know the Honourable Member will tell me that the Government are fully alive to the interests of their own servants. I do not deny it. But the Government of India are not always free to do what they believe to be just. The trouble with the Government is that it retrenches in the case of people who are flourishing on Rs. 50 to 100 a month but it is liberal towards people who are starving on Rs. 4,000. Therefore, I hope more sympathetic considerations will prevail in this case and something will be done to improve the lot of these people in the Currency Department whose grievances so far as I can see are genuine and deserve to be redressed by the Government.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE (West Bengal: Non-Muhammadan): Sir, I rise to support the Resolution which has been moved by the Honourable Mr. Khaparde. The facts have already been placed before the Council by the Honourable Mover and Mr. Pantulu who has followed him. There is one general point which I want to place before this Council. Although the grievances of the Currency Department have been before Government off and on during the last few years, and although

[Srijut Rama Prasad Mookerjee.]

Government had originally been saying that they could not interfere, certain modifications have, all the same, been made from time to time. Take, for instance, the case of Provident Funds. When the service was made non-pensionable, a Provident Fund was to have been introduced. Three or four years elapsed before the Provident Fund was actually introduced; after it was introduced the Currency Department brought to the notice of Government the fact that the scheme as drawn up was not a scheme which could be regarded as a fair or a reasonable scheme taking into account the pensionable system under which the whole staff was originally: Government then stated that they would not modify the scheme. But later on, modifications have actually been made from time to time. With regard to the scale of pay again, the scale has been modified from time to time, but the modification introduced has been such that the increase is either 8 annas or one rupee or two or three rupees, as the case may be. There has not been any increase which might be called an appreciable increase. The way in which Government have been dealing with the matter during the last few years making improvements by dribblets, one in 1922, then in 1924, and another in 1927, makes the position of the employees far more difficult, and I think the proposition of my Honourable friend Mr. Khaparde to have an inquiry is supported by the attitude of Government itself. If Government had taken up the matter not piecemeal but as a whole and said: these are the scales of pay, these are the increments, these are the different systems of provident funds to be introduced, then once for all the thing would have been settled: the men would have known that this was the ultimate limit to which Government would go. But the way in which Government has been dealing with the matter has been so unsatisfactory, that I think there ought to be a final and definite step taken by Government so as to let the people know what the final decision in the matter is. The grievances that have been formulated by the Association or by the individuals concerned make out certainly a very good case for inquiry. I cannot say personally that all those grievances are real grievances, but the way in which Government has dealt with those grievances shows that there is something in those grievances which ought to be inquired into.

There is one point to which reference has been made by the Honourable Mr. Pantulu, and that is with regard to examination of notes. It is very difficult to find out whether a note is a forgery or not, and it has been brought to my notice that there have been cases where even experts have differed as to whether a particular note was a forged note or a real one, and even when experts differed, the person concerned had been mulcted of his pay. Take, for instance, one case where the superior officer of the staff said that if he had been in the position of the shroff, he would have passed the note and he recommended that the amount ought to be written off. But a still higher officer thought that the shroff should be mulcted of the pay and a poor person who gets Rs. 30, 40 or 50 has to pay Rs. 6, 7 or 8 per month for a year or 18 months or two years. That is certainly a very undesirable state of things. Every employer must give to each employee a pay which would keep him above want and the conditions of service also should be such that if in the ordinary discharge of his duties he does something wrong which is not intentional but unavoidable or purely accidental, then he ought to be leniently dealt with. There are various other matters which ought to be thoroughly gone into by a Committee.

THE HONOURABLE MR. E. BURDON (Finance Secretary): Sir, I have listened with great interest to the speeches that have been made on this subject, and, in particular, my Honourable friend Mr. Ramadas Pantulu has told me one or two things which I did not know before and which I am very glad to learn. Apart from that, Sir, it is my duty to spare my Honourable friend any possible suspense and come to the point at once. I am afraid—I say it with very great regret—that I must oppose this Resolution. I have very substantial reasons for doing so which I hope he himself will be able to accept as substantial. But I hope it will mitigate his disappointment and make him feel that he has not altogether failed of his purpose when I tell him that as a result of the interest which he and others have been taking in the case of the Currency Office establishments it has quite recently been decided to accede to the representations which have been made from time to time in regard to the establishment of a contributory Provident Fund for the non-pensionable staff in the Currency Offices. In April 1928, when the Honourable Sir Bhupendra Nath Mitra, who was then Finance Member, and I, as Financial Secretary, were on tour together in Bombay, we received a deputation from the Currency Office Association and this particular grievance attracted our attention especially. Since then we have been going into the matter. The questions connected with the establishment of a Provident Fund are not altogether free from difficulty. But the other day, at a meeting of the Standing Finance Committee, it was agreed that a contributory Provident Fund should be established. The terms proposed are that the employee should be compelled to contribute 1/12th of his pay a month, that Government would contribute 75 per cent. of the man's contribution—that is the usual scale—that Government will add interest at the current Provident Fund rate calculated in the usual manner....

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: The Government will pay the percentage of the pay?

THE HONOURABLE MR. E. BURDON: 75 per cent. of the employee's contribution. The Government will add interest at the current Provident Fund rate calculated in the usual manner and, in addition, the employees will probably be allowed.....

THE HONOURABLE MR. G. S. KHAPARDE: Will it be subject to income-tax?

THE HONOURABLE MR. E. BURDON: No. Deposits in Provident Funds are not subject to income-tax.

THE HONOURABLE MR. G. S. KHAPARDE: They are.

THE HONOURABLE MR. E. BURDON: No.

THE HONOURABLE MR. V. RAMADAS PANTULU: From what date will Government give effect to its decision (of making a contribution of 75 per cent. of the employee's contribution)?

THE HONOURABLE MR. E. BURDON: I am coming to that, Sir. It may be arranged that the employees should continue to be allowed to subscribe to the General Provident Fund in addition if they wish to do so. There is one further remark which I wish to make in regard to this. While the Standing Finance Committee have agreed to the plan, we propose in addition to consult the Association, the Trades Unions, so to speak of the Currency Office employees

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in order that we may make quite sure that we have not overlooked any particular point in which they are interested. So much for that.

As regards the Resolution in general, the first objection which I must take to the proposal is a general one. I would submit, Sir, that while very important, and very responsible and very difficult functions have been allotted to the Legislature, these functions do not, here or in any other country, include that of settling the details of administration, and I submit, Sir, that if one part of the machine attempts to do the work of another part, then, in Government as in mechanics, the result must be a breakdown. I am quite sure, Sir, that in the abstract and in general, my Honourable friend will agree with me. I am sure my contention is right. But he will wish to make a special case of the case under discussion, and I say that to make it a special case would be an exceedingly....

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: In England this is done under the control of the Legislature. The Executive is responsible to the Legislature there.

THE HONOURABLE MR. E. BURDON: Quite so; but that does not alter the proposition that certain functions are allotted to certain people, certain parts of the machinery, and certain functions to others. That is a universal truth. Well, I say that if you make a special case of this, it would be an exceedingly dangerous precedent. Let us assume for the moment that the Resolution is adopted by the Council, the Government accept the recommendation, and appoint a Committee, and that the Committee recommend the grant of some concessions. It does not matter what they are. What will be the further result? Clearly, every establishment under the Central Government would be encouraged to lay its grievances at the feet of some Honourable Member and beg him to move another Resolution to secure an investigation by a different agency. You will find it completely impossible to draw the line. Now, I am sure my Honourable friend will say that Government should not allow their servants to have grievances, to which I can only reply that it is not in human nature for every one to be entirely and absolutely satisfied with his pay and prospects. There are exceptions of which I am one (Laughter) but the general proposition remains nevertheless correct, and I say, Sir, that if you remove all the grievances of public servants you will be apt to find that you have given a very substantial grievance to the general tax-payer. I feel sure that the situation which I have depicted is not a situation acceptable to this Council, and I would ask the Council on this ground alone not to admit my Honourable friend's proposal. If this Council desires to formulate any general principle to regulate the remuneration of public servants, that would be entirely appropriate. But the application of the principle should, I respectfully submit, be left to those who are employed and trained for the purpose and who have experience not merely of one establishment but of many and are thus able to take a comparative view.

My second objection is that Government have satisfied themselves that they have done all that is necessary or practicable to meet the just claims of the personnel in question and that if due regard is to be paid to the public interest they would not be warranted in conceding further benefits or amenities.

I must make it clear that this is not a case in which the Government of India have formed their conclusions merely on perusal of the reports of the Head of the Department, thorough and convincing though these reports have been—for I must hasten to acknowledge that both Mr. Denning and Mr. Taylor as Controllers of Currency have on many occasions investigated the grievances of their staff with the greatest thoroughness and sympathy. But other means also of ascertaining the true facts have been employed. As I said a short time ago, in April 1928 the Honourable Sir Bhupendra Nath Mitra as Finance Member and I as Finance Secretary received a deputation from the Currency Offices Association and discussed exhaustively with them every point which they wished to bring forward. As I have explained, it was on this occasion that my attention was first directed to the question of the Provident Fund as a matter for legitimate complaint which is now in process of being remedied. Later, I had interviews followed by correspondence on the same subject with Dewan Bahadur T. Rangachariar, President of the All-India Currency Offices Union; and I believe I satisfied him on the whole that it was not practicable to expect Government to grant the requests on which he had laid so much stress. And I have examined the case personally on several other occasions in connection with questions to be asked or Resolutions to be moved in this Council or in the Legislative Assembly. The result is, as I have said, that I am satisfied that it would not be right to increase the cost of these Currency establishments by yielding to the demands which have been made. I must remind the Council that the establishments are among the Finance Department's own children and that we should naturally have a friendly feeling for them. But, as I have said, the Finance Department has felt it its duty to deny their petitions.

Now, Sir, I will deal with one or two of the specific grievances alleged. First of all an important thing to remember is the point to which attention has been drawn by two of the previous speakers, namely, that the Currency offices were at one time part of the offices of Accountants-General, and that it is really from the fact of the separation that, to a large extent, the dissatisfaction of the Currency office personnel springs. A frequent complaint is that the personnel in Currency offices are not as well paid as the personnel of the Accounts offices. This is a complaint which I personally have no hesitation in rejecting. I do not deny that the duties performed in Currency offices by clerks are important and require to be carried out by reliable people, but they are entirely different in their nature from the duties carried out by clerks in Accounts offices and are not so difficult. I am quite sure it would be incorrect and extravagant to apply the higher scale of pay to the Currency Offices. In this connection I wish to say one other thing. Honourable Members are probably aware that it is not merely the clerks in Currency Offices who look with envy at the rates of pay drawn by clerks in Accounts offices. A similar complaint comes from clerks in Post Offices, in the Customs and other Departments of the Central Government; and it has been found in those cases that the differentiation is justifiable. The same pressure has not been exercised to support the claim in the case of these other offices, the reason simply being that the Currency Offices were at one time associated with the Accounts offices and consequently

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they feel the separation : and they feel the differentiation in pay more keenly than the others. Now, Sir, I do not think my Honourable friend the Mover of this Resolution altogether did us justice. He said that these complaints had never been looked into and I trust that Honourable Members will accept the assurance of what I have said to convince them that we have looked into these matters very carefully on more occasions than one. Again, my Honourable friend really *skipped*, if I may say so, the revisions of pay altogether. The omission was, however, repaired by my Honourable friend Mr. Ramadas Pantulu and Mr. Rama Prasad Mookerjee. There were of course revisions of pay in 1920, again in 1922 and in 1924. I must also demur to the suggestion of the Honourable the Mover of this Resolution that the Controllers of Currency really wanted increases of pay and other amenities to be given to their staffs but were afraid to make recommendations to the Government of India. Any body who knows either Mr. Denning or Mr. Taylor will know that they are officials of great independence of character and they would not be deterred by any such consideration from claiming for their staff what they believed to be their just dues. Now, Sir, the grievances that we have investigated are briefly as follows. We are told that the revision of 1924 does not meet the market conditions and barely afforded any relief. The facts are these, that scales of pay were substantially improved in 1924. The maximum pay of clerks was raised from Rs. 100 to 150 in the larger offices, from 100 to 130 in Rangoon, from 80 to 130 in Madras and 80 to 100 in Lahore, Cawnpore and Karachi, and the rate of increment was also raised. As I say, the rates of pay compared very favourably with the rates of pay admissible in other offices of the Central Government in the same places, apart from the Accounts offices. A request has been made that the existing scale should be replaced by a uniform scale for all Currency Offices. I am quite sure that no Member of this House would think it necessary to give the same rate of pay in Calcutta as in Madras and Lahore. Sir, we have heard a good deal about the grievances of the shroffs, but actually what happened to the shroffs was that their rate of pay. I take the Bombay rate—was raised from Rs. 40—2—60 to a scale commencing with Rs. 50 and rising by small increments to Rs. 80 ; proportionately a very substantial increase. We have had no difficulty in recruiting shroffs at these rates of pay, nor have we found that we get unreliable shroffs at these rates of pay. But my Honourable friend Mr. Ramadas Pantulu made a very interesting observation regarding the shroffs which I should like to pursue separately. He told us that the rates of pay of shroffs in banks and business houses are considerably higher. That I must confess had escaped my attention. I am not sure that the actual system and organisation of the Currency Offices is the same as that of banks, and if my Honourable friend will give me further information I shall certainly investigate that point further. My Honourable friend I am sure is aware that to supervise the work of the shroffs we employ treasurers who do work generically of the same character, only of course they carry out the supervision. The rates of pay of these treasurers were raised from a scale commencing at Rs. 500 and rising to Rs. 700 to a scale commencing at Rs. 700 and rising to Rs. 900. I have taken the rates of the Calcutta and Bombay offices.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: Are the shroffs or the treasurers responsible for all kinds of notes ?

THE HONOURABLE MR. BURDON: There are certain informal arrangements which exist between the treasurers and the shroffs. These arrangements prevail not merely in Currency Offices but in district treasuries all over India. Shroffs are nominees of the treasurers, very often they are their relations and they are brought in by them and very often there is some informal arrangement between them by which they share losses. But obviously it would be very undesirable to diminish in any way the responsibility of the shroff for testing coins which he has to handle.

Now, Sir, my Honourable friend Mr. Pantulu—perhaps he will correct me if I am wrong—said that the pension of menials was only Rs. 4 per mensem and also that their rates of pay were inadequate. I think my Honourable friend was wrong as regards pension, because under the scheme for the temporary increase in small pensions, there is no pension less than Rs. 6 per mensem, payable either by the Central Government or, so far as I know, by Provincial Governments. That temporary increase in small pensions which was originally introduced in 1921 has been continued ever since, and it was only the other day that the Standing Finance Committee of the Legislative Assembly agreed to a further extension of it for another two years. It is the case that the Bombay Government have recently introduced a rule by which pensions of inferior servants shall be equivalent to half pay. Possibly there is some minimum limit. But I think I am right in saying that Bombay is practically the only Provincial Government in India which has found it possible to afford this step. We ourselves have been taking an interest in this subject recently and we have made inquiries from all Local Governments. So far as we are concerned, the inferior servants of the Government of India are entitled to this scale, the "temporary increase" scale, subject to any modifications introduced by the Provincial Governments of the provinces in which they live in respect of inferior servants (on pension) of those Provincial Governments. As regards the rates of pay, the situation is this, the pay of menials in Currency Offices coincides almost entirely with the pay granted by Local Governments to their own servants in the different provinces. This, I may say, is the practice universally followed by the Government of India in all their offices in all parts of India ; and I must confess that I can see no reason for departing from this in the case of Currency Offices.

Now, Sir, another grievance, which was not mentioned by Honourable Members, and which we have investigated, relates to rates of work. We were told that the rates of work should be reduced. The rates of work were very carefully investigated by the Controller of the Currency and the rates fixed are not regarded as too high. The hours of work in Currency Offices compare favourably with those in banks and firms in large cities. Efforts have also been made to improve the accommodation, i.e., the buildings in which the work is carried out. We have recently erected a new building at Karachi. Plans for a new office in Lahore have been drawn up and the construction of a new office in Madras is contemplated. These facts which I have just given bear, as I say, upon another grievance which has not been mentioned to-day. There are certain other grievances also as regards leave and holidays. I am sure that Honourable Members will appreciate the fact that Currency Offices must follow the lead of the banks and close only on holidays declared under the Negotiable Instruments Act. They cannot be completely closed on other days, but so far as possible, concessions are made.

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[Mr. E. Burdon.]

In conclusion, I can only say that the attention of the Controller of Currency has been very firmly focussed on this matter as a result partly of our own desire to improve the conditions of service of our establishments and as a result also of the interest which has been manifested in this matter by Members of both this Council and also of the Legislative Assembly. I hope, Sir, that what I have said will convince the Members of the Council that it is not really necessary to appoint a Committee to hold a further enquiry such as is suggested by the Honourable Mover.

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces : Nominated Non-Official) : Sir, I did not intend to take any part in this debate, but owing to one or two observations which have fallen from my Honourable friend, Mr. Burdon, I feel I cannot allow them to go uncontroverted in this Council. At the commencement of his speech he attacked my Honourable friends Mr. Khaparde as well as Mr. Ramadas Pantulu on the ground that it is no part of the duty of the Legislature to interfere in matters of this kind (Applause), and that the whole question should be left in the hands of the administrative machinery which is empowered and which only is privileged to look into such matters. I beg, with great deference, to differ from him (Applause) in the enunciation of this proposition. It is the first time that I have heard that the Legislature's powers in these matters are trammelled in any way. I quite understand that it is no part of the duty of the Legislature in individual cases of grievances to interfere; that proposition I am quite prepared to admit; but the Resolution does not touch individual cases. The whole body of the establishment is concerned. When the whole Department is concerned with the grievance, when it is brought to the notice of the Legislature that there is something intrinsically wrong in the application of the general principle which has been observed in a particular Department, I think it is the right and the privilege of the Legislature to interfere. I know that this has been done in several cases, even in the Mother of Parliaments, I mean the British Parliament. In such general matters they have always the right to interfere. I will give you one illustration. The Government of India have interfered in the case of railway employees because they threatened to strike in a public department. Poor clerks cannot go on strike, and therefore their grievances could not be heard. I do not think you can make any difference between the Railway Department, which is a Government Department, and any other Department, and I therefore disagree with my Honourable friend Mr. Burdon on that point. Again, did we not increase the salaries of the members of the Civil Service and other services on the recommendation of the Lee Commission? Then, Mr. Burdon further stated that it would cause a dangerous precedent and that, if the Legislature, interferes in the case of one Department of Government, the other servants of Government will also bring forward their case before the Indian Legislature and probably there will be no finality in such matters. I say if the other Departments have real and similar grievances, let them bring them forward by all means, and we, all of us, shall be very pleased to hear them. We shall not inquire into individual cases, as I said, but we shall certainly inquire into matters affecting collectively the interests of the employees in Government service. Then, my Honourable friend asked : "What will be the result of such state of affairs?" He said : "You will be transferring one grievance

from one class of people to another, namely, the grievances of the poor clerks, whose burdens will be relieved, will be put on the general tax-payer. I for one may immediately tell him that if such a burden is put on the tax-payer, I shall be glad to bear it and I know that Honourable Members of this Council will also very cheerfully acquiesce in that proposition (Applause). That is no explanation, no answer, whatever to this argument. My friend has stated that the Government increased the salaries of these people in 1924 and they have considered with sympathy all the grievances of these classes of employees. We are grateful to Government for having done that, but when these other facts are brought out that since 1924, it must also be acknowledged, the prices of various commodities have also considerably increased.....

THE HONOURABLE MR. H. B. CLAYTON : No.

THE HONOURABLE SIR MANECKJI DADABHOY : In a certain class of cases. The index figure, I do not think, is just the same as in 1924.

THE HONOURABLE MR. H. B. CLAYTON : It has gone down.

THE HONOURABLE SIR MANECKJI DADABHOY : In some cases, but it has increased in certain others. It is a question that needs inquiry, and I do not think the Government is likely to suffer in any way by an investigation being made by officials and non-officials into the grievances of these bodies. If these grievances are unfounded the Committee will so advise. If these grievances are legitimate and proper and require sympathetic attention, I do not see why we should refuse such an inquiry and investigation. I therefore think that the reasons which the Honourable Members have urged for supporting this Resolution are not wholly inadequate.

THE HONOURABLE THE PRESIDENT : If the Honourable Member wishes to speak in reply he should rise in his seat.

THE HONOURABLE MR. G. S. KHAPARDE : Sir, my task has been considerably lightened by what my Honourable friend, Sir Maneckji Dadabhoi, has said. But there are a few considerations I wish to submit. I have noted down only about five or six points. I do not mean to go into those intricate matters of accounts about which my friend is so well informed. But, first of all, he objects to our jurisdiction. He thinks that this Council has no jurisdiction to go into a matter of this kind. I submit our jurisdiction is limited and contained in the rules for the conduct of business, both general and special, and when we send in a Resolution and it passes through the scrutiny of the office, then the President says whether it is in the rules, and after the President has allowed it, I suppose the Viceroy looks into it, and says the Member should be allowed to move the Resolution. After the Resolution has gone through the ordeal of these three examinations, it is too late now for my Honourable friend sitting on my left to say that we have no jurisdiction in the matter. This Resolution has gone through the ordeal of examination by the office, the Honourable the President and His Excellency the Viceroy, so I attach no importance to this objection that has been taken. The next point that was put forward was that all people would similarly bring up their grievances. Well, my reply is that I shall feel very glad, and the more people who bring up their grievances to us and the more we are able to give them justice, the better pleased I shall be. If it was not within your rule it would not have

[Mr. G. S. Khaparde.]

been permitted at all either by the office, or the Honourable the President. And let them come. What is this constitution for? In order that justice may be done to everybody, in all possible ways. If the executive side declines to act in the matter, the legislative side will have to do it. And why not? Is the executive sacrosanct? And why is my friend unwilling that the matter should be submitted to arbitration by official and non-official Members. Has the Department given the final answer? We have brought the answer here. And he says he has done enough. That is just the point that is in dispute. Why not submit it to arbitration by official and non-official Members? Where is the difficulty? Sir Maneckji Dababhoy has got considerable experience of managing big concerns. Then there are others who have managed and successfully carried out big projects. Why not? It is just as well to have the arbitration. Why should the decision of the executive be final in the matter?

THE HONOURABLE SRIJIT RAMA PRASAD MOOKERJEE: The Government should welcome such an arbitration.

THE HONOURABLE MR. G. S. KHAPARDE: They should be glad to see there is no injustice. They will cure it and set it right. Then the third point was taken that everything that can be done has been done. That was the point, I suppose, that my Honourable friend wished to make. But the people believe that it has not been done. And therefore I wish to bring it before this impartial tribunal of officials and non-officials. Where is the harm in that? As an act of great grace and great favour shown, my friend said that Government have given as much as 75 per cent. on what the poor man contributes. I wonder that he claims credit for that. In other departments the Government contributes an equal amount.....

THE HONOURABLE MR. E. BURDON: That is not correct, Sir. There is only one case in which 100 per cent. is given, and that is in the State Railway Provident Fund.

THE HONOURABLE MR. G. S. KHAPARDE: Why not? If this favourable treatment is given to one lot of men, why should it not be given to these poor people? They deserve it more than other people. But he looks upon it as a piece of benevolence when I look upon it as a grievance. The further point was made by my Honourable friend that these things are not done. I remember in this particular place and in this very hall, and Honourable Members who were present will remember it too, the Civil Service came here for an increase in their allowances or something and we had to sanction it. If we had no business at all, how did the Civil Service come to us and how did we grant their grievance?

THE HONOURABLE MR. V. RAMADAS PANTULU: That was the Lee Commission.

THE HONOURABLE MR. G. S. KHAPARDE: No, a little earlier than that. It was in connection with the poor press people—the Government press people. And Sir Thomas Holland who was then fighting me—he used to sit there—said: “After all, the tax-payer has to be taken into consideration, and if we increase the pay of these press men, we the tax-payers will have to pay for it.” Well,

I said, “the increases given to these Civil Service people cost 4 crores, whereas in the case of these poor people it would cost only a few thousand rupees. Why not give four or five thousand rupees to these poor people?” As the thing went—we cannot always command a majority in this House—my proposition failed. But I remember the occasion and therefore I do not think that any objection should be raised now. Well, I believe, Sir, that I have met all the important points that were made. My friend has gone a little further and tried to help me by stating objections to points that I had not made and taking credit for disposing of them. I do not wish to reply to that.

THE HONOURABLE THE PRESIDENT: The question is:

“That the following Resolution be adopted:

“This Council recommends to the Governor General in Council that he may be pleased to appoint a Committee of official and non-official members to enquire into the grievances regarding the scales of pay, Provident Fund and other service conditions of the non-gazetted staff, both menial and clerical, of the Currency Offices in India and Burma and to suggest ways and means for their redress.”

The Council divided:

AYES—16.

Asthana, The Honourable Mr. Narayan Prasad.	Ramadas Pantulu, The Honourable Mr. V.
Dadabhoy, The Honourable Sir Maneckji.	Rama Rau, The Honourable Rao Sahib Dr. U.
Govind Das, The Honourable Seth. Khaparde, The Honourable Mr. G. S.	Ray Chaudhury, The Honourable Mr. Kumar Sankar.
Mahendra Prasad, The Honourable Mr. Mookerjee, The Honourable Srijit Rama Prasad.	Sinha, The Honourable Mr. Anugraha Narayan.
Mukherjee, The Honourable Srijit Lokenath.	Suhrawardy, The Honourable Mr. Mahmood.
Natesan, The Honourable Mr. G. A.	Surpat Singh, The Honourable Mr.
Padshah Sahib Bahadur, The Honourable Saiyed Mohamed.	Zubair, The Honourable Shah Muhammad.

NOES—19.

Ashraf-ud-Din Ahmed, The Honourable Khan Bahadur Nawabzada Saiyid.	Maqbul Husain, The Honourable Khan Bahadur Sheikh.
Basu, The Honourable Rai Bahadur Suresh Chandra.	Mehr Shah, The Honourable Nawab Sahibzada Saiyad Mohammad.
Burdon, The Honourable Mr. E.	Muhammad Hussain, The Honourable Mian Ali Baksh.
Charanjit Singh, The Honourable Sardar.	Ryan, The Honourable Mr. T.
Clayton, The Honourable Mr. H. B.	Symons, The Honourable Major-General Sir Henry.
Dutt, The Honourable Mr. P. C.	Thompson, The Honourable Sir John.
Fazl-i-Husain, The Honourable Khan Bahadur Mian Sir.	Watson, The Honourable Sir Charles.
Graham, The Honourable Mr. L.	Weston, The Honourable Mr. D.
Gwynne, The Honourable Mr. C. W.	Woodhead, The Honourable Mr. J. A.
Latifi, The Honourable Mr. Alma.	

The motion was negatived.

RESOLUTION *RE* FREE ALLOWANCE OF LUGGAGE TO PASSENGERS ON STATE RAILWAYS.

THE HONOURABLE MR. NARAYAN PRASAD ASTHANA (United Provinces Northern : Non-Muhammadan) : Sir, I beg to move the following Resolution :

“ This Council recommends to the Governor General in Council—

(a) to revise the scale of free luggage allowed to passengers on the State Railways in the following manner

III class	..	..	..	..	25 seers.
Intermediate class	..	..	..	..	30 ..
II class	..	..	..	..	40 ..
I class	..	..	..	..	2 maunds.

(exclusive of bedding, handbags, sticks, umbrellas, etc.) :

(b) to order that the prescribed free allowance of luggage should always be made, whether the luggage has been booked before beginning the journey or not.”

Sir, I require to say very few words in commending this Resolution to the Council, because I think that if every Honourable Member had the liberty to vote, he would vote for this Resolution. However, I do not place this Resolution on purely selfish considerations, but on the higher consideration of affording relief to the really aggrieved persons. The present scale of free allowance of luggage, as is known already to the Honourable Members, is 15 seers for III class, 20 seers for intermediate class, 30 seers for the II class and 60 seers for the I class. I want only an addition of 10 seers so far as the third, intermediate and II classes are concerned. I have put in the first class as a sop so that all those who travel first class might also vote for the Resolution. So far as I remember, the existing scale of free allowance of luggage has been in existence for more than 40 years, because since I have attained the age of discretion—it is more than 40 years, I think—I have always been learning that this is the scale of free allowance. But during the last 40 years the railway fares have been revised so very often and have been enhanced. I have worked out the rate of fares so far as the East Indian Railway time table is concerned, and I think the same will apply *mutatis mutandis* to all other railways. Taking the average that a passenger travels as 300 miles, the third class passenger has to pay 2½ pies per mile, an intermediate class passenger has to pay 5 pies per mile, a second class passenger 10 pies per mile and a first class passenger 20 pies per mile. Now, to a third class passenger who pays 2½ pies per mile a free allowance of 15 seers is allowed.

Now, taking the rates as given in the East Indian time table the luggage rate comes to 18/25 of a pie for every 15 seers per 300 miles, and for 25 seers it would come to 1-4/25 pies per mile. Therefore, what I now propose, so far as the third class passenger is concerned, will allow him only 11/25 of a pie per mile, making the difference between the 15 seers you already allow him and 25 seers. The 18/25 of a pie per mile which is now allowed may be deemed to be already included in the passenger fare of 2½ pies per mile. Now my submission is that, having increased the fares on the railway during the last 20 years, it is but fair that a greater allowance of free luggage should be allowed. But that is not the only consideration. As has been admitted all round, another consideration is that the standard of living has increased. Even the poor

third class passenger now requires more luggage than it was necessary for him to take 30 or 40 years ago. He requires more clothes and requires to carry other things with him for the purpose of his personal comfort. (An Honourable Member : “ He is more civilised.”) Quite so. I would therefore place it on this ground, that the standard of living having improved in the last 20 or 30 years it is but fair that the scale of personal luggage should be increased. Another consideration is, that once you admit that the railways are bound to carry a passenger a certain distance on the payment of a certain fare, it is surely a fundamental principle that you should allow him some luggage for his personal comfort. Because if you say that the railways are not bound to carry any luggage at all, then surely you can reduce it to an absurdity by saying that the railways are not bound to carry passengers with their clothes on, because clothes and boots are luggage. I remember cases when persons have been detected with excess luggage and they have dodged the railway ticket collector or inspector by opening their box and taking out the clothes and putting on one garment over another. So that a man with three or four coats would wear them all and wrap himself up in five or six shawls, etc., and thereby dodge the railway people. What is really required is that the railways should consider what amount of luggage is required for personal comfort, and if you once admit that you are bound to carry a passenger, you must give him an allowance of so much luggage as is essential for his personal comfort. I think in this year of grace 1929 even for a third class passenger 25 seers should be the minimum. In the same way I have increased the amount in the case of intermediate and second class passengers, but only by 10 seers. As Honourable Members might have noticed, I have divided the Resolution into two portions. In the first, I urge that the scale of free allowance should be raised, and in the second, I urge that this free allowance should always be given whether the luggage has been booked or weighed when beginning the journey or not. I justify that in this way, that if you are bound to carry the passenger with a certain amount of free luggage, the duty of a railway is only that of a carrier and if that amount of luggage is covered by the railway fare, then the railway is legally bound to allow that deduction if the passenger is subsequently found to have exceeded the limit. But I do not rely upon legal technicalities. I say that you penalise *bona fide* passengers who believe that their luggage is not really in excess and are quite unaware that it exceeds the weight admissible by a few *chittaks*. But under the existing practice the railway charges for the entire amount. Then, again, people often have not sufficient time to book their luggage or to get it weighed before beginning their journey. In such a case you do not even provide that when a passenger informs the guard that he had not sufficient time to get his luggage weighed that he should be allowed the free allowance. Therefore, you penalise innocent passengers in this matter. Moreover, I submit that there are often not sufficient facilities provided for the weighing of luggage even at big stations when there is a rush of third class passengers. I do not think that even Allahabad and Benares, which are pilgrim centres, can cope with a rush of two or three hundred passengers in the half an hour or so which is allowed for the purpose before a train comes in. This therefore is a very penal rule which says that a passenger shall not get his free allowance if he has not had his luggage weighed before beginning his journey, and it operates very harshly. I think therefore that the two portions of my Resolution will commend themselves to the Honourable Members of

[Mr. Narayan Prasad Asthana.]

this Council, and I suggest that Government should come to some conclusion agreeable with my suggestions in this matter.

* THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY (East Bengal : Non-Muhammadan) : Sir, I rise to support this Resolution, and the second part particularly, because of the great difficulty in getting luggage booked. In most of the stations, third and intermediate class booking offices are not opened in sufficient time to allow of the purchase of tickets, and there is a great rush in passengers getting their tickets, and luggage cannot be booked before the tickets are purchased. There is hardly any time left for doing that and the railway staff is not sufficient to cope with the work. Therefore, the rules do not provide for the compulsory booking of luggage. If you do not provide for the compulsory booking of luggage, I do not find any reason why you should penalise a person who cannot book his luggage before availing himself of a train. I, therefore, think that the second part ought to receive the support of the House to the fullest extent. As regards offering a sop to first class passengers, I do not follow why, if it is a mere sop, it should be 20 seers in their case, whereas it is 10 seers in the other cases.

THE HONOURABLE MR. G. A. NATESAN (Madras : Nominated Non-Official) : Sir, I hope my Honourable friend Mr. Asthana will forgive me if I speak out my mind. I have been connected with the Madras Railway Advisory Committee for the last three years. More than anything else in my days of struggle I have had to squeeze myself into third class carriages with heavy luggage. One of the commonest complaints and a very proper complaint is that third class compartments are frightfully overcrowded. I would like every Honourable Member here who has really heard this complaint and who is very seriously interested in mitigating, if I may say so, the hardships of third class travelling, to reflect what will be the effect if this proposition authorising increased luggage is carried. In the good old days, people did not carry about their boxes. Now, the poorest man carries a tin box ; sometimes in all conscience it is considerably bigger than one would expect. I know—and it is a matter of daily occurrence—that people are packed like sardines in third class compartments with very heavy luggage in addition, and I challenge any station master to remove any one of the heavy boxes, etc., of luggage. Then, again, unlike in other countries, our people are not accustomed to book their luggage and I am surprised that such an experienced man as my Honourable friend Mr. Asthana should have particularly moved the second clause. If in the first place without solving the difficult problem of overcrowding in third class compartments you should give increased luggage, I consider that probably the remedy will be worse than the disease. It will be adding very greatly to the hardships of the poor travelling public who are packed in third class compartments. With a certain amount of responsibility I can say, whatever may be the unpopularity, that we are not doing rightly by the poor travelling public and we are not really interesting ourselves in the cause of the men whose interests we are to look after. I quite admit that the present system by which a number of people are packed in third class compartments is really a disgrace to any civilised railway administration, and I do hope that every pressure will

* Speech not corrected by the Honourable Member.

be brought to bear on the railway authorities, and particularly on the central authority, to see that this system of crowding a large number of people into one small compartment is put a stop to. I think all our efforts and all the agitation should be concentrated upon that. I hope my Honourable friend Mr. Asthana will consider the situation very carefully. It does not mean that I am not alive to the difficulties and sufferings to which these people are put to ; but there are various Railway Advisory Boards in the provinces, and more than anything else there is the Central Railway Advisory Committee, and it is not at all difficult to put our heads together and try to solve this problem. I admit that it is a real grievance, but the remedy proposed will not solve it. On the other hand, it will add to the hardships. I cannot possibly conceive of a third class compartment, frightfully overcrowded already, being loaded with heavy luggage, as is done in the marriage season. If I felt for a moment that this proposition, if carried, would in any way mitigate the hardship of third class passengers, I should have had no hesitation in voting for it. Having myself been on the Advisory Board for some time, having had the opportunity of travelling in third class compartments with heavy luggage and often obliged to take marriage parties with me, I do think the Resolution will not remove the difficulties which my Honourable friend has in view. I hope that the subject will be discussed and that the Member in charge will give his views on it ; but instead of pressing this Resolution to a division, I would earnestly request in the interests of the very people for the removal of whose hardships we are pleading that this matter be referred to the Central Railway Advisory Committee.

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 MR. J. A. WOODHEAD (Commerce Secretary) : Sir, the first part of the Honourable Member's Resolution deals with the scale of free luggage allowed to passengers on State Railways and recommends that the present allowance which varies from 15 seers in the case of third class passengers to 1½ maunds in the case of first class passengers should be increased. The increase suggested is considerable. From the point of view of percentages, in the case of third class passengers it is an increase of 66 2/3 per cent. and in the case of first class passengers an increase of 33 1/3 per cent. At the outset I would place the legal position before the House. Under the Railways Act, the railways are not bound to carry any luggage free. In other words, the free allowance is a concession pure and simple. Although this is the legal position, still it is the universal practice for all railways to give a free allowance of a certain amount which varies according to the class in which the passenger travels. There is also, as unfortunately so often happens, a financial side to the question. The earnings of class I railways in 1928-29 on carrying passengers' luggage amounted to 83 lakhs of rupees. That is a very considerable sum and it not only affords some indication of the loss of revenue which would result from any very large increase in the concession,

[Mr. J. A. Woodhead.]

but also perhaps illustrates in a rather forcible manner the monetary value of the present concession. The matter is, however, under consideration by the Government of India. It was recently investigated by the Railway Board who recognised that the existing free allowances for lower class passengers are somewhat lower than those allowed on other Asiatic Railways. At the beginning of this month the Railway Board brought the matter to the notice of the Indian Railway Conference Association and requested that body to consider whether an increase in the allowances made to lower class passengers would be justified. This Association meets in October, that is, next month. The matter will therefore receive their early attention and consideration, and it is hoped that a decision will be arrived at before the close of this financial year. I should explain in this connection that it is considered essential that there should be one uniform allowance for all railways in India. For instance, it would be most unfortunate from the passenger's point of view if a passenger travelling, say from Bombay to Calcutta by the Great Indian Peninsula and Bengal Nagpur Railways route, was liable to have his luggage re-weighed at his destination simply because the allowance allowed by the Great Indian Peninsula was not the same as that allowed by the Bengal Nagpur Railway. I mention this fact because the concession of a free allowance is not a matter upon which the Government can impose orders on Company-managed or privately owned railways.

The second part of the Resolution recommends that the free allowance of luggage should always be deducted whether the luggage has been booked before the beginning of the journey or not. In this connection, I would repeat again what I said as regards the legal position in connection with the first part of the Resolution. The allowance is a concession, and in these circumstances, it is, I think, reasonable that passengers who desire to avail themselves of the concession should comply with the conditions governing the concession, and that, if they fail to observe those conditions, they should be liable to some penalty. I am also afraid, Sir, that, if the penalty to which a person who is found with luggage in excess of the free allowance is now liable were entirely removed, as has been proposed by the Honourable Mover, passengers would be encouraged to avoid payment for luggage in excess of the free allowance at the starting station because they would know that, even if they were detected in possession of luggage in excess of the free allowance, they would be no worse off than if they had faithfully observed the conditions imposed by the railways.

Attention has been drawn to certain difficulties to which passengers are subject. I am in a position to inform the House that one of these difficulties is under consideration by the Indian Railway Conference Association. Complaints have been received that when luggage is reweighed at the station of destination passengers have sometimes to make an additional payment owing to a difference in the weight recorded at the starting station and that recorded at the station of destination. It was found on inquiry that some railways allowed more latitude than others in regard to what passengers are allowed to take unbooked with them into their carriages, and that all railways did not follow exactly the same rules in respect of weight found in excess at the station of destination. These questions have been recently referred to

the Indian Railway Conference Association and they have been requested to consider the possibility of introducing a uniform procedure on all railways. Another difficulty mentioned was the lack of facilities for weighing passengers' luggage at stations. My information is that, so far as third class passengers are concerned, they do not to a very large extent evade the conditions laid down, and that in fact the delinquents are rather the upper class passengers than the third class passengers. But if complaints are received as regards the inadequacy of facilities for weighing at any particular station, the railway concerned, I am sure, will be pleased to investigate them and if found justified to do every thing possible to improve the position. I regret, Sir, that Government cannot see their way to abolish the penalty imposed on passengers found during the course of their journey or at the station of destination with luggage in excess of the free allowance. It is felt that the removal of this penalty would encourage to a very large extent evasion of the conditions on which the concession is granted. But, as I said, there are two points, in regard to which an enquiry is being made with a view to the introduction of a uniform procedure on all railways, and I am sure that as regards facilities for weighing, if they are insufficient, the railway authorities will be prepared to consider the introduction of improvements.

In these circumstances, Sir, and particularly in view of the statement I have made as regards the inquiry which is to be held into the question whether an increase in the free allowance allowed to lower class passengers would be justified, I hope that the Honourable Mover will see his way not to press this Resolution.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: Sir, the Resolution, as has been stated by the Honourable Mover,

3 P.M.

is divided into two parts. With regard to the first part, I am not in agreement with the Honourable Mover, so far as the "sop" to the first class passengers is concerned. I do not think that any relaxation of the rule is necessary so far as first class passengers are concerned. The first class passengers ordinarily book their luggage and they are not in such a financial position as to appreciate this 20 seers extra free allowance given to them. They do not stand in need of it either. It is more in regard to the second and intermediate class passengers that this free allowance is necessary. We find that in the third class, most of the passengers do not book their luggage; not that they do not intend to book their luggage but they are placed in such a predicament that it is impossible for them to book their luggage in advance. The Honourable Mr. Woodhead wanted to know whether there was any paucity of arrangement in any particular station or not. It is not the paucity of arrangement in any particular station that had been referred to by the previous speakers or especially by Mr. Ray Chaudhury. But in every station it is impossible for the present railway staff to cope with the weighing of the luggage if all the passengers were to book their luggage in advance. I put it to the Honourable Member whether it is not within his knowledge that even second class and intermediate class passengers do not book their luggage when that luggage is within the free allowance. Even the Railway authorities do not insist in those stations on that luggage being weighed before being allowed entrance into the compartments. If all the passengers travelling by the railway were compelled to weigh their luggage, the present staff would have to be doubled, if not trebled.

[Srijut Rama Prasad Mookerjee.]

in the near future. Because of that condition, the second part of the Resolution which the Honourable Member has moved comes in very appropriately. When it is not possible for the Railway Administration to weigh the luggage in advance, it is not fair to put the passenger in a disadvantageous position because the luggage has not been weighed. On the East Indian Railway, they have now put up notices in big type that heavy luggage will not be allowed within the compartments and that luggage ought to be weighed before it is taken into the compartment. But may I ask in how many cases have passengers with small trunks or big suit cases—within the minimum allowed by the railway company—been compelled to weigh them before the beginning of the journey? I have travelled almost all over India and I may say that nowhere does the railway company insist on each bit of luggage being weighed before a passenger is allowed entrance into the platform. The law has remained a dead letter and therefore the second part of the Resolution ought to be passed.

Some time ago, on the Eastern Bengal Railway, instructions were issued that all luggage, where luggage had not been previously booked, be weighed at the Sealdah station. That was followed for a few months only, and when it was found by the railway company to be an impossible position to which they had reduced the whole thing it has now been discontinued. The same lax system is in vogue on the East Indian Railway, the Eastern Bengal Railway, the Assam Bengal Railway, the Bengal Nagpur Railway and certain portions of the Great Indian Peninsula Railway. This I can say from personal experience during the last few years. It has also been stated by the Honourable Mr. Natesan that if we allow 25 seers in place of 20 seers in the case of third class passengers, then we would be making their life in the compartment much more inconvenient than what it is now. Here again I can speak from my personal experience, because I have travelled in all the different classes, from the first to the third, and I know what conveniences or inconveniences are suffered by the passengers in the different classes. It is only in the case of long journey passengers that third class passengers take heavy luggage, not in the case of short journey ticket holders. Even in the case of long journey ticket holders, there is the upper bunk where the luggage is stocked. And because of the difficulty to which I have already referred, and to which other Honourable Members have referred, the third class passengers have not got the opportunity of booking their luggage before they are admitted into the compartments. Sir, in the Howrah or a few other stations there is day and night booking allowed, but in the case of other stations, way-side stations according to the rule, the booking office should be opened half an hour or 15 minutes before the arrival of the train, but that is a rule which is followed, rather in the breach, and it is only when the first signal is given five minutes or ten minutes before the arrival of the train that the booking clerk opens the booking office, and it is absolutely impossible for him to issue the tickets and then to weigh the luggage and issue the luggage tickets again. Because of these difficulties I think that some allowance ought to be made in the case of the third, intermediate and second class passengers, and the second part of the Resolution ought to be accepted. The Honourable Member in charge has stated that the matter is being considered by the proper authorities. But, I take it, the proper authority which he has referred to is not the authority for the State Railways but for the Company-managed Railways.

THE HONOURABLE MR. J. A. WOODHEAD: Both the State and Company-managed Railways.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: So far as Government is concerned the State-managed Railways come directly under Government, and Government may take immediate steps in the matter if they think a step ought to be taken. They ought not to wait for the opinion which may be expressed by the other body. It is conceded that there are different rules in vogue on different railways and that ought not to continue, but when there are already different rules, let the State-managed Railways introduce this equitable rule; and then Government and the public can say to the Company-managed Railways—here on the State-managed lines Government have introduced this new rule, let the Company-managed Railways follow suit.

THE HONOURABLE MR. NARAYAN PRASAD ASTHANA: Sir, my task has been very much lightened by the reply which has been given to the Honourable Mr. Natesan by my friend Mr. Rama Prasad Mookerjee. The question of overcrowding is quite irrelevant so far as my Resolution is concerned. There are other remedies for that evil—the running of more trains and the addition of more carriages, etc. But so far as the question of overcrowding is concerned, it has nothing to do with the free allowance of luggage. What I want is that a more liberal allowance should be given. I do not want that all luggage should be carried into the compartment itself. In regard to the remark that this is merely a concession, I think if the Government were to say to the Assembly that they were not going any longer to permit this allowance of 15 seers which they at present allow, I think the Assembly would see to it and cut down the Railway Budget to a much greater extent and would also see that railway fares were substantially reduced. So that the argument that it is a mere concession to carry this 15 seers and that the people have no right in the matter, is not an argument which will appeal to this House. Now, the financial loss, as I have already submitted, would amount to very little. I am only asking for 11/25 of a pie per mile. But the Government Member in charge has stated that the whole question is being discussed and is being brought before the Railway Conference Association, and the Railway Board itself has moved in the matter. Therefore, I think it would be better if the subject were not further discussed just now and that the views of the Railway Conference Association be ascertained. As to the second clause of my Resolution, I hope that the Government in their calmer moments will reflect upon the justice of the case. So, with the permission of this House and with your permission, I would beg leave to withdraw this Resolution for the present.

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

* This Council recommends to the Governor-General in Council—

(a) to revise the scale of free luggage allowed to passengers on the State Railways in the following manner:—

III class	25 seers.
Intermediate Class	30 seers.
II class	40 seers.
I class	2 maunds.

(Exclusive of bedding, handbags, sticks, umbrellas, etc.);

(b) to order that the prescribed free allowance of luggage should always be made, whether the luggage has been booked before the journey or not.

RESOLUTION RE PREVENTION OF FLOODS.

*THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY (East Bengal: Non-Muhammadan): Sir, the Resolution which I am moving relates to the formation of a Committee for investigating the causes of repeated floods which occur in different parts of India year after year. It runs as follows:

"This Council recommends to the Governor General in Council to form a Committee of experts and representative public men from the Legislature as well as outside to enquire into the causes of repeated floods in different parts of India and to suggest means for their prevention."

That floods are gradually getting more and more frequent cannot, I think, be controverted. According to the statement furnished to me the other day by the Honourable Mr. Gwynne we had as many as 30 serious floods in different parts of India during the last five years. Some time ago a similar Resolution was moved in the Assembly but I do not understand how the Government could meet it with the answer that floods were a provincial subject; for, if I accept the remarks of Sir Clement Hindley made on the occasion about the causes of floods, I must be pardoned if I say that the causing of floods is an Imperial subject. If the Central Government takes care to prevent if possible, at any rate to lessen, the chances of floods taking place in future the Local Governments may with their limited resources be spared the trouble of mitigating their effect and the people of the country be saved from the ravages thereof. Now, what, Sir, are the causes of floods? Sir Clement Hindley in his speech in the Assembly on the subject ascribed them to several factors, some natural and some artificial. The natural causes according to him were primarily sudden and excessive rainfall and secondarily the rising of the river beds, the sudden shifting of the river beds and the conjunction of the rivers. Among the artificial causes he enumerated the diversion of water for irrigation purposes and the raising of embankments for irrigation, road and railway transport. The diversion of water for irrigation purposes no doubt causes stagnation of water on cultivated fields, but they certainly cannot be called floods, and whatever might be the effect of it upon the health of the people, it is intended to serve a beneficial purpose. It not only helps agriculture, but to some extent retains humidity in the atmosphere which I shall try to show by and by helps the prevention of floods as well. I therefore feel that Sir Clement Hindley was not justified in casting a slur upon it, but perhaps his object in mentioning it was to fasten some responsibility for the floods upon the people themselves. As regards the natural causes, I think they may all be reduced to one as the prime cause of floods, the others being merely the effects thereof. The chief cause to my mind, and perhaps the Government will agree with me, as did Sir Clement Hindley, is the sudden and unequal distribution of the rainfall. River beds rise because the uneven flow of water in the rivers throughout the year renders their currents sluggish and incapable of driving away the silt to the seas. They are thus settled in the beds and gradually accumulating choke the flow of the river. Any sudden rainfall after some time brings about a swollen condition of the river which not only causes floods, but makes the river either break its barrier or force a new passage for itself. If rainfall were evenly distributed

throughout the year all rivers flowing into or out of one another would have arranged amongst themselves the function of the drainage of the country. But as the rainfall is not evenly distributed, whenever there is sudden heavy rain all the rivers get suddenly swollen and cannot furnish a quick outlet for the water and consequently there is an overflowing of the country. We have experiences of such floods in the streets of Calcutta even on account of the inefficiency of the drainage system. The natural causes of floods thus primarily are, first, the uneven distribution of the rainfall and, secondly, the insufficiency of the drainage system. Of the two, the first is essentially a Central subject, meteorology being one of the Central subjects. The other though a provincial subject naturally comprises several provinces and cannot as such be tackled by any one of them. Last year a Resolution was moved in this very Council for making the waterways of India a Central subject. But although the Government are having the Government of India Act altered from time to time to suit their convenience in political matters and matters relating to the services, they cannot make any move when the welfare of the people of India is concerned. They have however made an inroad upon provincial matters when constituting a Central Board of Road Development, but that was perhaps due not so much for the development of the roads as for the development of the foreign trade in motor cars, considering how it was brought about by the English commercial representatives in the Legislatures here. Coming now to the artificial causes which are merely subsidiary, I would observe that railway embankments, which is a Central subject, is the next in importance in contributing to the causation of a flood. Sir Clement Hindley was very vehement about section 11 of the Railways Act taking particular care to ensure the provision of sufficient waterways. But the mere provision of a rule is, I think, hardly sufficient, when one of his own engineers, Rai Bahadur Rala Ram, had to admit in his report on the North Bengal flood, the deficiency of waterways in certain parts of the Eastern Bengal Railway (*vide* paragraphs 39, 44 and 48). Paragraph 39 runs as follows:

"Having described in detail the effects of the flood on the different sections of the railway and the country adjacent to it, the next point to consider is whether any portion of the flooding can be ascribed to the insufficiency of waterways in the railway banks. It is difficult to give a definite reply to this question, but there can be no doubt in arriving at the conclusion that the main line between Tilakpur and Jamalganj and the Bogra line between Santahar and Kahaloo does not possess adequate waterway to deal with the exceptionally abnormal flood caused under the peculiar circumstances prevailing in the last week of September 1922."

Again in paragraph 44, he goes on:

"The comparative flatness of the flood surface gradient down stream of the Sara-Serajganj line indicates that the waterway through that line is not quite adequate to deal with an extraordinary flood like the present one."

Again in paragraph 48 referring to that line he says:

"But even so it is clear that more waterway is necessary on that line."

The Orissa Flood Committee report, on the other hand, has depicted in graphic terms the evil effects of roads and irrigation barriers across the drainage level of the country and has recommended the wholesale destruction of a large number of these embankments.

* Speech not corrected by the Honourable Member.

[Mr. Kumar Sankar Ray Chaudhury.]

These are matters for which the Government of India had been responsible for more than a century. The only tangible effect of the Reform has been that that Government have shaken off all responsibilities about these matters from their shoulders and the legacy left to the Provincial Governments is too onerous for them to bear. But as these subjects are reserved and not transferred, I venture to state that the ultimate responsibility for them still rests on the Government of India and it behoves them to see that the Local Governments properly discharge their functions, or, if that be not possible, to take upon themselves the discharge of these functions, if not directly, at any rate by taking the initiative in the matter as they have already done in the case of the Roads Development Committee and I hope and trust that the Government will see their way to move in the matter.

Layman as I am, it is not my proper sphere to express any opinion about the cause of the unequal distribution of the rainfall throughout the year. It is therefore with great diffidence that I offer my suggestions about it. Apart from sudden rainfalls due to cyclones and other sudden causes over which men have no control, I think the rainfall over the plains of India is getting year after year more and more unevenly distributed and scanty, and one of the reasons for it, to my mind, is the gradual denudation of the forests in India.

Deserts are rainless not because of want of clouds in the sky which can freely move about in the air, but because, on account of the sandy soil, they are treeless. Trees serve to protect the surface of the earth from the rays of the sun and keep it moist, so that the humidity of the air over it is also much greater than over arid regions and when clouds arrive over it, the saturation point is soon reached and rainfall occurs. Humidity over treeless sandy tracts is almost nil and clouds fly past over them without giving any rain till they are checked by the neighbouring hills where they gather and accumulate to cause a sudden inundation. The history of the floods in India nowadays is thus not the history of excessive rains over the plains, but of sudden and excessive rains in the submontane tracts. This to my mind accounts for the floods in the North-West Frontier Province, the north-east of India and the southern coasts of India, while the central parts are suffering from almost perpetual droughts. The Government of India have an Inspector General of Forests in their employ, but he also serves as the President of the Forest Research Institute; he, I am told, finds his duties in the latter capacity bulk larger than those in the former.

As the subject is very technical, I propose that the Committee should be composed not only of representatives of the public but should contain a sufficient number of meteorological, forest and drainage experts and commend the Resolution for the acceptance of the House.

THE HONOURABLE MR. T. RYAN (Industries and Labour Secretary): Sir, this Resolution contemplates the appointment by the Governor General in Council of a Committee of experts and others to enquire into the cause of repeated floods in different parts of India and to suggest means for their prevention. The subject is not now being discussed by any means for the first time. Attention has been drawn to it on several occasions in recent years and I should like to refer briefly to some of these discussions. A Resolution was moved in

the Legislative Assembly in September, 1924, for the appointment of a Committee of experts for the same purpose. The matter was then, as the Honourable Member has indicated, discussed very exhaustively by Sir Clement Hindley, who was followed by Sir Atul Chatterjee, on behalf of the Government. It is true that they opposed the Resolution, but not because the Government of India failed in any way to realise the seriousness of floods and their consequences. Essentially their objection to the acceptance of the Resolution was, and I am afraid still is, notwithstanding what the Honourable Member has said, that this is really primarily a matter for Local Governments. Furthermore it was believed, and the Government still believe, that the problem and the conditions affecting it vary so greatly from province to province that it would be of very little practical use to have an all-India Committee for such an enquiry; and such an enquiry would require many years to complete. In the course of the discussion of 1924 the Government spokesmen emphasised the readiness of the Government of India to help Local Governments by the loan of experts and otherwise, if desired; and promised to communicate on the subject with Local Governments. They also specifically recognised their own responsibility for any damage that might be occasioned by railway embankments; and in connection with that point they emphasised the fact that there existed a definite provision in the rules regarding the construction of railways to ensure the fullest consideration of local conditions and consultation with local officers; and also attention was drawn to the fact that when, notwithstanding these directions, adequate waterways were not provided by railways, remedial measures could be adopted. On that occasion, the Resolution, which was moved by the Honourable Mr. Das, was withdrawn in view of the information and the assurances given by the Government representative, although, I must admit, the Honourable Mr. Das was not quite completely satisfied.

Again in March, 1926, the matter came up in discussion in the Assembly on a motion for the reduction of a grant. On this occasion it was dealt with by the Honourable Sir Bhupendra Nath Mitra, who explained that the Government of India had, as they had promised in 1924 to do, addressed the Local Governments, explaining to them that while the questions of protection from and prevention of floods were provincial matters, the Government of India were anxious to assist to the utmost of their power whenever they had reason to believe that excessive floods were due to railway works; whenever assistance was required to obtain co-ordination between the different provinces or between a railway and local authorities, or when technical advice was required which was not locally available. The Honourable Sir B. N. Mitra explained at that time that no request for assistance had been received, but that in the case of certain railway works which were believed to have contributed to floods, the matter had been settled by the Local Government in direct consultation with the railway authorities.

Now, Sir, the Government of India still take the same view. The question is really one for the Local Governments concerned and it is not one in which the Government would feel justified in setting up a central committee of inquiry in the absence of any general demand for it from the Provincial Governments. At the same time the Council may be assured that the Government of India's offer of such assistance as they can give and as may be desired is no empty form. In 1927 the matter was again taken up by the Government of India who wrote

[Mr. T. Ryan.]

to the major Local Governments recalling the correspondence of 1924 to which I have already alluded. The letter was a brief one. With your permission I should like to read a few sentences from it. This is the letter of 1927 to all major Local Governments. After the preamble, it goes on :

"The recent disastrous floods in various parts of India have again drawn prominent attention to this subject and the Government of India are anxious to do everything which lies in their power to assist Local Governments in investigating it. They are fully aware that many, if not most, of the causes of the floods which have occurred are local in their nature and that Local Governments have been devoting serious attention to this subject, on which their own engineers, owing to their local experience, are in many ways the most competent to advise.

It has, however, been suggested that a central enquiry into this question might have advantages in so far as some of the causes may have their origin in provinces other than those in which the floods have occurred, and also because a central enquiry might result in the study of the problem on broader lines and might utilise and correlate the experiences gained in more provinces than one. I am directed, therefore, to enquire whether His Excellency the Governor in Council considers that a useful purpose would be served by the appointment by the Government of India of a Central Committee to examine this subject, or whether he considers that local enquiries (where the need for them has been shown) would be more useful.* * *

If local enquiries are preferred, it would seem to the Government of India to be worth considering whether by adjustment of the personnel engaged in those enquiries, the experience of one province could not be made available to others, and they would be glad to assist in this direction, if desired."

I think, Sir, that the issue of that letter, not as the result of any immediate pressure upon them, showed that the Government of India were fully alive to the importance of the subject and to the desirability of giving any assistance they could usefully give. It was quite plain from the replies received from the Local Governments that there was a practically unanimous opinion that a central inquiry would be of no real use. There was only a single Local Government that registered a contrary opinion; and the idea was accordingly dropped. I suggest that it is inconceivable, if it were really thought that there was any ground for the belief that a central inquiry would be valuable, that in the face of that letter no Local Government should have asked for it.

At the same time I may say that advantage has been taken in recent years in particular cases of the Government of India's offer of assistance. Thus the Consulting Engineer's services were made available in 1928 for service on the Expert Committee of Inquiry appointed by the Government of Bihar and Orissa into floods in Orissa. The same officer subsequently made an extensive tour in Assam and furnished a very full report to the Government of that province; and recently the Government of India (as I informed the Honourable Member recently in answer to a question) have been addressed by the Government of Bengal regarding the appointment of a Committee of Inquiry in Bengal with a view to the reorganisation of the Irrigation Department in that province; and they are prepared to comply with the request for the loan of their Consulting Engineer's services and to give some assistance in obtaining other experts. I may mention also that, while the Government of India see nothing to be gained from the appointment of an all-India Committee of Inquiry, there does already exist a standing expert committee in the shape of the Central Board of Irrigation. This is a body consisting of all the

Irrigation Chief Engineers and the Consulting Engineer to the Government of India, and of it a sub-committee can readily be found to advise any particular province which may desire a special investigation into flood problems.

Floods are usually due, as the Honourable Member has recognised, to heavy continuous rainfall. This cannot in fact be controlled by any human power. I believe there was a theory at one time, but that it is no longer accepted, that the existence of forests and vegetation has considerable effect on rainfall. That theory is no longer accepted, I am advised by competent authority, though such a condition does certainly affect the flow of the water which falls, and so has a direct bearing on floods. So far as I know, there is no body of evidence to suggest that the responsibility for floods lies at the door of the forest authorities; and I may remind the Council that the administration of forests also is a provincial subject—a transferred one in the case of two provinces. The deciding factor in the causation of floods is not so much the amount and duration of rainfall as its relation to preceding rain and the nature of the soil and its vegetation. If general rain has fallen, so that the ground already holds its maximum capacity and the rivers are already full, a relatively small further amount of rain may cause serious floods which it would not otherwise occasion.

Reference has been made to the Meteorological Department, which the Honourable Member has rightly observed is a Central Government department. This Department, as at present constituted and equipped, is concerned only with the amount and duration of rainfall. It can and it does forecast heavy rain and issue warning to the officers concerned from 24 to 48 hours in advance. I believe that in general such warnings are regarded by those concerned as timely and sufficient. We have also under the Government of India certain experts who are specially concerned with the questions involved in this matter, one of whom the Honourable Member mentioned, the Inspector General of Forests, as well as the Consulting Engineer and the Director General of Observatories, who is in charge of the Meteorological Department. In view of this discussion and of the Honourable Member's observations, these officers will again exchange their views on this question of floods, and if any suggestion should emerge which may seem likely to be of value to the Local Governments, it will be communicated to them with reference to the discussion. But I must not be understood as suggesting that this is offered as an equivalent to or in substitution of an inquiry such as the Honourable Member suggests. It will be simply an informal discussion between the Government of India's experts concerned; but there is little reason, I fear, to expect that it will produce more than negative results by confirming the views already held by the Government of India on this matter. Still, the consultation, for what it is worth, will take place.

There are a few observations which were made by the Honourable Member, to which I should like very briefly to refer. He has referred to the rise of the levels of river beds. But I think—certainly so all the expert information in my possession indicates—that this is really a local problem and is due simply to local action in building embankments to protect the neighbouring country from floods.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: Are there not embankments by the sides of the great rivers in India?

M4CPB(CS)

THE HONOURABLE MR. T. RYAN : I refer to the embankments by the sides of the rivers. I may perhaps read a few words on that subject recorded by the present Consulting Engineer to the Government of India, Mr. D. G. Harris, a very experienced engineer :

"The general regime of a river is determined by its normal conditions and when, as occasionally happens, abnormal conditions occur (i.e., rainfall far above the average) and the trough of the river overflows, flooding over the surrounding country is inevitable, and no engineering operations, which can be included as within the bounds of financial possibility, can prevent it. The only possible means is that known as double embanking, which entails the construction of flood banks on either side of the river so as to increase the trough capacity. If these embankments are placed close to the ordinary trough, the almost certain result is that the bed of the river will silt up, the normal flood level will become higher and higher, the banks will have to be raised, and so on *ad infinitum* until, eventually, a position is reached where the river bed is above the level of the ground, and a catastrophe, on a scale far greater than any natural flood would cause, becomes inevitable. If, on the other hand, the flood embankments are built at a distance, possibly some miles away from the main river, this result can be obviated, but the expense of acquiring the necessary land between embankments becomes so enormous that this solution must usually be ruled out on financial grounds."

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : I do not think he refers to the existence of any embankments. All that he refers to is, what would happen if embankments are made by the side of the rivers.

THE HONOURABLE MR. T. RYAN : This is what happens if this method of preventing or guarding against floods is adopted.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : It does not refer to the existence of embankments by the sides of rivers.

THE HONOURABLE MR. T. RYAN : I do not quite follow the Honourable Member. I do not know whether he is suggesting that such embankments do not in fact exist.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : Yes, that is what I mean. He refers to the fact of embankments being made, not that the embankments exist.

THE HONOURABLE MR. T. RYAN : I believe it to be the fact that such embankments have been made and that such embankments do exist. I do not know whether I have followed the Honourable Member's point.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : I do not think he refers to any such embankment there in the paper which you have just read.

THE HONOURABLE MR. T. RYAN : He was not speaking of any specific case. He was explaining the general position with regard to this method of flood prevention.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : He was referring to embankments being made.

THE HONOURABLE MR. T. RYAN : The Honourable Member has further referred to the action of the Government of India in connection with roads. Well, I am afraid that I must refrain from following him in that particular discussion since the question of roads and the relations between the Imperial

and the Provincial Governments in respect of them is not conclusively settled yet. It is, I believe, likely to come up for further discussion elsewhere at an early date, but from the origin of the action taken by the Government of India with regard to roads to which the Honourable Member has alluded, if he has correctly described it, I should doubt whether that is a model he would advise should be followed in other cases.

Mention was also made of the observations made by an experienced engineer, Rai Bahadur Rala Ram, who recognised the validity of complaints against railways. I have recently had occasion to consult the Railway Board on this subject, and I have no doubt, Sir, that if there is any validity in this suggestion that railways do not provide sufficient waterways, it is only a matter to be represented to be remedied, and as far as I could ascertain, when cases arise, as they have sometimes arisen, of complaints of the existing waterways being inadequate, it is generally found quite possible to arrive at a satisfactory solution by local action between the Local Government officials and the local railway authorities. I cannot see that the demand for an all-India Committee of enquiry can possibly serve any useful purpose in that connection. I think the letter that I have read, and what I have said...

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE : Has no further step been taken by Government on the report of the engineer, Rai Bahadur Rala Ram? The report was submitted in 1922.

THE HONOURABLE MR. T. RYAN : Submitted to whom, Sir?

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE : It was submitted through the Local Government and sent to the Railway Board at that time.

THE HONOURABLE MR. T. RYAN : I am afraid I am not able to say definitely. I do not know whether my Honourable friend Mr. Woodhead has any information on that.

THE HONOURABLE MR. J. A. WOODHEAD : No, Sir, I have no information.

THE HONOURABLE MR. T. RYAN : I cannot say definitely. I presume action was taken. No doubt we could furnish the Honourable Member with information later with regard to that point. I think I have shown, Sir, that the Government of India are far from indifferent, and that they have given, and are ready to give, all the assistance that they reasonably can in this matter. A central Committee of enquiry would be enormously expensive having regard to the time that it would take. It would take years to investigate the problem throughout the length and breadth of India and there is an absolute and universal consensus of opinion on the part of Local Governments, on whom it has been almost pressed, that it would be useless. In these circumstances, I trust the Council will not endorse the Resolution of the Honourable Member.

***THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY :** Sir, I shall be very brief in my reply. The Honourable Mr. Ryan referred to an absence of general demand. With regard to that, my submission would be that the fact that such a Resolution has been brought thrice in the Legislature

[Mr. Kumar Sankar Ray Chaudhury.]

indicates that there is clearly a public demand. No doubt, the Local Governments have not supported that demand, but the interests of the country require that such an enquiry should be held, especially when there is a demand as expressed by three Resolutions brought in the Legislature on behalf of the public. The Government themselves acknowledge that such an enquiry is necessary. The Honourable Mr. Ryan has already told the House that the experts are going to discuss this question.....

THE HONOURABLE MR. T. RYAN : I trust I made it clear that it is not such an enquiry as the Honourable Member has indicated.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : I am coming to that. If the experts are going to discuss this point, is it not better that they should hold a local investigation before they can come to any decision? Otherwise, that discussion will have no practical effect. If they are really going to discuss the matter, it is better that they should hold some investigation, and if such an investigation is desirable in order to gain public confidence, it is better that some public men should also be taken in. There is the Central Board of Irrigation, but that is primarily concerned with irrigation matters, and it is not the function of that body to go into the question of the rainfall. But, however, as all these departments are going to meet together and discuss the matter, I submit it will be better if they hold some local investigation. I do not know how long it will take, but I do not think it can take a very long time, and it would be better if some representatives of the public were associated with them and a local investigation took place instead of a private discussion in an office. Then, the Local Governments, of course, can only take remedial measures. The cause of the floods has been admitted by Sir Clement Hindley to be in the hands of the Central Government (Laughter), meteorology being one of the Central subjects. It is therefore the primary duty of the Central Government to initiate an enquiry into the matter.

THE HONOURABLE SIR MANECKJI DADABHOY : Appeal to the Celestial Government!

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : 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 form a Committee of experts and representative public men from the Legislature as well as outside to enquire into the causes of repeated floods in different parts of India and to suggest means for their prevention.'

The motion was negatived.

STATEMENT OF BUSINESS.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN (Leader of the House) : Sir, with your permission I should like to make a statement regarding the probable course of business for the next week. On Monday, the 23rd September, 1929, non-official business ballotted for that day will be

taken up. On Tuesday, the 24th, motions will be made for taking into consideration and passing the Provident Funds (Amendment) Bill. Motions will also be made for taking into consideration and passing the four Bills passed by the Legislative Assembly copies of which were laid on the table on Monday, the 16th September, namely :

The Indian Soft Coke Cess Bill ;

The Indian Boilers (Amendment) Bill ;

The Bengal Pilot Service (Centralisation of Administration) Bill ; and

The Indian Census Bill.

A Resolution will also be moved regarding the ratification of the Draft Convention and Recommendation regarding the machinery for fixing the minimum wages in certain trades adopted at the Eleventh International Labour Convention. Wednesday, the 25th, will be devoted to non-official business. On Thursday motions will be made for taking into consideration and passing the Transfer of Property (Amendment) Bill and the Transfer of Property (Amendment) Supplementary Bill. The further course of business will depend on events elsewhere.

The Council then adjourned till Eleven of the Clock on Monday, the 23rd September, 1929.

COUNCIL OF STATE.

Monday, 23rd September, 1929.

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

QUESTION AND ANSWER.

RECOMMENDATIONS OF THE INDIAN MERCANTILE MARINE COMMITTEE AND CERTAIN OTHER COMMITTEES.

67. THE HONOURABLE MR. MAHMOOD SUHRAWARDY: (a) Will Government be pleased to state what effect, if any, has been given to the recommendations of the following Committees:

- (i) Indian Mercantile Marine Committee,
- (ii) Indian Road Development Committee,
- (iii) Acworth Committee regarding revision of the Railways Act and modernisation, so far as Indian employees are concerned, in all State Railways in India.

(b) If the answer to the above be in the negative, will Government be pleased to state when they propose to give effect to their recommendations?

THE HONOURABLE MR. J. A. WOODHEAD: (i) So far as the recommendations of the Indian Mercantile Marine Committee are concerned, Government have taken the following action:

- (a) The training ship "Dufferin" has been established at Bombay for the training of deck officers.
- (b) Government have recently granted three scholarships tenable in the United Kingdom for training in Marine Engineering, and the question of providing facilities in this country for such training is under consideration.
- (c) Arrangements have been made for the training of Indians for admission into the commissioned ranks of the Royal Indian Marine which has been reorganised into a combatant force.

(ii) One of the most important recommendations of the Indian Road Development Committee, namely, to raise the duty on motor spirit with the object of utilising the additional proceeds on road development has been given effect to, and, in pursuance of another important recommendation of the Committee, a Standing Committee on Roads has been appointed to advise the Governor General in Council on certain matters connected with roads during the financial year 1929-30. The other recommendations of the Road Development Committee are still under consideration.

(iii) The question of the revision of the Indian Railways Act has been referred to the President of the Railway Rates Advisory Committee for recommendations. As regards modernisation, so far as Indian employees are

concerned, I am not sure to what the Honourable Member is referring, but will be glad to supply information if he would let me know exactly what he requires.

SHORT NOTICE QUESTION AND ANSWER.

GRANT OF COMPENSATION TO MESSRS. HARDINDAS PEARAY LAL, SALTPETRE REFINERS OF THE MUTTRA DISTRICT.

THE HONOURABLE MR. NARAYAN PRASAD ASTHANA: (a) Did Messrs. Hardindas Pearay Lal, saltpetre refiners of the Muttra District, manufacture and supply large quantities of saltpetre during the Great War under the orders and directions of the officers of the Northern India Salt Revenue Department?

(b) Were their services in this direction recognised by the Department as meritorious, valuable, and above the other suppliers during that period?

(c) Were they left on the signing of the Armistice with huge quantities of saltpetre, and was the supply suddenly stopped with a consequent slump in the market?

(d) Did the said firm suffer heavy losses, became heavily indebted and were they practically ruined?

(e) Have Government received repeated representations from the said Messrs. Hardindas Pearay Lal detailing their grievances and praying for relief in various ways?

(f) Do the Government intend to compensate them for the losses they have suffered? If so, in what way?

THE HONOURABLE MR. E. BURDON: (a) Government understand that the firm did extend and develop their factories with a view to assisting to their utmost in producing the increased output of saltpetre for which there was an urgent demand during the Great War. It is not correct to say that the Northern India Salt Revenue Department issued any orders or directions to the firm because the Department had no power to do so; but no doubt the Department encouraged the firm to extend and develop their factories.

(b) The firm's services were acknowledged by the Department to have been meritorious and valuable. Government are not prepared to say whether the firm's services were more valuable or less valuable than those of other firms.

(c) So far as Government are aware the fact is as stated by the Honourable Member. But it may be mentioned that the saltpetre trade was not the only one which was left in that unfortunate position after the Great War.

(d) Government have received information to the effect that the firm have suffered heavy losses.

(e) In 1925, the firm made the following requests:

(1) That the Banjara trade, i.e., the trade of supplying peripatetic petty traders in Rajputana at the following sources, namely,

Gudha (in Sambhar), Didwana and Pachbadra, might be given to them for ten years:

- (2) That monopoly licenses for refining saltpetre in ten villages in the Muttra District might be granted to them for a period of ten years, and without the charge of license fees:
- (3) That the contracts for loading and filling in salt over the whole of the Sambhar Division might be granted to them for ten years:
- (4) That they might be recommended to the Civil and Military Departments and to the Railway authorities for contracts:
- (5) That lands might be granted to the petitioners in recognition of the services rendered by them:
- (6) That the Collector of the Muttra District might be asked to recover judgment debts due from them by instalments.

None of these requests could be granted for the reasons given below:

- (1) The firm had not made a success of the loading contract given to them at Pachbadra in 1923. For 1924-25 the firm held the contract at Gudha and Didwana. For 1925-26 much lower tenders than that of the firm were received by the Commissioner. The Commissioner was prepared to give the contract at these two places to Messrs. Pearay Lal for one year if they would reduce their rates from 2 annas to 1½ annas a maund. The Commissioner was not prepared to enter into a long term contract since rates were on the down grade.
- (2) Government are opposed to the grant of monopoly licenses for the manufacture of saltpetre covering extensive areas. Moreover, the areas in which the particular villages lie are proscribed areas, where licenses for the manufacture of saltpetre are not granted because of the high sodium chloride content of the soil.
- (3) The rates demanded by Messrs. Pearay Lal have been so high in comparison with those of other tenders that it has not been possible for the Department to give the contracts to the firm.
- (4) The Commissioner has always been prepared to mention the firm's past good services to other Departments if any specific reference was made to him or any specific application for contracts was sent through him.
- (5) The grant of lands rests with the Local Government.
- (6) Government are not prepared to interfere with the discretion of a Court in determining how judgment debts should be recovered.

(f) This firm have represented their case several times both to the Central Board of Revenue and to the Government of India, and their representations have been very carefully considered on these occasions. While the Commissioner of the Northern India Salt Revenue, the Central Board of Revenue and the Government of India greatly regret the misfortunes that have befallen this firm, they cannot find any legitimate means of assisting it. It is of course not possible for Government to give, against all canons of financial propriety

and solely as a matter of charity, contracts either at extravagant rates or for undesirably long terms, or licenses for manufacturing saltpetre in areas where such licensing is not in the public interest. Essentially, moreover, as a matter of first principles, Government cannot recognise any specific liability as attaching to them for losses sustained by traders in commodities required for war purposes owing to hostilities having ceased at a particular time.

PROHIBITION OF EXPORT OF CATTLE BILL.

THE HONOURABLE SETH GOVIND DAS (Central Provinces : General) : Sir, I rise to move for leave to introduce a Bill to prohibit the export of cattle.

In support of my proposition, Sir, I have very few observations to make. First of all I want to make it perfectly clear that I am not moving this Bill on any religious ground and that I am introducing it purely on economic grounds.

In fact, Sir, there cannot be any religious feeling, religious sentiment, behind this Bill, because it has nothing to do with the slaughter of cattle; it only wants the prohibition of their export.

Originally this Bill was introduced in the Legislative Assembly in 1924 by Pandit Shamlal Nehru, but as the ballot decided its place very much below in the list of non-official Bills, further motions on the Bill could not be made, in spite of Pandit Shamlal Nehru's remaining in the Assembly for two more years after the introduction of the Bill. After its introduction in the Assembly in 1924, it was supported throughout the country in many largely attended public meetings. Even my Muhammadan brethren supported this Bill. On the 7th July, 1924, in support of this Bill a meeting was held at Calcutta and it was presided over by Mr. Yakub C. Arif, then a Member of the Legislative Assembly. I shall further illustrate my statement that Muhammadans are not against any proposal prohibiting the export of cattle from this country. On the 8th March, 1926, I wanted to move a Resolution in this House for the prohibition of the export of cattle and for their slaughter, and my Honourable friend Mr. Mahmood Suhrawardy tabled an amendment to that Resolution to the effect that the word "slaughter" be omitted. This clearly shows that he was not against the prohibition of the export.

Now, Sir, as regards the attitude of the Government so far as the question of cattle is concerned, I have to say a few words. Their attitude is, according to my humble opinion, somewhat curious in the matter. Whenever any request has been made to them in this respect by any deputation or by any memorial or by any Resolution, they have always put forward two arguments. I shall place these arguments very briefly before this House in the words of His Excellency Lord Reading. Lord Reading, replying to a deputation which waited upon His Excellency in 1922, said :

"For the economic point of view, let me ask you to credit with honesty the opinion of those persons who tell you that India perhaps suffers not from the fewness but from the multitude of her cattle. . . . Above all, what is wanted is not an increase in the number of cattle but an improvement in their quality."

His Excellency further said, Sir :

"The slaughter of cattle and especially of cows is a subject bristling with difficulties, owing to its close connection with the religious belief and feelings of a large part of the population."

Now, Sir, here is a Bill which has nothing to do with slaughter and which only wants the prohibition of the export of cattle. There is no doubt that the best cattle of the country are exported, because nobody in his senses will take away bad cattle. This Bill is further supported by our Muhammadan brethren. Let the Government come forward taking their stand on their own ground, on the ground that they are for the improvement of the quality of the cattle and accept this non-controversial Bill.

The Agricultural Commission also discourage this export trade. They say in their Report :

"The export of cows and heifers is usually undesirable and should be closely watched by Government."

The Agricultural Advisory Board to the Government of Madras, the President of which is His Excellency the Governor himself, have also recommended the prevention of the export of cattle, especially from Ongole in the Nellore District of the Madras Presidency.

Now, Sir, when we see how many cattle are exported from this country during the last five years, we find that their number is increasing by leaps and bounds. In the annual statement of the sea-borne trade of British India, we find that in the year 1924-25 the number of cattle exported was 10,195, and in the year 1927-28 it rose to 18,354.

THE HONOURABLE THE PRESIDENT : The Honourable Member is going far beyond the limits usually observed in this House when leave is sought to introduce a Bill. Not only is he going beyond those limits in regard to time, but he is also transgressing the rules in that he is at the moment entering into details. All that he is required to do at this stage in asking leave of the Council to introduce the Bill is to explain its broad principles. He is leaving himself very little to say, I imagine, at the further stages of the Bill.

THE HONOURABLE SETH GOVIND DAS : I was not going into the clauses of the Bill. I was showing what was the condition of the country as far as the export is concerned. I shall not be going into the figures now, and I shall only say that in the last few years the export has increased tremendously. On account of this export the prices for good cattle are rising immensely and that is why the poor people in this country are not getting good cattle for their purposes. This export cuts at the very root of the production of good cattle in this country. Let it not be considered that only a few cattle are exported. The cattle that are exported are in fact the best cattle of our country and, if they are retained, I have no doubt that within a few years we shall have lakhs of good cattle from the thousands that are exported now. That is why I say that this Bill should be accepted by the Government.

From the very beginning, Sir, it has been my firm conviction that the cattle problem is one of the most important problems of this country, and this conviction of mine has compelled me to raise this question on the floor of this

[Seth Govind Das.]

House again and again. I am glad to find that, on behalf of the Government, the Honourable Mian Sir Fazl-i-Husain will deal with this subject. He is reported to be very sympathetic towards the non-official measures and let me hope, Sir, that this first non-official Bill of this House will be sympathetically dealt with by the Honourable Member and ultimately accepted by him. With these few words I move for leave to introduce the Bill.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN (Education, Health and Lands Member) : Sir, I decided not to oppose the introduction of the Bill and I adhere to that resolve ; but it should not be understood that the many controversial points raised by the Honourable Member at this stage are in any way accepted by the Government.

THE HONOURABLE THE PRESIDENT : The question is :

"That leave be given to introduce a Bill to prohibit the export of cattle."

The motion was adopted.

THE HONOURABLE SETH GOVIND DAS : Sir, I introduce the Bill. At the same time, I wish to inform you that I am not going to move for the consideration of this Bill in this Session, and I shall bring the other motions relating to this Bill in the next Session at Delhi.

RESOLUTION RE EXPORT DUTY ON OIL-CAKES, BONES, FISH MANURE, ETC.

THE HONOURABLE RAO SAHIB DR. U. RAMA RAU (Madras : Non-Muhammadan) : Sir, I beg to move the following Resolution which stands in my name :

"This Council recommends to the Governor General in Council that a prohibitive export duty be levied on export of oil-cakes, bones, fish manure, etc."

Sir, this subject has once before been thrashed out almost threadbare in this House in connection with my Resolution, dated the 12th September, 1927, and if I move an identical Resolution to-day, it is because the matter could not rest there, as its ultimate solution depended on the results of the labours of the Agricultural Commission which was then sitting. The Honourable the Leader of the House in winding up the debate at the time observed :

"In the meantime, the last but not the least important incident in the long chain of events occurred.—I refer to the Royal Commission on Agriculture which was appointed last year. While, therefore, this Commission has been charged with the specific duty of making recommendations pertaining to every item of agricultural development in this country, and while we expect to receive from that body some valuable recommendations regarding the conservation of the manurial wealth of India, we could take no further action on the Report of the Taxation Enquiry Committee. When the recommendations of the Royal Commission are received—and it is to be hoped they will be received in the near future—I can assure the Honourable Member who has moved this Resolution that this matter will receive our most earnest and serious consideration."

Sir, this is the starting point for my present Resolution. The Agricultural Commission had had their say in the matter. In their Report they heavily deplore the utter lack of nitrogen in the Indian soils and add, "the manurial problem in India is, in the main, one of nitrogen deficiency". There is no way

of recuperating the soil of its depleted nitrogen. Much of the farm-yard manure available is burnt as fuel while a large quantity of combined nitrogen is exported in the form of oil-seeds, food and other grains and animal products, such as hides and bones. As for the farm-yard manure, unless some suitable and cheap and readily available forest produce can be found for it as a substitute, it is unlikely the poor agriculturist will give up this kind of fuel. The remedy lies entirely in the hands of Government. Unless they relax their present rigorous forest policy and the people are relieved of the untold sufferings and harassings by the administration of the forest laws, there is no good accusing them of their unwisdom and the uneconomic method of disposal of this valuable manure. One thing, however, must be said to the credit of the Indian agriculturists, namely, that they have for long recognised the manurial value of cow-dung and they were able to preserve a good deal of this manure in spite of the adverse circumstances they have been placed under. And if they are not able to do so now, it is because of the depletion of the livestock generally in this country, their miserable condition at the present day, being merely bones and tails, due chiefly to the want of green pasturage, the export of cattle to foreign countries and to the slaughter of those animals in large numbers for food. There is not even enough yield of cow-dung now as compared with what it was 30 years ago.

Now, coming to the bones and fish manure, the Agricultural Commission observe that nitrogen deficiency can be remedied to some extent by the application of bones and bone meal. As with other forms of combined nitrogen, an important quantity of this fertiliser is lost to India by a failure to apply it to the soil and by export. Some of the figures they give are interesting. The average exports for the five years ending 1914—15 were 90,452 tons valued at 64·20 lakhs. For the five years ending 1924-25, they were 87,881 tons valued at 89·16 lakhs, and in 1926-27, 100,005 tons valued at 97·76 lakhs. The report further says :

"Many witnesses before us advocated that the heavy drain of phosphates involved in the large export of bones, etc., in this country, should be ended by the total prohibition of their exports and this proposal received the support of the Board of Agriculture in 1919, whilst the majority of the Indian Taxation Enquiry Committee recommended the imposition of an export duty."

In spite of such overwhelming support the Agricultural Commission do not see their way to accept this recommendation. They consider that by the imposition of this duty the producers will be hard hit, and in this they fall in with the same view as that held by the Fiscal Commission. The economic theory put forward by the Fiscal Commission and approved of by the Agricultural Commission has been ably exploded by my friend the Honourable Mr. Ramadas Pantulu in his well-reasoned speech on the last occasion. Now that the consensus of public opinion is for the entire conservation of these nitrogenous products for use by the Indian agriculturists as manure, the Government must take up the matter immediately in their hands and devise some means of prohibiting their export by the imposition of an export duty or otherwise. The verdict of the Agricultural Commission cannot be taken as the last word said on the subject. The Government intend spending large sums of money in giving effect to the various recommendations of the Agricultural Commission, and all this would be a waste if they fail to take sufficient steps to

[Rao Sahib Dr. U. Rama Rau.]

see that the agriculturist feeds and nourishes his soil in a manner that would give him a sufficient return commensurate with the capital and labour involved. If the imposition of an export duty is not advisable, some other means must be devised, and, as suggested by the Board of Agriculture, a small manures committee may be appointed to go into this particular question again and find out some remedy for this evil. The Honourable Sir Muhammad Habibullah said last time that the question I had raised was premature then. But it has since attained complete maturity and some solution must be found forthwith for this intricate problem, where the vital interests of the Indian agriculturists clash with the foreign traders in these valuable manures.

With these words, Sir, I move my Resolution.

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces : Nominated Non-Official) : Sir, I beg to move the following amendment :

"That for the words 'prohibitive export duty' the words 'small cess' be substituted."

Sir, I am in deep sympathy with the object which the Honourable Mover of the Resolution has in view. (Hear, hear.) But I feel that the method which he seeks to employ is not the right method, and it is because I think that, from an economic point of view, it would be ruinous to the interests of this great country, I have tabled my amendment. My friend has referred to the Report of the Agricultural Commission. And if my memory serves me right, I know that, though they have treated the subject in a very sympathetic manner, the result of their investigations has not enabled them to go to the extent of advising the Government of India to impose an export duty for the purpose of retaining the manure in this country. The latest inquiry did not go to that extent. My friend has relied upon the view expressed by the Agricultural Board in 1919. But since then, in 1922, the Fiscal Commission, of which I had the privilege to be a member, had carefully considered the question and arrived at a definite decision. I may tell my Honourable friend, Dr. Rama Rau, that the Fiscal Commission did not hurriedly come to that decision, opposing the imposition of a heavy export duty, but came to that conclusion after great deliberation and after hearing a large number of witnesses on this point. My friend, Dr. Rama Rau, who now seeks to impose this heavy export duty proceeds on the unwarranted assumption that all the manure which is now exported, if retained in this country, would be consumed. Here, I am afraid, he is taking a mistaken view of the matter. In this country there are various classes of manures prepared. Some of the manures the orthodox cultivator will not touch at all. He thinks it against his religion and against his sentimental scruples to make use of manure made out of bones, fish-bones, and other articles of a similar nature, with the result that a certain quantity of manure manufactured in this country remains superfluous and is not used by the cultivator generally, with the consequential result that it is made available for export. If you now prevent the export of this manure which is not used in this country, what will be the result of it? The result will be economic loss to India. You are preventing a certain amount of wealth coming into this country for an article or a commodity which will lie in this country and of which no use will be made. Again, it will have very serious and deleterious effects on the

manufacture of manures. One of the most probable effects will be that this surplus manure which will be retained in this country, if not exported, will bring down the price of manure generally. It will cheapen the price of manure with the result that it will not be manufactured, and the cultivator and agriculturist will suffer thereby more than ever. It is much better for us to educate the cultivator in the use of artificial manures. Once prejudice and ignorance give way to knowledge in this matter he will come round. I do not think I should dilate upon this subject at any length and take up the time of the Council. I think that if I read a passage from the Report of the Fiscal Commission, that will carry more weight and conviction with the Council. I refer to paragraph 195 of the Fiscal Commission's Report :

"We have also received proposals that the export of manures should either be prohibited or discouraged by the imposition of a heavy export duty. From this point of view an export duty on oil-seeds has been advocated, in order to retain within the country the oil-cake, which has a high manurial value. The other manures referred to are bone and fish manures. The advocates of this policy do not always stop to consider what would be the probable result. It is assumed that, if the export of manures is stopped, the manures which are not exported will be used in India. But this assumption is one that cannot safely be made. There are at present two main obstacles to the increased use of manure by Indian cultivators. In the first place, the cultivators are sometimes prejudiced against the use of a particular kind of manure or have not been educated up to an appreciation of its value. In the second place, and this is the more important cause, the cultivator is usually not in an economic position to be able to afford to use artificial manures. It is difficult to see how the prevention of export of manures will remove these two obstacles. Prejudice or ignorance will give way only to teaching and experience. On the economic side it may be argued that an export duty will reduce the price of oil-cake for instance, and consequently will stimulate its use by the cultivator. But it must not be forgotten that the reduction in the price of the oil-cake would be effected at the expense of the producer of the oil-seeds, and that therefore this potential user of the manure would be impoverished, and might not be able to afford to use it even at the reduced price. Further, if the manure is cheapened to such a degree as would be likely to stimulate its consumption largely, it is probable that production would diminish owing to decreased profits, and eventually prices would again be raised. We consider that under present conditions any action of this nature would merely waste a source of wealth in India without ensuring any compensating advantage."

These words are very pregnant and of immense value, and the considered opinion given by the Fiscal Commission is of great importance. We shall lose the wealth of a commodity which is of a potential character. But the Fiscal Commission sympathised with the idea underlying this Resolution and they, therefore, suggested that a small cess should be imposed for the furtherance of propaganda work for instructing and educating the cultivator in the use of these manures. There is a small paragraph advocating their recommendation to that effect :

"At the same time we fully realise the importance of encouraging the use of manures in India, and we think that a small cess might possibly be placed on the export of manures, on condition that this cess should not go into the general revenues, but should be devoted to the encouragement of the use of manures. We need hardly say that the cess we contemplate would be at such a low rate that there would be no possibility of its discouraging in any way the export of manures."

I do feel that the Government also has been somewhat remiss in the matter. We made this recommendation in 1922, and no action has been taken by Government in connection with this matter for the last seven years. It is time now that the Government should unhesitatingly accept my amendment

[Sir Maneckji Dadabhoy.]

and impose a small cess for the purpose of furthering and educating the cultivator in the use of all kinds of manures.

For these reasons, Sir, I move my amendment.

(At this stage, both the Honourable Khan Bahadur Mian Sir Fazl-i-Husain and the Honourable Mr. V. Ramadas Pantulu rose to speak.)

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN (Education, Health and Lands Member): Does the Honourable Member wish to speak?

THE HONOURABLE MR. V. RAMADAS PANTULU: I will be glad to wait till you speak.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN: I do not mind. Sir, as has been observed by the Honourable Member who has spoken last, there can be no two opinions on the question of increasing India's productive power. The Honourable Member who has moved this Resolution and I are not at issue on that point. We are in perfect agreement, and so is the Honourable Member who has moved the amendment. Therefore, let us start from this position that we all desire that the productive power of India in the matter of agriculture should be increased as far as it lies in our power to do so. The question at issue is one of ways and means. The Honourable Mover's object in pressing for an export duty on certain articles of export is nothing less than to secure the legitimate means for increasing the productivity of Indian agriculture. What is the extent and significance of the Honourable Member's Resolution? I am putting that question in order to clear the ground so far as oil-seeds are concerned, because this Resolution, which has a history behind it, has always talked of oil-seeds, oil cakes, bones and fish bones. In this Resolution, oil-seeds disappear. I need hardly remind the Council that oil-seeds, as a matter of fact, were the most important ingredient in this Resolution.

Then, the question arises why it is that this subject has not, after so many years, been finally settled by Government. Why has not the Government arrived at a decision on a simple matter like this, whether there shall be an export duty on these three things, oil-cakes, bones and fish bones? The Council will remember that two years ago, when this subject was discussed in this Council, the Honourable Member in Charge of the Resolution explained why Government was not in a position to arrive at a decision, and the reason was that the Royal Commission on Agriculture was bound to take up this matter, it being an extremely important factor in determining how to increase the fertility of the Indian soil. The question then arises, what did the Agricultural Commission do? As has been pointed out already, the Agricultural Commission, after recording a mass of evidence on the subject, came to the conclusion that an export duty is sure to do harm rather than good. Need I here take up the time of the Council, Sir, in expatiating on the reasons which the Agricultural Commission gave. Would it not be enough for the purpose of this discussion if I were to treat the recommendation of the Agricultural Commission more or less as an authoritative announcement by those who were directly concerned with the agriculture of India, who were not all from outside

the country, and that therefore their opinion might be treated as more or less binding by the Council? To begin with anyhow, I will adopt that view. What then is the Government of India's position in this connection? Does it mean that the subject was finally shelved because the Agricultural Commission did not say definitely that you can take such and such a step? Well that is not the position. As a matter of fact, as soon as the recommendations of the Agricultural Commission were out, the Government of India brought all those recommendations under very close consideration of the various Departments of the Government, with the result, so far as this particular point was concerned, that they adopted the view of the Honourable Member who has moved the amendment to the effect that an export duty is out of the question. They went further and said that the Fiscal Commission's view, so far as it related to two points, inquiry into the fertilising capacity of various manures and how to introduce them into the country was one, and, secondly, that efforts should be made to familiarise the Indian agriculturist with their use—because, everything said and done, no export duty and no legislation is going to do good to the ignorant Indian agriculturist unless we take steps to familiarise him with scientific methods of manuring, and not only acquaint him with them but convince him they are going to do him good. Well, the only point then left is, should this process be carried out with the help of a cess, or should it be carried out even without that cess? The Fiscal Commission being fiscal people no doubt naturally felt that if they were to impose a certain duty on Government they ought also to provide the means, the fiscal means, for carrying out that task. That is perfectly sound. But when this particular matter was brought under very careful examination by Government, it appeared that probably the net result of that cess would not amount to anything more than Rs. 30,000 or so a year, for all India....

THE HONOURABLE SIR MANECKJI DADABHOY: That is quite sufficient for propaganda work.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN: That is perfectly true. There is, however, another question which is not altogether disconnected with economics, and that is the collection of that Rs. 30,000 all over India—whether it is worth while setting up an agency to make that collection or whether it is not in the interests of the problem itself that Government should find this Rs. 30,000 without having recourse to the imposition of a small cess. However small it may be, a cess is irksome to the person who has to pay that little. It is also troublesome to the collector. Is it worth while or not? To my mind, Sir, if the Honourable Member's suggestion that this work should be done is accepted, need we quarrel about the way in which this 30 or 40,000 rupees are to be collected or made available to do that work?

One point more and it is this. The Honourable Mover of the Resolution has not really stressed this question of imposing this export duty. If I have understood him aright, Sir, what he has stressed is, "This is my objective and you agree with my objective. I do not say that export duty is the last word on the subject and that therefore you must agree to it. As long as you satisfy me that you are in earnest, and not only are you ready to do lip loyalty to my objective but you are going to take active steps towards the realisation of that objective, I do not press for an export duty". If that is right, then

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may I point out that manuring and improving the productivity of agricultural land through manuring is a matter to which the Government of India give not only a lip loyalty but something much more than that. As a matter of fact Honourable Members are aware that the Agricultural Research Council has been established, and one of the first things that that Council is going to do—the scheme is already in the making—is to constitute a committee for the purpose of going into the matter of fertilisers and manures....

THE HONOURABLE SIR MANECKJI DADABHOY: They cannot do without money.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN: Need that money flow in from only one particular channel? May it not come in from other channels as well?

THE HONOURABLE SIR MANECKJI DADABHOY: What other channels?

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN: There is a sum of 20 lakhs or so already at the disposal of this Council of Agricultural Research. There are people in this country who are willing to help, and I may remind the Honourable Member and the Council that two lakhs of rupees have flowed in from an Indian State in the South, I mean from His Exalted Highness the Nizam of Hyderabad. There is no reason to suppose that this House and the other House will not be willing to find funds for this useful work. Still, if the Honourable Member thinks that a small cess—and he took pains to quote from the Fiscal Commission's Report that it should be a very small cess—is necessary, it should be remembered it is to be such a very small cess as should in no way affect the export. He further stressed the point that the use of this money should not be in the hands of the Imperial Government but should be made over to the Local Governments. Remembering always that Agriculture is a transferred subject, and this House will not countenance any attempt at interference with the administration of a transferred subject, centralised propaganda is surely excluded firstly because it is not feasible, and secondly because it is uneconomic.

Again this House is aware that there is already what is called a cotton cess in operation, because the cotton growers and exporters have formed themselves into a society. If at any future time Government becomes aware of the fact that a similar organisation has come into being with regard to these manures, or if with a little help from Government it can be brought into existence, then the question of a cess will reach a stage when it will be practical politics to deal with it. (*An Honourable Member*: "You are bringing in a Bill to impose a cess on soft coke.") Quite so, and there is an organised trade there as well. If the Honourable Member thinks that there is a similar organisation for this trade, and of the existence of which I am not aware, then certainly I gladly say that Government will be prepared to examine that organisation. When it has reached that stage where it can be treated in the same way as the Cotton Cess Committee or the Coke Committee, Government will be prepared to examine that matter as well.

Now, Sir, if you will permit me, I will place the Council in possession of certain facts. This trade is not really much of a trade, and it cannot be said really to have any great influence on the country, remembering always that the Resolution does not include oil-seeds. As regards oil-cakes the average annual export, for the last five years, amounts to 214,000 tons a year. If you impose an export duty on it, what will be the result? Naturally the tendency will be to reduce the production of oil-cakes. If so, will you not be laying the axe at the root of the oil-seed crushing industry? Should you not in the interests of India encourage that industry? And is your suggestion likely to encourage or to discourage it? That is the point that I should like the Honourable Mover of the Resolution kindly to bear in mind. Our efforts should be directed towards developing the oil-seed crushing industry, and not to prohibiting the export of these cakes. The second item, the bones, really constitute no more than an average of 39,000 tons a year, for the last five years, which is not even supposed to be more than 10 per cent. of the total quantity of bones available. Only 10 per cent. of the total quantity is exported. If you make it uneconomic to export by imposing a duty, the result will be not that there would not be bones in the country, but they would be lying about and no one would take the trouble to collect them. Who is it going to do good to? It should be remembered that bone is not a fertiliser in the ordinary sense of the word—it is not a fertiliser that would give you any results in a short time. It is a fertiliser that takes very long to give results and, generally speaking, it means that you must have a bone-crushing agency before the Indian soil could profit thereby, and you cannot have a bone-crushing industry in every part of India. The ordinary method of bone-crushing is uneconomic. It is only where there is hydro-electric power available that bone-crushing for purposes of manure becomes a practical proposition. There again, therefore, you really need to concentrate, not on saying that we should have the 10 per cent. bones, but on the remaining 90 per cent. being made available locally and on familiarising the people, as pointed out by the Honourable Sir Maneckji Dadabhoy, with the uses of bone and the means of using them. To pass on to fish manure, the extent of that is only about 16,000 tons a year. There again it does not mean very much. The net result according to my calculation, if we impose a very small cess of Re. 0-1-6, as against 2 annas per Rs. 100 in the case of cotton, would give us Rs. 30,000 or Rs. 35,000. I do not think it is really worthwhile, and as long as the Government are prepared to achieve the objective, I venture to repeat that it is not worth doing.

I have, Sir, already mentioned that the whole question of fertilisers is being taken up by the Agricultural Research Council which hopes shortly to appoint a Committee to go into the whole question, and I beg to submit, Sir, that this may well be taken as a satisfactory reply both to the Honourable Mover of the Resolution and to the Honourable Member who has so pointedly and so forcibly put forward the case for his own amendment, which command my sympathy to a very large extent. We are all in entire agreement with the objective but differ on the question of the means, whether it should be by a cess or otherwise, and whether the revenues should go to Imperial revenues or to the revenues of the Agricultural Research Council. On that point, I have no doubt that the non-official view will be in support of my contention rather than that of the Honourable Member who has moved the amendment.

THE HONOURABLE MR. V. RAMADAS PANTULU (Madras : Non-Muhammadan) : Sir, in rising to support this Resolution, I must confess to a feeling of very bitter disappointment at the speech made by the Honourable Member in charge of the Department. To-day I will not refer to the question of the necessity for export duty on these three species of fertilisers, because I have dealt with it on another occasion and my Honourable friend who moved the Resolution has said enough in favour of it. I will only deal with the aspects of the question emphasised by my Honourable friend Sir Maneckji Dadabhoy and the Honourable the Leader of the House. They say that the best way of helping the agriculturist in this country to enable him to fertilise his lands and increase production is not by conserving indigenous manures by means of an export duty, but by educating him in the use of fertilisers that are available in the country. If that could be done, certainly nobody will have any objection to it. If the Government of India can satisfy me and this House that they are serious in what they say about their intention of educating the agriculturists in this matter, and if they also convince us of the means available at their disposal, then I for one would vote against the export duty. But the question really is, whether such an action was ever contemplated by the Government of India or was it ever taken. Sir, everybody knows that the artificial manures, especially sulphate of ammonia, which are being imported into this country are backed up by very powerful financial interests in Britain. The Royal Agricultural Commission referred to one of them and to an offer made by them. They referred to the British Sulphate of Ammonia Federation, Limited, and the Nitrats Ltd., a powerful company which carries on propaganda in India year in and year out. According to the statement of that company, it says that it is spending £23,000 every year upon propagating the virtues of their imported manures. I have read some of the literature published by their agents in India and they not only advertise vigorously the virtues of their manures but they also under-rate enormously the virtues of indigenous manures. There is literature on the subject in the co-operative institute with which I am connected. And that company made an offer to the Royal Commission, saying : "Look here, we are only spending £23,000 a year on propaganda. We will spend £50,000 hereafter if you will establish a central fertilisers committee, and what we propose to do is to hand over the extra £27,000 to the Government of India for this purpose." The Royal Commission evinces a great deal of sympathy for the firm but regretfully tells the firm that their offer was excellent no doubt, but the people of this country will hardly allow Government to do active propaganda for foreign manures receiving money from the firm. Therefore, they suggest educational propaganda to be conducted by the Government of India without taking money from the firm. They advise the Government of India and the Provincial Governments to do that obliging work for the British Sulphate of Ammonia Federation, Limited, free of cost and without taking their contribution which is so generously offered. The Royal Commission had the humour to admit that the offer was not disinterested and that it would be suspected. Therefore, Sir, £23,000 a year is being spent on fertiliser propaganda by one foreign company alone and they say they are going to spend £50,000 hereafter. I would like to know how much the Government of India is spending on propaganda which is calculated to educate the Indian agriculturists in the use of the fertilisers against the export of which we are contending.

Well, Sir, I know something of the work done by the Agricultural Department and its officers in the villages, because I go to about 100 villages every year and have occasion to see the work that is carried on. I am personally aware of the predicament of an agricultural officer who is a bit enthusiastic about his work and who has been trying to educate the people in the use of the fertilisers which are to be obtained more cheaply elsewhere than in the two British firms who have the monopoly in Madras of nitrates and phosphates. He has been told to mind his other business. I know that he received a warning from the proper quarter to desist from such educative work on pain of loss of his appointment....

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN : Does the proper quarter mean the Minister of Agriculture ?

THE HONOURABLE MR. V. RAMADAS PANTULU : Well, the meaning of it is plain to the people of the Agricultural Department. Therefore, I do not wish to say anything more. The official had to give up his propaganda and had to advertise the nitrogenous and phosphatic manures of Parry and Co. and Shaw Wallace and Co. instead.

Then my friend Sir Fazl-i-Husain said, in answer to my friend Sir Maneckji Dadabhoy's question, where the money was going to come from for the propaganda, that a sum of money was placed at the disposal of the Agricultural Research Council and that it was going to come from that source. I may give the House a small piece of interesting news about the outlook of this new venture in research in Agriculture. Rs. 25 lakhs were voted as a non-recurring grant besides some recurring grant to the Governing Body of the Research Council of which I am a member representing this House itself. The original idea of which I am a member representing this House itself. The original idea was to invest it and spend the interest upon useful work. If 25 lakhs are invested at 4 per cent. it will give you a lakh, and if at 5 per cent. it will give a lakh and a quarter. At the first informal meeting we had in June 1929 so much as Rs. 60,000 a year was set aside for contributions and annual donations to foreign bodies outside India where research was carried on ; and one such body is in London, to which we are paying not less than Rs. 30,000 a year, and in return it is not known yet what we are going to get. Our representative on the executive of the Research Body in London is to be Dr. Clouston who is in England preparatory to retirement. So he will not bring back to India any knowledge of research. Government have voted a recurring grant of 5 lakhs for research in addition to the cost of the establishment of the Council. It all depends upon how this recurring grant will be spent on the advice of the two foreign experts who control the destinies of the Research Council. That is how the matter stands.

And so far as the solicitude of the Government towards the ryot in this matter goes, I have collected some information as to the encouragement that is given to the foreign imported manures and the discouragement of enterprise in manures that can be produced in India. Potassium nitrate can be produced in India very largely, but the answer to the short notice question of Munshi Narayan Prasad Asthana by the Honourable Mr. Burdon brought out the

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attitude of the Government of India with regard to saltpetre manufacture. The information collected by me from persons connected with the business shows that with regard to the manufacture transport of saltpetre various impediments are put by the Government. It is treated as chemical manure and the residue as salt manure and not as an ordinary manurial article, and its internal transport by railway is made more costly than the transport of sulphate of ammonia and other imported foreign manures. If my friends opposite question these facts I can hand over the papers I have in my hand to them, dealing with transport charges of the several manures. The facts and figures collected by me show that every possible encouragement is given to British manures, not only by way of facilitating their import, but also by making their transport internally cheaper than potassium nitrate and other indigenous manures which can be manufactured here more largely. And when my friend, Sir Maneckji, asks for a cess for propaganda for the encouragement of the country manures a very modest request objection is taken by the Government. The Provincial Governments, of whom Sir Fazl-i-Husain spoke so eloquently, as being in charge of this business, are equally obliging to the foreign manufactures. I have in my hand for instance an Order of the Punjab Government, No. 16317, dated the 30th April, 1929. It says :

"In exercise of the power conferred by sub-section (a) of section 71 of the Punjab Municipal Act, 1911, and in supersession of Punjab Government Notification No. 18271, dated the 8th June, 1928, the Punjab Government (Ministry of Local Self-Government) are pleased to order that the artificial fertilizers specified below imported into any Municipality or notified area in the Punjab shall be exempt from the payment of terminal tax and octroi."

And then it goes on to enumerate the foreign imported articles. This Government Order shows how solicitous Local Governments are to help the import of these foreign manures and even to abolish the terminal and octroi duty in the municipal and local board areas. Is there any proof forthcoming of similar steps being taken to encourage the use of oil cake, bone meal and fish manure available in the country? This is very eloquent testimony to the way in which Government is proceeding. It is very difficult, Sir, to convince people who know the facts of the great sympathy that the Government professes for the agriculturist in this matter. I can quite understand that my friend Sir Fazl-i-Husain should have a great deal of sympathy for the Indian agriculturist. I also sympathise with him as much as he sympathises with the agriculturists, because he is as powerless and impotent to make the Government of India to do anything in the matter as any non-official Member of the House. I say he is powerless because the financial vested interests behind the Government are far too powerful for him. Therefore, I sincerely sympathise with his position. I also recognise his obligations to advocate the cause of the Government of India and the Provincial Governments however untenable it may be. The Board of Agriculture said that this export duty was necessary and something should be done to conserve these manures for use in the country. This was in 1919. The Government of India, while professing sympathy, proposes instead of export duty, propaganda to make the people use these manures. But I do not think that the Government of India has done anything by way of propaganda

since then. I am sure it cannot do effective propaganda even if it has the will to do it, because it is not the Government of India but somebody else who govern India in this matter. It is the financial interests which are powerfully entrenched. They are carrying on a huge propaganda. I have read their literature. I know that every encouragement is given by the officials to any movement against the indigenous articles. If I effectively preach against any manure of British manufacture being imported into India, I know that my name will be on the list of the C. I. D. and that policemen will shadow me. The Honourable Mr. Burdon may shake his head in denial, but I know where I am. I know Mr. Burdon is sympathetic but he is ignorant of what happens. I am sure of what I have said from my experience. We feel very strongly on this side of the House that the Government of India, which professes to be very sympathetic to the agriculturist, has not moved its little finger to set this matter right.

As for the economic theory trotted out by the Fiscal and Agricultural Commissions, with the greatest respect for them, and for my friend the Honourable Sir Maneckji Dadabhoy, and for the Honourable Sir Fazl-i-Husain, I am unable to agree with them. It is true that in the case of certain articles an export duty reduces production, and finally may lead to the extinction of that industry. But in the case of certain other articles it will not be so. In the case of bone, simply because an export duty is put upon bone meal, people will not cease to slaughter cattle nor will they cease to eat meat, nor will cattle cease to die by natural causes or pestilence. The quantity of bones available in India will be about the same whether we have an export duty or not. Fishing is a hereditary occupation and oil-seed cultivation is to some extent regulated by the system of rotation of crops. Export duties do not hit them in the usual manner. In the case of bye-products, the duty or cess upon the exported article operates differently and other considerations enter into the matter. This is not unknown to economists.

I join issue with my friend Sir Maneckji Dadabhoy in his allegation that the Indians do not use some of these manures on account of religious scruples. This is absolutely incorrect. I know religious Brahmins freely use bone meal and fish manure in my part of the country. All classes use it including the Brahmin. It is only a special pleading for the Government.

With regard to the statement that articles, like bone meal and fish manure, are negligible and not available in large quantities I demur. Over one lakh of tons of bone meal were exported in 1926-27. Fish manure is produced in Madras, West Coast and parts of Burma, and it will be a valuable article in the places in which it is produced and is available in appreciable quantities.

I will deal with one more argument that has been advanced on behalf of the Government of India. They say that the producer will be hit if an export duty is imposed. May I ask this House whether any Government which wants to make its country self-contained and which wants to improve the condition of the industries of its country has ever proceeded upon that theory? Simply because the producer is hit at the outset, have they ever desisted from imposing these duties? In order effectively to improve the conservation of indigenous manures an export duty is necessary though it may hit the producer for the moment. And every country has imposed a prohibitive export duty to

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encourage local manufacture whenever circumstances warranted. In the case of some fertilisers, like oil-seeds, both the producer and the consumer are the same. The man who produces the seeds, the agriculturist, is the man who consumes the manure, the cake. Therefore, the solicitude sought to be shown towards the producer is unreal. I am really sorry that the Government of India should have shown such callous indifference to this question.

One word more about the Royal Commission on Agriculture. Nobody can read these few pages about fertilisers in their Report without a reasonable suspicion that the Royal Commission acted merely as advertising agents to the British houses. It has left on an impression that they have not had the interests of the Indian agriculturist in their mind at all when they wrote this. I wish they had not written it, and for anybody to claim wisdom for those pages, especially for one like my Honourable friend Sir Fazl-i-Husain, is very strange. I must say that I am wholly against the view of the Royal Commission on this question. I must say that it has not either grasped the gravity of the question or understood its implications, or that its professed sympathy was purely a lip sympathy. I feel very strongly on this question, Sir, and I doubt if the Government of India can escape its responsibility in this matter. I therefore very much deplore the attitude taken by the Government's spokesman to-day, and I strongly support the Resolution of the Honourable Dr. Rama Rau.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan) : Sir, I rise to support the main Resolution as moved by the Honourable Dr. Rama Rau. I have given every attention to what the Honourable the Leader of the House has said in connection with the restrictions on export or prohibitive duties on export. The Honourable the Leader of the House has also said that as the Agricultural Research Institute has been established, a new Committee will be formed which will give serious consideration to the question of fertilisers. Many Committees come into existence and, in case their recommendations are not found favourable to the Government, their decisions and findings are set aside. What do we find, Sir? On the 1st December, 1919, the Board of Agriculture in India, at its meeting, while considering the subject of the "Importance of conserving such natural sources of manure as oil-cakes, bones and fish for use in the country—what practical measures can be adopted to attain this end" resolved as follows :

"Resolution No. 7.—That the Committee's proposals regarding the imposition of an export tax on oil-seeds and cakes be accepted.

Resolution No. 8.—That as far as bones and fish manure are concerned, total prohibition of export is necessary.

Resolution No. 9.—That all departments should devote themselves to encouraging the use of such manures in the country by all means under their control.

Resolution No. 10.—That, in view of the increased revenue that will accrue from the imposition of such duties, the Board trusts that the Local Governments will consider the claim of their Agricultural Departments to an increased allotment for the prosecution of the propaganda work."

Then Sir, in 1922, for reasons which do not appeal to us at all, the same Board of Agriculture toned down its recommendations. At its meeting held

on the 13th February, 1922, at Pusa, while considering subject No. 3, on the examination of the proposal to prohibit the export of certain manures from India, the Board resolved :

"Resolution No. 4.—Without expressing an opinion on the policy of the Committee's report dealing with phosphatic manures the Board is of opinion that, on the evidence before it, it is doubtful whether the method of prohibition or restriction of export of bones, fish manures and other phosphatic manures would achieve the end desired. But it is nevertheless of opinion that the retention of its manurial resources of phosphates is of vital importance to the future of the country, and that it is essential that a constructive policy should be framed which would lead to this end, and it is therefore requested that the Government of India should appoint a small committee of about five members to consider the question from this point of view and to suggest a constructive policy which will lead to the results desired."

Then, Sir, this Committee which was appointed went into the details of the question. The recommendation of the Committee is a very long one, out of which I shall only read extracts :

"The question was in part discussed at the Board meeting held on December 1st, 1919, and in view of the changed conditions that have taken place during the last two years, the Committee decided that it was desirable to reconsider the finding made by the Board on that occasion. With the consent of the President of the Board, therefore, it was decided that the terms of reference should not be strictly adhered to. The manures considered by the Committee were oil-seeds and oil-cakes, bones, fish manures, manure sulphate, and so on."

Then, Sir, at the bottom of page 40 of the published proceedings of the Board of Agriculture in India held at Pusa on the 13th February, 1922, we find :

"The Committee recognised the great importance of preventing the drain of phosphates from this country, but are of opinion that present conditions preclude the possibility of total prohibition and that an export duty if imposed should be done gradually, as otherwise there is serious danger of killing the bone-crushing industry through the closing down of the mills."

The Honourable the Leader of the House, Sir, as far as I could understand him, admitted that there is a great lack of bone-grinding mills in India ; then how does he say that it will do a great injury to the few bone-crushing mills which to me seems to be very unreasonable. The Committee goes on :

"Large parts of India require phosphates urgently and every endeavour should be made to encourage their use among the agriculturists of those parts. One of the chief drawbacks at present is the great difficulty of getting the bone manures actually to the raiyat. To effect this it seems desirable to recommend the establishment of small bone-crushing factories at up-country centres where sufficient supplies of bones are available, as distinct from the existing location of crushing mills at the ports of export. It is also necessary to create some agency which will put the producer into direct touch with the agriculturist, and to this end the formation of agricultural purchase societies, possibly on a co-operative basis, is advocated."

This shows, Sir, that already a committee of eminent agricultural and veterinary experts have gone deeply into the question and they have come to the conclusions cited. The Honourable the Leader of the House said that the export of oil-seeds was a bigger matter than the export of oil-cakes, bone meal and fish manures. A few days back I had myself a mind to move an amendment to include oil-seeds, but when I gave serious consideration to the matter and to the note on the subject by the Royal Commission on Agriculture, I thought that at present a modest Resolution or request was better to go on with. And if that were accepted by the Government, then later on we could see what restrictions could be put on the export of oil-seeds.

THE HONOURABLE SIR MANECKJI DADABHOY : Then why not accept my amendment ?

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Sir, my Honourable friend's amendment to my mind amounts to nothing. In his speech he compared his cess to the cotton cess. Those cesses are not really comparable. In the case of the cotton cess the interests of both the importer and the exporter are conserved. Then, Sir, with regard to the oil-crushing industry to which the Leader of the House has made a reference, at page 85 of the Proceedings of the Board of Agriculture held at Pusa on the 1st December, 1919, we find that the reasons why there is not a big consumption of bone meal and other manures in India are summarised in the Appendix at page 85 :

"The use of such manures in India is now limited and it is as well to consider the reasons for this. The reasons are we consider the following :

Ignorance of the value of such manures.

Lack of capital to purchase them.

Lack of local supplies and organisations to supply from elsewhere.

High cost of manures.

No return to tenants for improvement.

This is not an insuperable difficulty if the Agricultural Department has a satisfactory district executive staff. No one is quicker than the Indian cultivator to calculate where his profit comes in. There is an excellent organisation in the co-operative movement to provide funds for the purchase of manures and arranging for supplies from elsewhere if stocks are not available locally."

Sir, it will be admitted by the House when I make a statement, when that statement has the support of the Government experts, that the crop-producing value of the land is going down. Sir, for the information of this House I shall state what has happened in the Punjab. In the Punjab we have many colonies and new colonies are coming into existence. In the agricultural report I have seen it somewhere stated that the crop-producing power of the land in the Punjab is going up. That statement, of course, may be true in regard to virgin soils as compared with the average producing power of the land. But what we find in practice is—take the case of the Lower Chenab Colony, that colony has been in existence for the last 30 years and the experience of those 30 years I put before the Council. The yields in that colony on an average have gone down by 25 per cent. and they are still going down. In the case of the two principal crops, wheat and cotton, the yields obtained from the virgin soil 30 years ago of wheat was from 25 to 30 maunds per acre, but to-day the yield has gone down to about 16 to 18 maunds an acre.

As far as the cost of cultivation is concerned, Sir, in case the present prices go down, of which there is every likelihood, it will be a very difficult problem whether it will be of any use to the agriculturist to go in for agriculture. As far as cotton is concerned, in the beginning of this colony the yield was 12 to 14 maunds per acre. Now, Sir, it has gone down to 5 maunds ; it has been reduced almost to 35 per cent. In case things go on like this and the manures are not conserved for use in the provinces, Sir, we anticipate economic trouble in rival areas in the near future, because the cultivators will not be able to pay

the land revenue and have a surplus for their own living. The Honourable the Leader of the House referred to the oil-crushing industry being adopted on a large scale. In this connection I will read an extract from the note of the Officiating Commerce Secretary, which is given in Appendix III to the Proceedings of the Board of Agriculture held on the 13th February, 1922. It runs :

"After this preliminary clearing of the main issues has been effected, the general position may be briefly summarised as follows. It is admitted that soil exhaustion is found in many parts of India and that it is desirable to encourage and extend the use of indigenous manures. The obvious remedy is to control or even in some cases prohibit the export of manures."

What does he say about the oil-crushing industry and of the practical difficulties in its wholesale adoption ?

"We must be careful to throw back on to Indian markets more manurial product than they are ready to take. It is dangerous to adopt a whole-hearted policy of exporting vegetable oils while retaining the seed and cake in this country without first ascertaining what difficulties our exporters will have to contend with in foreign markets. Every economist recognises the great value to producers of raw materials in having an exportable surplus. The home consumer has always the advantage, as against the foreign purchaser, in respect of handling and freight charges. The extent of local consumption depends upon the willingness and ability of the home consumer to pay as much as the foreign consumer will pay, less these charges. The practical effect of an export duty will be to increase the differential charges and to give the home consumer an artificial advantage."

THE HONOURABLE THE PRESIDENT : I must ask the Honourable Member to bring his speech to an end very shortly.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : I have only a few words more to say. In all big countries like France, Italy, Austria, Germany, Japan, Czecho-Slovakia, the Governments do not allow the export of bones, oil-cakes or any other manure. I wish that the Member in charge of the Department will give some information to this House as to why those countries have adopted a wrong proposition. I think, when other countries have adopted that policy of conserving manures for their own welfare, India should not lag behind.

With these few words, I support the Resolution.

THE HONOURABLE MR. G. S. KHAPARDE (Berar Representative) : It appears to me, Sir, that this question is very simple and has been discussed a little too much scientifically. The articles that are dealt with are oil-cakes, bones and fish manure. Fertilisers, agricultural policy and the whole thing have been taken together. I am not a scientist. I look at it in a simple way. Oil-cake in my part of the country is used for feeding animals, and especially we are very much interested in retaining it in the country or making it impossible for foreigners to take away any oil-cake from my province. About bones, it has been said that there are no crushing machines. I beg to submit that no crushing machines are required. So far as I know, in all parts of India there is manure manufactured without crushing the bones. About fish bones, the fish are not very big, like whales. There are small fish in the rivers, and you do not require a crushing machine for them. I do not think it is an objection at all. I am in entire sympathy with the original proposition and would gladly vote for it, but I think it is most likely that it will not be passed. Half a loaf

[Mr. G. S. Khaparde]

is better than none, and I therefore support the amendment which has been put forward.

THE HONOURABLE RAO SAHIB DR. U. RAMA RAU : Sir, as most of the points raised against the Resolution have been answered by my Honourable friend Mr. Ramadas Pantulu, there is no need for me to take up the time of the Council in reply.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN : It seems to me, Sir, that we have drifted into discussing how far industries in India are having that amount of official or Government support that they deserve, rather than the actual Resolution before the House, and therefore I find myself to a certain extent at a disadvantage in commenting on a certain amount of bitterness of feeling which the debate has shown or the sense of pessimism which appeared to pervade certain utterances of those who I have no doubt have the good of India at heart ; but frankly, I am not pessimistic. If in the domain of Agriculture and Industry, which are now transferred subjects, which are very largely in charge of Indians themselves and the personnel in which Departments in most provinces is nearly 75 per cent. Indian, we cannot trust those charged with the administration of these Departments to do their duty by these Departments, then I must confess that the fault is our own. The second point which I wish to make is this. There has been a note of warning sounded by some of the Honourable Members to the effect that organised capitalistic interests have a way of forcing themselves on the administration as well as on the masses. I admit the justice of that complaint, but that complaint is in evidence in India as well as in England, and the English public is as much prejudiced thereby as the Indian public is, and I have not the slightest doubt that as public life in India gains in strength, in intensity, in force, to that extent it will be possible for the public men and the people at large to fight these organised capitalistic interests, be they European or Indian.

THE HONOURABLE MR. V. RAMADAS PANTULU : They are sent to jail by the Government.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN : Undoubtedly that process has to be gone through unless great care and caution is exercised. If people have to fight against organised interests, it does not matter what those interests are, what race they belong to, or what class they belong to, these interests are bound to hit back. This is life's struggle. To pick up the thread of my argument, I venture to remind the Council, Sir, that really the Resolution before the Council is not one which is concerned with the development of Indian industries and the measure of support which Indian industries receive either from Provincial Governments or from the Government of India. In spirit as well as in form, I say I am prepared to agree with the Honourable Member opposite as to the desirability of establishing the Indian industries and helping them in every way.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : As they are helping them at present.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN : The Honourable Member says, "As they are helping them at present." I wish him to remember, Sir, that the administration of industries is for the last nine years entirely in the hands of Ministers responsible to their respective Legislatures ; if that is not enough, then to ensure their being looked after as well as they ought to be, is he in favour of the Central Government taking up the development of industries more or less on German Imperialistic lines ?

THE HONOURABLE SETH GOVIND DAS : Ministers have no power in their hands.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN : Then I have no doubt the Honourable Member and his province have put in a strong plea for Ministers in the future to be allowed more power than they have at present.

THE HONOURABLE MR. V. RAMADAS PANTULU : The imposition of export and import duty comes under Customs and that is under the Government of India and the Ministers have no power over them.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN : I bow to that. Customs are undoubtedly an Imperial subject and that is why we are discussing that to-day. All that I urge is that the discussion by this Council of this Resolution should restrict itself to Customs and not to reflections, more or less unfair, about persons who are absent and have not the advantage of being able to defend themselves, as in the case of that particular officer about whom I have not the slightest doubt the Honourable Member never intended to make such a serious reflection, that he departed from the path of duty of doing the right thing because somebody—not the Agricultural Minister—told him that foreign fertilisers should not be decried. No. It has always been my weakness to stand up for the absent man in cases where there is a reflection made upon him, and that is my excuse for really detaining the Council longer than I need have done.

Turning to the main subject itself, that is to say, these three items that the Honourable Mr. Khaparde so lucidly put before the House, cakes, bones, and fish manures, should we impose this heavy export duty with the object of discouraging their export ? That is the main Resolution. And I am quite clear on that subject, Sir, that if we do that we are doing a harm to the producer of dung cakes.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Will you cheapen the price of the manure ?

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN : That is a different matter. I am trying now to keep the House, if I may, to the main point involved in this issue, the imposition of a heavy export duty with the object of discouraging the export of dung cakes. In whose interest is it ? It is certainly not in the interests of the agriculturists who produce the dung cakes.

THE HONOURABLE MR. V. RAMADAS PANTULU : It is.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN: The Honourable Member exclaims: "It is." It is, no doubt, in the way in which a man sacrifices himself in order to do good to others. If that is the sense in which the Honourable Member means, then undoubtedly it is. Otherwise, to a certain extent the producer of dung cakes stands to lose by a prohibitive duty being placed on the export. The same applies to the bone collector or the producer of fish manure. The Honourable Mr. Khaparde reminded me forcibly, surely fish bone is a very little affair. Where is the need for crushing that? Well, Sir, I remember once, while dining with a friend, a little fish bone proved a very troublesome affair.

THE HONOURABLE MR. G. S. KHAPARDE: Not to the earth.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN: The Honourable Member reminds me, not to the earth. Does he know that fish bones have a way of remaining for a long time when they are placed in dry earth?

THE HONOURABLE MR. G. S. KHAPARDE: The earth is not cultivated: it is ploughed.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN: Still he had better be careful not to roam too far afield where fish bones are spread in any large quantity. Now, Sir, I am afraid that these three items which are the subject matter of the Resolution are in the first place not of such large quantity or of such value or such a large part of the total yield of India as to mean very much. They do not. It is not a practical proposition to say that by imposing an export duty thereon you are really producing any results. And I ask, Sir, when we are doing something unusual, that is to say, interfering with the usual and natural flow of trade, we must be sure, when we interrupt it, when we intercept it, that we are doing that in the interests of our own country, not in the interests of anybody else; and that, when doing so, we are not doing anything to depress any particular class here, the class of agricultural land-owner and producer in the interests of others. Therefore, Sir, on this ground alone I must ask the Council with all the emphasis at my command not to accept the Resolution.

As regards the amendment, I said that though opposed to the Resolution itself I am all for the amendment.

THE HONOURABLE SIR MANECKJI DADABHOY: Yet you will not accept it.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN: There is only a slight difference of opinion between the Honourable Member who moved the amendment and myself, and that is whether the Rs. 30,000 which are intended for being distributed among these eight or ten provinces that we have got in India should be collected by the cess and, if so, how distributed, and there are a number of questions that arise, or whether we should try to get these Rs. 30,000 from some other source. I have already said that there is this Research Council. One of the Honourable Members pointed out that the resources of that Council were not such as would enable it to do this

work besides other important research work that it will be called upon to do. There is a great deal of force in what the Honourable Member has said. Therefore, any suggestion, any motion intended to increase the resources of that Council I have not the slightest doubt will be sympathetically considered by Government so far as the financial resources of Government permit. I have not the slightest doubt that the Honourable Members would prefer this work being recognised by Government as an extremely important work, and Government actually constituting this Committee to go into the whole question of fertilisers is a step towards the realisation of that object, rather than content themselves by agreeing to impose a very very small cess, which will not be of any great use. May I, Sir, here, with your permission, repeat what I said in my first speech?

If circumstances help this trade to so organise itself as to be in a position to submit to the imposition of a cess as in the case of certain other industries in which a cess has been imposed by Government, Government will be very glad indeed to examine this matter with a view to consider the question of a cess as in other cases. There seems to be no reason why it should for a moment be conceived that Government would be unwilling to do so. Why? Is it not to the interest of Government to do so? This is my last appeal to the House. If Government were to accept the Resolution of the Honourable Member who has moved it in the terms in which he has moved it, that is to say, impose a heavy duty on the export of these three articles, in what way does Government make the foreign capitalists, the importer of fertilisers in India, suffer if that was the suggestion? There is nothing of the kind. Considerable quantities of these manures are used in India, or at all events are available for use in India, and it is only a fraction which is exported. What seems to me so strange is that some of the Honourable Members should not have seen the obvious contradiction in the two positions. Make fertilisers cheap so that the agriculturist may have fertilising manures cheap; and at the same time impose a duty on every fertiliser coming into the country. Surely you cannot have it both ways, for you cannot make the manure cheap by imposing an import duty. No, you must let it come in freely, in the hope that people will use it frequently. Therefore, Sir, I again appeal to the Council to limit itself to the Resolution and the amendment and to exclude from its consideration extraneous matters which have somehow or other managed to enter into this controversy. I have not the slightest doubt that the Honourable Members will find no difficulty in agreeing with me that the Resolution cannot be accepted if the test of acceptance is to be the good of the land owner and the agriculturist.

Coming to the amendment to the Resolution, I accept the principle of it. As to the method of it, we differ, and it is for the Honourable Members to decide whether they are in favour of a small cess all over India or for urging Government to use such funds as are available in the provinces to further the very cause that the proposer of the cess has in mind. (Applause.)

THE HONOURABLE THE PRESIDENT: The original question was:

"That the following Resolution be adopted:

'This Council recommends to the Governor General in Council that a prohibitive export duty be levied on export of oil-cakes, bones, fish manure, etc.'"

[The President.]

Since which an amendment has been moved :

"That for the words 'prohibitive export duty' the words 'small cess' be substituted."

The first question I have to put is that that amendment be made.

The motion was adopted.

THE HONOURABLE THE PRESIDENT : The question then is :

"That the Resolution, as amended, which reads :

'This Council recommends to the Governor General in Council that a small cess be levied on export of oil-cakes, bones, fish manure, etc.' be adopted."

The motion was negatived.

RESOLUTION RE RECONSTITUTION OF THE CENTRAL AND PROVINCIAL LEGISLATURES ON A UNI-CAMERAL AND ENTIRELY ELECTED BASIS.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY (East Bengal : Non-Muhammadan) : Sir, I beg to move the Resolution which stands in my name and which runs as follows :

"This Council recommends the Governor General in Council to take steps to have the Indian Legislatures, Central as well as Provincial, reconstituted on a uni-cameral and entirely elected basis according to the following principles, namely :

- (a) capital and labour should have equal representation ;
- (b) capital and labour both should be subdivided into agricultural, industrial, commercial and intellectual sub-classes and these interests should have representation in the Legislatures in proportion to their importance in the country or the province concerned ;
- (i) those paying revenue or a certain definite amount of cess or more shall be deemed to form the capitalistic section of the agricultural sub-class and those owning a plough shall form the labour section thereof ;
- (ii) those engaged in industrial pursuits and paying income-tax therefor shall form the capitalistic section and those not paying any income-tax and those working under an industrial employer who employs at all times throughout the year 100 workers shall form the labour section of the industrial sub-class ;
- (iii) those engaged in commerce and paying income-tax therefor shall form the capitalistic section and those not doing so shall form the labour section of the commercial sub-class ;
- (iv) persons engaged in the learned professions of the law, medicine and education, etc., and those receiving salaries in other employments for which they are liable to pay income-tax shall form the capitalistic section and those who can read or write in any vernacular language shall form the labour section of the intellectual sub-class ;
- (c) the above classification should be mutually exclusive and no person should be entitled to have his name entered in more than one classification. But this restriction shall not for the present debar any person whose name is entered in one classification from standing as a candidate for any other classification except the labour section of the same classification, or seats may be reserved in the Legislatures on the basis of the above classifications and the elections held by joint general electorate consisting of all people falling under all the above classifications ;

RECONSTITUTION OF THE CENTRAL AND PROVINCIAL LEGISLATURES ON A 151 UNI-CAMERAL AND ENTIRELY ELECTED BASIS.

- (d) seats may for the present be reserved on a religious basis only in respect of those allotted to the intellectual sub-classes of capital and labour ;
- (e) the Legislatures should have rights of interpellation, holding investigations, passing Resolutions and legislative measures binding on the Government unless vetoed ;
- (f) immunities and privileges should be defined for them ;
- (g) the elected members should be removable within the term only after trial in a court constituted for the purpose at the instance of the President of any particular Legislature for being guilty of defined corrupt practices or for having acted in violation of any manifesto issued by them at the time of their election, this being made compulsory."

My first proposal in this Resolution, as you will observe, Sir, is to do away with the second Chamber. Apart from France and England, with which I shall deal later on, where the unitary form of government prevails, most other countries in Europe, the United States, Canada, South Africa and Australia were formed out of the federation of different States and a bi-cameral form of Legislature had to be adopted in them for the purpose of safeguarding the jealously guarded interests of States which had been in conflict with one another before the federation. In England, the Upper House has a historical foundation and was the first to wrest some powers from the monarch and has retained them till 1911. As regards France this is what Lord Bryce in his "Modern Democracies", Volume I, pages 240-41 and 261, says :

"After Louis Napoleon Bonaparte had been taken prisoner by the German army the third republic was hastily proclaimed by the legislative body then in existence. The majority in the Assembly was still monarchist. Every one felt that a permanent constitution ought to be enacted but the division of opinion offered great obstacles.

Among the monarchists there were three parties. Accordingly the republicans prevailed through the dissension of their adversaries and a republican constitution was adopted in 1875, the decisive vote being carried by a majority of one." (Volume I, pages 240-241).

"When the constitution was being framed the more advanced republicans preferred a single chamber system. But the monarchist section, who were in the majority, and most of the moderate republicans insisted on having a body calculated to give stability and would hardly have accepted universal suffrage without the check of another chamber. Gambetta eager to have a republic at once acquiesced."

The existence of the second Chamber in all countries where the dual system prevails has been sought to be justified on the ground of the necessity of creating a legislative authority whose function it should be to review measures passed by the popular House in such a way as to prevent its becoming law in undue haste. Let us see how far this object has been achieved in different countries where a second Chamber exists. In France this is what Bryce says :

"While feeling the natural and inevitable jealousy of a second Chamber towards a first Chamber, it recognises its inferiority and seldom challenges its rival to a duel. In Switzerland the powers of the two Houses are equal and the smaller House which represents the Cantons is in practice rather the weaker of the two. Men of energy and ambition prefer to sit in the National Council. There is no provision for deciding an issue on which the Houses may differ, but differences are neither frequent nor serious."

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In Canada this is what Marriot in his "Second Chamber" at page 101 says :

"That it would impose delays upon ill-conceived legislative projects, that it would give time to the electorate for sober second thought, that it would secure the country against political surprises and would circumvent unscrupulous party stratagems, the Senate has in every respect disappointed the hopes of its sponsors."

Speaking about Australia, G. B. Roberts in his "Functions of an English Second Chamber" at page 152 says :

"The Senate has failed to perform both its special functions and what is considered to be the main function of the second Chamber—the function of protecting the electorate from legislation of an advanced type."

Speaking of Canada again Marriot in his "Mechanism of Modern States" says :

"The Canadian Senate affords little encouragement to the advocate of bi-cameralism from the point of view of composition, procedure or powers."

Woodrow Wilson in his "Congressional Government" at page viii of the Preface speaks as follows about the American Senate :

"It is to be doubted whether I could say quite so confidently now as I said in 1884 that the Senate of the United States faithfully represents the several elements of the Nation's make up and furnishes me with a prudent and normally constituted moderating and revising chamber."

The French and American Senates are no doubt more powerful but that is because they have greater powers in certain respects than the first House. The Senate in France has the exclusive power of impeaching the President. It shares with the Chamber of Deputies the treaty-making power and with the President the right of dissolving the lower House. The superiority of the United States Senate is however really due not to the mode of choice but to the fact of its longer term of service, its continuity and its wider powers. It has the right of considering and confirming nominations to office made by the President and of approving by a two-thirds majority treaties made by him. It also sits as a court of justice to try impeachments of the President, judges and other officials. Even yet the Senate

"has never been and is certainly not now an assembly of sages. Jealous of its powers it often allows that power to be misused by Senators who care more for the interests or demands of their own States than they do for the common good." (Bryce).

Then comes the difficulty of selecting a method of composing the second House. This is what Bryce says in Volume II of his book at pages 442-444 :

"None of the systems enumerated has altogether approved itself. Direct election inevitably creates a competitive claim to equal authority. It has another fault ; if the two houses are elected at the same time they are likely to be controlled by the same political party and no new element of knowledge or wisdom is brought in to serve the nation. The plan of nomination by the executive is even less to be commended because members seem to be usually selected for party reasons. Election on a restricted franchise exposes the chamber to the charge of being a class body habitually opposed to the popular will. Election by colleges drawn from local authorities has brought party politics into the popular elections of those authorities themselves. Thus every method of choice has proved to have its defects."

Apart from all this there is the difficulty of finding proper candidates with regard to which Bryce says at page 367, Volume II :

"The best citizens are less disposed to enter the chambers."

Again at page 373 he goes on :

"It is clear that nowhere does enough of that which is best in the character and talent of the nation find its way into these assemblies,"

and he ascribes this tendency to the—

"issues of policy which now occupy legislatures being more complex and difficult than those of half a century ago. The strife of classes and formation of class parties were not foreseen, nor the vast scale on which economic problems would present themselves, nor the constant additions to the functions of governments."

Accordingly the most advanced theorists of our time seek to destroy second Chambers altogether. Walter Bagehot in his "English Constitution, 1920," page 107, says :

"With a perfect lower house it is certain that an upper house would be scarcely of any value. If we had an ideal House of Commons perfectly representing the nation, always moderate, never passionate, abounding in men of leisure, never omitting the slow and steady forms necessary for good consideration, it is certain that we should not need a higher chamber. The work would be done so well that we should not want anyone to look over or revise it. And whatever is unnecessary in Government is pernicious. Human life makes so much complexity necessary that an artificial addition is sure to do harm. You cannot tell where the needless bit of machinery will catch and clog the hundred needful wheels but the chances are conclusive that it will impede them somewhere."

J. A. Spender in his "Public Life" (1925), Volume I, page 170, says :

"It is improbable that a great electorate conscious of its power will ever again give either the hereditary peers or any body of men elected by fancy franchise the power of veto over its own decisions."

Confronted with all these difficulties England has not yet been able to frame any constitution for its second Chamber while she has in 1911 deprived it of all power over money Bills and put an end to their co-ordinate authority in matters of ordinary legislation by leaving to them only a two years' suspensive veto, and the modern constitutions of the States of Greece, Bulgaria, Finland, Esthonia, Jugoslavia, Latvia and Lithuania have adopted the uni-cameral type. This was also the type adopted by the Greeks in ancient times. Instead of creating a two-legged body, one leg tending to go forward and the other trying to pull it back, restraints may also be put on hasty legislation by imposing checks on the uni-cameral body by way of providing dilatory procedure and vesting the executive with the right of veto or dissolution to a limited extent. This system is open however to the objection that rules prescribed by the legislature, if a sovereign body, can be repealed at its pleasure, destroying thereby the security they seemed to promise. But these safeguards can be made effective by placing them out of the reach of ordinary legislation and including them in a constitutional instrument which the Legislature cannot easily alter, as has been done in the United States and other countries following her example.

Coming now to India, as we cannot expect the Indian States to give up their sovereign rights, a confederacy of States and not a federation is the only possible solution. I have therefore proposed in a scheme of mine for the constitution of India that a Council of States should, as in the case of the old German Diet and the present Reichsrat, be composed not of members selected by the people of the different States and British India, but by the Governments of

[Mr. Kumar Sankar Ray Chaudhury.]

the States themselves and the various Provincial Governments and the Central Government in British India, so that they will be able to represent the States fully and with authority to bind them. As such a Council of States, if constituted, will have to deal with many of the subjects which fall particularly within the domain of the Central Legislature, a bi-cameral Legislature for the Central Government will be hardly necessary.

As regards the Provincial Governments, the tendency in most countries now is to adopt the uni-cameral system confined as their activities are to a limited circle.

Moreover the constitution of the Legislatures on an economic basis and filling them half with capitalists and half with labour out of the various sections of society will serve the purpose of rolling up the two Chambers into one and render the creation of two separate Chambers not at all necessary. It is for all these reasons that I have adopted the uni-cameral type, and I hope it will commend itself to the House.

I now come to the next aspect of my Resolution, namely, the economic basis of representation. That the principle of representation adopted in the West is not without its defects and does not allow the representation of all interests in the country has been admitted by Western thinkers, and it is no use saying that it is open to all classes to come through the open competition of a general electorate. Marriot in his "Mechanism of Modern States" admits:

"It was contended and anticipated that the adoption on a scale almost universal of the principle of single member constituencies would among other advantages secure adequate representation to minorities."

Mr. Gladstone admitted that a "large diversity of representation is a capital object in a good electoral system" and he contended that by means of one member districts the representation of minorities would be adequately secured. This anticipation was not fulfilled. On the contrary the new system has tended to the exaggeration of majorities. Lord Acton says:

"The most certain test by which we can judge whether a nation is really free is the amount of security enjoyed by the minorities. It is bad to be oppressed by a minority, but it is worse to be oppressed by a majority."

Mill indeed goes so far as to affirm that—

"It is an essential part of democracy that minorities should be represented. No real democracy, nothing but a false show of democracy is possible without it."

Bagehot ("English Constitution, 1920", page 25) characterises a good Parliament as being one in which—

"the majority ought to represent the general average intelligence of the country and the various members ought to represent the various special interests, special opinions and special prejudices to be found in the community. There ought to be an advocate for every particular sect."

In the United States Congress about one-half of the members are lawyers (Bryce, Vol. II, page 56). In the French Senate—

"the bulk of the senators have of late years been professional men, chiefly physicians and lawyers, with a few agriculturists. The higher walks of commerce, landed property and industry are not largely represented." (Bryce, Vol. I, page 263.)

In the French Chamber of Deputies—

"the largest element consists of professional men, lawyers, physicians, journalists, retired functionaries and professors and school teachers. There are not many to speak for agricultural and even fewer had worked with their hands before they entered the Chamber. . . . the Chamber consists chiefly of the same upper strata of the middle classes as does the United States Congress or the Parliament of Canada, the chief difference being that in those bodies there are even more lawyers but hardly any physicians, teachers or journalists." (Bryce, Vol. I, page 278.)

The rule of the people thus only means the rule of a particular class of people and minority interests are forced to go to the wall. Various methods styled as "Self-made Constituencies", "Limited Voting", "Cumulative Vote", "Proportional Representation", "Alternate Vote" have been suggested. Of these, proportional representation has been adopted in some of the European countries; but examination has shown that the results of all these plans have not gone very far in effecting a representation of the minorities and all sorts of interests that are found to exist in the country. They at best serve to bring in one or more minority groups strong enough to fight an election in constituencies which have to be made much bigger in order to afford plurality of seats. With the advance of civilisation and consequent diversity in the pursuits of life, the conflicts of interests between different sections of society have assumed a very great economic importance.

"The dividing line,"

—says Bryce (Vol. I, page 141)—

"Between parties tend to be economic. The result has been to accentuate class sentiment making a sharper division than previously existed between the richer and the more conservative element in every country and that which is poorer."

Again he goes on (at page 661, Vol. II), in many countries—

"the centre of gravity in political thought as well as in action has shifted from methods of government and legal reforms to economic issues"

and that this

"social or economic basis of parties are likely to last so long as no single type of economic doctrine becomes completely dominant." (Volume II, page 382.)

"The functions thrust upon Governments are becoming more numerous and complex so that greater and greater special knowledge and skill are required to discharge them." (Ib., page 452.)

"Alike in France, in America and in England the constitutional machinery that exists for investigating, preparing and enacting legislation upon economic and industrial topics has failed to give satisfaction." (Ib., page 520.)

Several countries in Europe have therefore in remodelling their constitution made provisions for safeguarding the different economic interests in the country, *vide* Article 44, Serbs Croats and Slovenes Constitution, Article 68, Polish Republic, Article 11, clause 2, Austrian Republic, Article 7, clause 10, German Constitution, Article XX Mexico, Article 45 Ireland. Germany has further provided for the constitution of a National Economic Council whose function:

"is one of conciliation and harmonisation of the ideals of the workers and employers with a view to increasing thereby the technical efficiency of production." ("New Governments of Central Europe" by Melbourne Graham, page 75.)

"It is endowed with sufficient political power to place it on a parity with the Reichsrat in matters of legislation." (Ib., page 76.)

[Mr. Kumar Sunkar Ray Chaudhury.]

Recently the Trade Union Congress in England has also passed a resolution for the creation of such a body in England. But those provisions have not gone far enough for—

“in the course of their struggle the English combatants for freedom realised as had done their Greek and Roman predecessors that they cannot win and hold civil and religious liberties so long as the constitution of the State left political power in the hands of a monarch or a class.” (Bryce, Vol. I, page 58.)

That rule, I venture to submit, applies to economic interests as well, and so long as the constitution of the State does not recognise economic interests and afford sufficient representation to them—

“a nation is sure to lag behind its competitors and power will pass from it to those competing nations whose better-planned institutions are more practically efficient.” (Bryce, Vol. II, page 452.)

If organised society in which all people have their just dues and fair share of the amenities of life be the end of social evolution, I think instead of merely copying Western institutions, we ought to take advantage of our experiences of the histories of Eastern and Western civilisations and, avoiding their pitfalls, chalk out a path for ourselves by evolving a scheme which will as much as possible harmonise the various conflicts of interests and give them their full share of representation and influence in shaping the destinies of our country. I have therefore proposed the constitution of the Legislatures upon an economic basis giving representation as much as possible to all classes of interests in the country in proportion to their importance. The report of the Committee of the All Parties' Conference also lays stress on this fact in the following words at page 49:

“We are certain that as soon as India is free and can face her problems unhampered by alien authority and intervention, the minds of her people will turn to the vital problems of the day. The result will be that parties will be formed in the country and in the legislature on entirely other grounds, chiefly economic we presume. We shall then find Hindus and Muslims and Sikhs in one party acting together and opposing another party which also consists of Hindus, Muslims and Sikhs. This is bound to happen if we once get going.”

Capital and labour, Sir, are international in their interests. Already in Europe the spirit of internationalism is trying to gain the ears of the people through the help of their agencies, while patriotism, the representation of territorial interests and jealousies are trying to hold it back. If Europe is to rise out of the cess-pool, it must be through the international organisation of her economic interests far more quickly and readily than through her political. The League of Nations has already been able to keep up these matters more easily than political. Similarly, for India too, to rise as a nation, these economic interests should be organised and brought to a focus in the State, and nothing is better fitted to do it than giving the very constitution of the State an economic basis.

I have not for the present given effect to the principle of universal suffrage, but that principle can easily be applied in future by extending the labour section of each sub-class so as to comprehend within their folds all people following the different avocations in life.

Politically speaking there is not, nor can there be, any conflict of interest between the various religious communities residing in India. The laws that affect the relationship between landlords and tenants affect the landlords and tenants irrespective of the religion they profess. So also is the case between capital and labour or the producer and the consumer. I have therefore brought these interests to the forefront, as I submit they ought to be, and tried to give them the representation that is due to them in proportion to their importance in the country. The question of the community to which any of these particular classes belong can only arise indirectly, and where it does arise, the representation of the class will serve to ensure the representation of that community without the introduction of the bad principle of communal representation for its own sake. Fortunately or unfortunately for us, but I should rather say fortunately, various systems of cultural civilisation with their traditions of past glory have existed side by side in India without being crushed by one another out of existence, and no one who is a well-wisher of India can deny that their continued existence and further development will make great contributions to the store of human wisdom. In the true spirit of harmoniously fostering and safeguarding the growth of such cultures, it may be necessary to apply the principle of communal representation to the case of the intellectual sub-classes of capital and labour. Provision for this I earnestly hope and trust if necessary will allay the suspicion that may lurk in the minds of those who advocate communalism to safeguard the rights of the various communities.

To the leaders of communalism, of the minority communities, in different parts of India, Hindus, Mussalmans as well as Europeans, I make an earnest appeal not to be too much led away by the spirit of communalism. They may afford to do so as long as the British people are here to look on and laugh and to provide safeguards for them in the constitution. But the British people are not going to stay here for ever. As soon as they lose their naval and maritime supremacy by competition with other nations, which they are going to do in no time, and thus lose their advantage over others in respect of trade and commerce and are involved in an international conflagration, they will have to shake their hands off India as the Romans did with them. No constitution granted by the British will then be sacrosanct and the minority communities will then have to depend upon the good-will of the majority and their erstwhile leaders will, in the words of Bernard Shaw, “exterminate themselves like Kilkenny cats” and be ultimately abjured by their communities. If the communities do not do so and follow the lead of these leaders, the leaders will be responsible for the repetition in India of the histories of the Spanish Inquisition and Massacre of Glencoe and similar incidents which darken the history of Europe and have exterminated the Catholics and the Protestants almost wholesale from one country or another.

There are, Sir, three main systems of Government prevalent in Western countries, namely, the British party system, the Swiss Council system, and the Presidential form established in the United States. So long as we retain our connection with Great Britain, the Presidential system with the executive responsible only to him and not to the Legislature is out of the question, for we cannot have the head of the executive made responsible to the people; and we

[Mr. Kumar Sankar Ray Chaudhury.]

have to choose between the British and the Swiss systems. If the Swiss system of Government, which I prefer on account of the absence of party rivalry and jealousy, be adopted, the executive council and the Legislature ought to be representative of all interests in the country, and my scheme of constituting the Legislature on an economic basis representing all interests is, I venture to submit, well calculated to serve that purpose. If, on the other hand, the British party system of Government is accepted, it involves the necessity of creating two well defined and equally matched parties in the country.

"There is a tendency for the community to be divided, as the Greek republics were already in Plato's time, into a party of the poor and a party of the rich." (Bryce, Volume I, page 140.)

So was the case in Rome between the Patricians and Plebians, and so is the case in modern Europe, the two main parties being capital and labour. This tendency, however deplorable, is inevitable and as such must be recognised, and an attempt should be made to bring them into harmonious co-operation with each other instead of their being set in rivalry on trying to overreach the other. It is to serve this purpose before it is too late that I have proposed to give equal representation both to capital and labour. Argument may be advanced that labour is not yet fit to take up such a position. To this Bryce in Volume I, at page 55 of his book, has given the curtest reply by saying :

"In England the generally accepted argument in 1870 that fitness for the exercise of the suffrage should be a pre-condition to the grant of it, was in 1918 tossed contemptuously on the dust heap of obsolete prejudices because a new generation had come to regard the electoral franchise as a natural right."

Moreover all representative institutions in all countries have to base their system upon the suffrage of the masses who are as a rule everywhere more or less untrained and apathetic, and the best way of training them is to give them special facilities not only for the choice of their representatives, but also by allowing them to send their representatives in sufficient number from amongst themselves.

THE HONOURABLE THE PRESIDENT: The Honourable Member passed his time limit some minutes ago.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: I will bring my remarks to a close, Sir. India being mainly an agricultural country and agriculturists being in all countries mostly conservative in temperament, and half the seats in the Legislatures being reserved for capitalists, there is, I venture to submit, no danger involved in giving the other half of the seats to the poorer sections, especially as they will for a long time to come be in the leading strings of the more educated sections for want of proper training. I have also provided in my scheme that they may in the beginning send as their representatives men from the upper classes if they so choose, and they are more likely to do so in the beginning.

Another suggestion in my Resolution which I would like shortly to deal with.....

THE HONOURABLE THE PRESIDENT: I am afraid I cannot allow the Honourable Member to start a new point in his Resolution.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: With these words, Sir.....

(The Honourable Mr. Kumar Sankar Ray Chaudhury did not resume his seat when the Honourable the President rose to make his remark.)

THE HONOURABLE THE PRESIDENT: Will the Honourable Member kindly resume his seat?

(Thereupon the Honourable Mr. Kumar Sankar Ray Chaudhury resumed his seat.)

THE HONOURABLE THE PRESIDENT: I was merely going to explain to the Honourable Member why I could not permit him to start a new head in his Resolution. It is true that the Resolution is a very lengthy and a very comprehensive one, but the Honourable Member was guilty, I think, of some lack of sense of proportion when at the end of 17 minutes of his speech he had dealt with only one word in the Resolution, that is only one out of some 500 words, namely, the word "uni-cameral," and so only one point had been dealt with at the end of 17 minutes. That is why, though the subject is very long, I do not think it is fair to the Council to allow the Honourable Member to take up more of the Council's time.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: I am sorry, Sir.

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.

THE HONOURABLE THE PRESIDENT: I did not put the question to the Council after the Honourable Mover's speech. The Resolution* has been moved in the terms put down in the list of business.

THE HONOURABLE MR. C. W. GWYNNE (Home Department: Nominated Official): Sir, I am sure that it is the wish of the House that I should make as brief as possible a reply to the picturesque mosaic of political theory and dangerous sentiment depicted by the Honourable the Mover. I regret that I am again compelled to oppose the Resolution standing in his name, because I envy his infinite capacity for research and the extent and vividness of his imagination. Indeed, I do not know which I most admire, his encyclopaedic industry or his ambitious flights of fancy. I am sure that in the annals of this House no Resolution has ever been moved which in citation alone would occupy something like a page of the official record, and surely no Resolution has ever run to so many sub-sections. It reminds me rather of a section of the Code of Civil Procedure or a clause in the constitution of some latter-day republic. Sir, the issues raised by this Resolution are so comprehensive and so controversial, that I am sure the House will agree that the time has not arrived when such a Resolution should be even seriously discussed, much less accepted. The Honourable the Mover with a ruthlessness of which I should not have thought him capable is virtually asking this House to advocate its

* Vide page 150 of these Proceedings.

[Mr. C. W. Gwynne.]

own annihilation. I am quite sure that this House with its record and its place in the constitution is not at this moment even prepared to consider such a proposition. I would only say as regards the bi-cameral system, firstly, that it is a system which has found favour in practically all the important countries of the world; secondly, that the provincial committees which have been reporting on constitutional matters to the Simon Commission have recommended that system even for the provinces, and my Honourable friend's own province, Bengal, has made a recommendation to that effect; thirdly, I would observe that the uni-cameral system was once tried in England for about ten years, but at the end of that time stood confessed a miserable and conspicuous failure. It was also found a failure in France and one or two other countries.

Now, as to the Resolution itself, the system of electorates and representation of minorities, I would only say that the scheme strikes me as being somewhat unreal and fanciful, would be difficult of application to any known or existing conditions, and is not easy of comprehension. The equal representation of capital and labour is perhaps difficult of justification. The suggested proportional representation of his four classes of society, agriculture, industry, commerce and the intelligentsia, sounds well, but on what principle is this proportion to be regulated or calculated? I do not, however, propose to enter into any elaborate discussion of the scheme, as I maintain that this is neither a proper time nor a fitting place for such discussion. The Statutory Commission is engaged on an exhaustive inquiry on all the questions affecting the constitution and obviously matters relating to franchise, and the most suitable representation of various sections and shades of opinion will obviously take a prominent place. If the Honourable Member has not done so, he might even now submit his proposals to the Commission for their examination. I have purposely not spoken at length and do not intend to speak at length on this Resolution. I feel that perhaps the Honourable the Mover is mainly anxious to ventilate his scheme and his opinions on these important matters without desiring to commit the House either to definite acceptance or even to any particular expression of view. If, however, that is not his intention, I can only ask the House to reject the motion, which is both ill-timed and unpractical.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: Sir, my scheme has been objected to on various grounds. As regards the question of its being premature, as I have already submitted on another occasion, my object was to bring these matters up for discussion by the representatives of the public in this House. I do not want the Government to commit themselves in any way on this point, as the matter is now before the British Parliament and is in the hands of the Simon Commission. As regards my scheme being a dangerous mosaic, I would submit that the principle underlying my scheme has been accepted by Government in its present constitution to some extent. You have given representation to the agricultural capitalists by providing special electorates for the landlords. You have given partial representation to the commercial interests by giving representation to the Chambers of Commerce. You have given representation to industrial labour by providing one or two nominated seats in different provinces to them. But, as regards the

other sections of labour and capitalists, what you have done is to throw them in a lump and given them the general constituencies. You there allow the landlords and commercial magnates again to come in, and, if you look to the various local and the Central Legislatures, you will find them all filled by landlords and lawyers. That, as I have already stated, is the experience of other countries where a system of general constituencies prevails. So all that I wanted to do was to systematise the scheme that you have already yourself introduced. You wanted representation of these economic interests, but you have not done it in a systematic manner.

That was primarily my object in bringing forward this Resolution, namely,

3 P.M. to systematise the present system adopted by the Government themselves. As regards giving equal representation to capital and labour, my idea is, as I have already submitted, capital and labour are the two party groupings which are taking place throughout the world, and, unless you bring them together and place them on an equal footing, there will be no compromise between the economic theories of individualism and socialism. It is, therefore, necessary that you should place capital and labour upon an equal footing, and so long as we do not do that, and capital is trying to overstrip labour and labour is trying to overstrip capital, the state of things that is happening in other countries will surely follow here, and in time the labourers, having the masses behind them, will surely overrun the Legislature. The reason why I want capital and labour to be equally represented in the country is that they might come to some compromise; otherwise, if one is trying to obstruct the other, it will not be possible at all to arrive at any proper solution of the problem....

THE HONOURABLE SIR MANECKJI DADABHOY: Have you read the report of the Bombay Riot Committee?

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: Then, I have already dealt with the bi-cameral system, and I need not dwell on it at length. I will simply say that I have not suggested the total abolition of the bi-cameral system. All that I have said is that, so far as the provinces are concerned, the function of the local Legislatures being limited, the tendencies in all countries are for a uni-cameral Legislature. As regards the Central Government, I have said that inasmuch as a federation of the different States and British India will be necessary, the bi-cameral system will have to be adopted there; and if that federation comes in, there will be no need for a second Chamber for British India, because, in that case, the federal Chamber will occupy the place of the second Chamber. So, I did not advocate the total abolition of the bi-cameral system so far as the Central Government is concerned. Then, with regard to the representation of minorities, I have already submitted that my scheme was mainly intended to enable all sects, all sorts of interests, in the country to be represented, and that was why I wanted this classification. Then, another question was raised as to how this principle of proportion amongst the different interests was to be determined. Have we not got the sources of revenues and sources of income-tax to do it? We can base our proportion of representation upon the proportion between the land revenue and income-tax realised in the country. Those, I think, are the main grounds on which my Resolution has been attacked, and I submit I have endeavoured to the best of my ability to meet them.

THE HONOURABLE THE PRESIDENT: The question is:

"That the following Resolution be adopted:

'This Council recommends the Governor General in Council to take steps to have the Indian Legislatures, Central as well as Provincial, reconstituted on a uni-cameral and entirely elected basis according to the following principles, namely:

- (a) capital and labour should have equal representation;
- (b) capital and labour both should be sub-divided into agricultural, industrial, commercial and intellectual sub-classes and these interests should have representation in the Legislatures in proportion to their importance in the country or the province concerned;
- (i) those paying revenue or a certain definite amount of cess or more shall be deemed to form the capitalistic section of the agricultural sub-class and those owning a plough shall form the labour section thereof;
- (ii) those engaged in industrial pursuits and paying income-tax therefor shall form the capitalistic section, and those not paying any income-tax and those working under an industrial employer who employs at all times throughout the year 100 workers shall form the labour section of the industrial sub-class;
- (iii) those engaged in commerce and paying income-tax therefor shall form the capitalistic section, and those not doing so shall form the labour section of the commercial sub-class;
- (iv) persons engaged in the learned professions of the law, medicine and education, etc., and those receiving salaries in other employments for which they are liable to pay income-tax shall form the capitalistic section, and those who can read or write in any vernacular language shall form the labour section of the intellectual sub-class;
- (c) the above classification should be mutually exclusive and no person should be entitled to have his name entered in more than one classification. But this restriction shall not for the present debar any person whose name is entered in one classification from standing as a candidate for any other classification except the labour section of the same classification, or seats may be reserved in the Legislatures on the basis of the above classifications and the elections held by a joint general electorate consisting of all people falling under all the above classifications;
- (d) seats may for the present be reserved on a religious basis only in respect of those allotted to the intellectual sub-classes of capital and labour;
- (e) the Legislatures should have rights of interpellation, holding investigations, passing Resolutions and legislative measures binding on the Government unless vetoed;
- (f) immunities and privileges should be defined for them;
- (g) the elected members should be removable within the term only after trial in a court constituted for the purpose at the instance of the President of any particular Legislature for being guilty of defined corrupt practices or for having acted in violation of any manifesto issued by them at the time of their election, this being made compulsory."

The motion was negatived.

RESOLUTION RE CONSTRUCTION OF A NEW CENTRAL RAILWAY STATION AT ALLAHABAD.

THE HONOURABLE MR. NARAYAN PRASAD ASTHANA (United Provinces Northern: Non-Muhammadan): Sir, I beg to move the following Resolution:

"This Council recommends to the Governor General in Council that steps be taken at an early date to build a new central railway station at Allahabad, to which the narrow gauge railway may also be admitted."

Sir, I have brought forward this Resolution before this Council, as Allahabad is a town not of local importance, but is of all-India importance inasmuch as it attracts pilgrims from all parts of India and it is called the king of all pilgrim places, Prayagraj, and also because it has got a High Court there to which people come from all parts of the United Provinces as well as those who are affected by the decisions of law suits instituted in those provinces. Now, there are not only Mag Mela fares held every year, but there are held Kumbh Melas every sixth year, and the great Kumbh Mela every 12th year. In the year 1930, in January and February, we will have at least a concourse of not less than 20 lakhs of people coming to Allahabad for the purpose of having a dip at the auspicious moment in the Sangam. Then, Allahabad is also a central place so far as the railway systems of India are concerned. Through it passes—if not through it, at least in its vicinity—the Bombay Mail; the Calcutta Mail passes through it, and then so many lines diverge to all other parts of India that it is necessary that we should have a station on modern lines at the place. The other difficulty that the passengers coming to Allahabad experience is this. Allahabad has also got a narrow gauge line, namely, the Bengal and North-Western Railway, which comes from Gorakhpur and Tirhoot side to Allahabad. Now, the station of this metre gauge railway is more than a mile distant from the East Indian Railway station, and people coming late at night, say at about 10 or 11 o'clock, find it very difficult to go to the other railway station and there to enter a through train. Passengers are put to a good deal of inconvenience and the means of communication are also very limited. Therefore, what I have proposed is this, that the Bengal and North-Western Railway metre gauge line should also be brought into the station, where they can meet and passengers can enter into the through carriages of the East Indian Railway. Now, the present station is situated in the heart of the city, having valuable property all round and, therefore, if this station is to be extended, I think it will be a source rather of annoyance and trouble to the people who will be de housed thereby. Therefore, the only alternative that can be had is to remove the railway station towards the west, say a mile or six furlongs, and there to build a central station where you can have a good deal of land and where the goods traffic can be diverted and where also the Bengal and North-Western Railway line can be brought in. It may be said that this railway station will cost a lot. No doubt it will cost a good deal of money, but then the importance of the place requires, I think, more than Cawnpore or Lucknow, where new stations have been built, that a central new railway station should be built at Allahabad. The present railway station has got very limited accommodation for third class passengers. As I have always said, where a concourse of about three lakhs every year and about 10 lakhs every six years and about 20 lakhs every 12 years assembles, a third

[Mr. Narayan Prasad Asthana.]

class waiting room, where you can accommodate only about 200 people, is rather ludicrous. There is no intermediate class waiting room at all in the railway station. If you go to the sanitary arrangements, they are hideous. I know that some tinkering is going on, namely, the waiting rooms are being remodelled, but I do not think that that will meet the situation. It might be said that because the railway station is situated in the heart of the city, therefore it is very convenient for the citizens of Allahabad to go there, but I do not think that the citizens of Allahabad will object to the station being removed a mile, inasmuch as the civil lines will greatly appreciate this, because, during the night, in all the bungalows you constantly hear the thuds of one goods wagon bumping against another and throughout the night you hear the railway engines whistling, and it is a great source of annoyance to the residents of the Civil Lines who live near the station. The removal of the goods station will be welcomed by the Improvement Trust, because it will release so much land for the purpose of the bazaar and of private houses.

Sir, the question being one of all-India importance, I have brought this before this Council, and I hope that the Members of this Council will realise the importance of Allahabad as the greatest pilgrimage centre in India, and that they will vote in favour of the motion.

THE HONOURABLE MR. J. A. WOODHEAD (Commerce Secretary): Sir, I understand that the Honourable Member's Resolution is not that a new central station should be erected on the site of the present station, but that a new central station both for passengers and goods should be erected about one mile to the west of the present station. That, I understand, is his proposal. The Honourable Mover has admitted that it is a project involving very considerable expense and, although it is difficult to estimate what the actual cost will be, I think I may simply say that it will probably be somewhere in the region of 70 lakhs of rupees. I hope the House will agree that, before they endorse a proposal involving such heavy expenditure, they should be satisfied that there are adequate grounds that this project should be undertaken and this heavy expenditure incurred.

It may perhaps be helpful to those Honourable Members of the House who are not acquainted with Allahabad—personally I did not know much about railway arrangements at Allahabad until a few days ago—if I attempt a short description of how the railway lines approach Allahabad and the situation of the two stations. The Great Indian Peninsula and the East Indian Railways approach Allahabad from the south, the East Indian Railway from Mogul Serai and the Great Indian Peninsula Railway from the direction of Jubbulpore. They join some distance south of the Jumna river, cross the Jumna bridge, and, then proceeding for a short distance through the city, turn west to enter the Junction station which lies in an easterly and westerly direction. The other broad gauge line, the old Oudh and Rohilkhand Railway, which is now amalgamated with the East Indian Railway, approaches Allahabad from the north, crosses the Ganges by the Curzon bridge, proceeds for some distance through the civil station and then, like the East Indian Railway, turns west to enter the present junction station. The other railway is the metre gauge, the Bengal and North-Western Railway; this approaches Allahabad from the

east from the direction of Benares and Tirhoot, crosses the Ganges just North of its junction with the Jumna river and then proceeds to a separate metre gauge station which I think is locally known as the city station. As regards the situation of the broad gauge station, I think the Honourable Mover will admit that, from the point of view of the broad gauge passengers, it is conveniently situated. It is situated between the city on the south and the civil station on the north. The city station, that is, the metre gauge station, is also conveniently situated for persons travelling to and from Allahabad by the metre gauge. It is in the city and is about, as the Honourable Member says, a mile from the main station.

I gather that the Honourable Member supports his proposal on two grounds. First, on the ground that the passenger traffic has outgrown the accommodation provided by the existing broad gauge station; it does not now offer sufficient facilities for the passengers arriving at and departing therefrom. Further, I understand that his objection is not so much from the point of view of the facilities for operating the passenger trains, but rather from the point of view of the waiting room accommodation provided at the railway station. The second ground is based on the inconvenience suffered by passengers who arrive or depart by the metre gauge railway and have to walk from the metre gauge station to the broad gauge station or *vice versa* in order to take another train.

I will deal with the second ground first. That is, as regards the inconvenience suffered by the passengers who have to change from one station to the other.

I would remind the House that this inconvenience is limited to a small number of passengers; that is, to passengers who travel from and to stations on the Bengal and North-Western Railway to and from stations on the East Indian and the Great Indian Peninsula Railways. So far as passengers travelling to and from stations served by the former Oudh and Rohilkhand Railway are concerned, there is, I think, practically no inconvenience, because the metre gauge and the broad gauge both enter the same station at Benares and passengers proceeding to and from stations on the Oudh and Rohilkhand Railway from and to stations on the metre gauge can without inconvenience change at Benares. So, the inconvenience is limited to those passengers who are proceeding to or from stations on the East Indian Railway and the Great Indian Peninsula Railway. We have no figures showing what is the number of such passengers, but I hope the House will agree that the number is hardly likely to be sufficiently large to warrant an expenditure of Rs. 70 lakhs.

As regards the first ground that the passenger traffic has outgrown the accommodation provided by the present broad gauge station, it has been recognised that the intermediate and third class waiting room accommodation is inadequate, and the Railway Board recently sanctioned an urgent grant for the improvement of that accommodation. This grant was given in view of the coming *Kumbh Mela*, when a large number of pilgrims from many parts of India will arrive at the broad gauge station. As I said, these works include the remodelling of the third and intermediate class waiting room accommodation, and when this remodelling has been completed, the railway authorities are of opinion that the accommodation provided will be adequate. But even supposing that further accommodation should be found to be required, I see

[Mr. J. A. Woodhead.]

no reason why that accommodation should not be provided in the present station instead of moving the station to a new site a mile away.

There is also another point to which I would like to refer, and that is, that the present broad gauge station is very conveniently situated. You could not get a more convenient site from the point of view of passengers who arrive at and leave Allahabad by the broad gauge station, and if the station is removed a mile to the west, those passengers will certainly be subjected to some inconvenience. The new site will not be as convenient as the present site, and I would suggest, Sir, that this is a point which should be borne in mind by members of the House when they consider the Honourable Member's proposals.

I hope, Sir, I have said sufficient to convince the House that conditions at Allahabad do not justify the erection of a new station at a heavy cost of Rs. 70 lakhs. I do not seek to deny that there is a certain amount of inconvenience to those passengers who have to change from one station to another. I admit that. But what I do urge is this, that that inconvenience is not sufficient to warrant the House recommending that Government should spend Rs. 70 lakhs on building an entirely new station. The case for the new station rests practically entirely on that relatively small inconvenience, and I hope the House will not endorse the Honourable Member's suggestion that this small inconvenience is sufficient to warrant such a large expenditure.

One more point, Sir, and I have finished. I think the case can be put in a nutshell. The House must choose between recommending an expenditure of Rs. 70 lakhs upon a station which, I urge, is not urgently required, and other projects of railway expansion which are certainly far more urgent than the station of Allahabad. In view of what I have said, I hope the House will not endorse the Honourable Member's Resolution.

THE HONOURABLE MR. NARAYAN PRASAD ASTHANA: Sir, the Honourable Member in charge of the Department in this Council has admitted the inconvenience to the public. He has also admitted the inadequacy of the arrangements for the accommodation of third and intermediate class passengers on the present railway station. But he has defended his position on the ground that, as it will cost about Rs. 70 lakhs, the inconvenience suffered by the passengers is so small that an expenditure of Rs. 70 lakhs should not be incurred. I had expected to hear from the Honourable Member whether the expenditure which has been incurred at Lucknow and Cawnpore was incurred because those railway stations were hopelessly inadequate, or whether they did not stand in the same position as the present Allahabad station. Having incurred huge expenditure on these two stations, I do not see that it lies in the mouth of the Government to say that Allahabad is a place where the passengers do not suffer so much inconvenience as they do at other stations. Moreover, the inconvenience is not confined to a small number of passengers but to a very large number of passengers who come from the Tirhoot side and have to travel on the East Indian Railway or the Great Indian Peninsula Railway. Figures have not been given, and I think the majority of the passengers are for the East Indian Railway and the Great

Indian Peninsula Railway. Again, my argument has not been met that, where such a huge concourse of people meet, the present station cannot at all hope to cope with such a mass of humanity. Also my argument has not been met that the present railway station's site being in the centre of the city, it is not capable of expansion. I thought that the Government would rather welcome the Resolution, inasmuch as if they remove the station a mile hence, they will have ample room for expansion and for providing the waiting rooms and also for goods sheds, and so forth. So far as the financial difficulty is concerned, as I have already said, inasmuch as they are incurring heavy expenditure on ordering goods from England and ordering huge stores from other countries, I think it is for the Government to find ways and means for building a new station, whether it costs Rs. 70 lakhs or Rs. 60 lakhs. It is for the convenience of the passengers that the railways exist, and the Railway Reserve Fund is not to be spent simply on stores, but also on providing facilities for the passengers who travel by those railways.

THE HONOURABLE THE PRESIDENT: The question is :

"That the following Resolution be adopted :

"This Council recommends to the Governor General in Council that steps be taken at an early date to build a new central railway station at Allahabad to which the narrow gauge railway may also be admitted."

The motion was negatived.

RESOLUTION *RE* JAIL ADMINISTRATION IN BRITISH INDIA.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE (West Bengal : Non-Muhammadan) : Sir, I rise to move the Resolution which stands in my name :—

"This Council recommends to the Governor General in Council that he should take steps to appoint, at an early date, a committee consisting of Members of the Central Legislature and other representatives to investigate the subject of Jail Administration in general in British India and with special reference to—

- (1) Inspection and superintendence of prisons ;
- (2) Classification and separation of prisoners ;
- (3) Prison discipline ;
- (4) Treatment of under-trial prisoners ;
- (5) Prison hygiene and medical administration ;
- (6) Visitors ;
- (7) Treatment of the child offender ;
- (8) Treatment of State prisoners and political offenders ; and
- (9) Special classes of prisoners."

The question of prison reform has been pointedly brought to the fore front by the grim determination of some of the under-trial prisoners during the last few weeks. To Jatindra Nath Das will for ever belong the glory of effectively bringing out some of the outstanding scandals in Indian jail life. He sacrificed his life for a principle, and sacrifice for a principle is one of the most beautiful realities in life. However powerful or bureaucratic a Government may be, it may imprison the body but the mind refuses to be bound by every arbitrary rule however

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despotic the human agency. It is a terrible phenomenon no doubt that made under-trial prisoners starve themselves to death rather than submit to the conditions prevailing in the jail. This is not the occasion when I should dilate on the circumstances which led to the death of Jatindra Nath Das or the responsibility or callousness of Government in the matter. But I can say without fear of contradiction that no other manner of settlement of the dispute would have been quite as effective as Jatindra Nath Das's supreme sacrifice in opening the eyes of the Indian public and showing to the world at large in all its nakedness the real condition of jail life in India and in urging the slow-moving and unimaginative Government to quicker action. The present proposal for an inquiry which I place before the Council is not to postpone consideration of the more urgent items which have been brought to the forefront by the hunger strikers, and the position is already accepted by Government that they will inquire into those questions. The two principal questions that are now being inquired into by Government are the condition of under-trial prisoners and the equal treatment of all prisoners whether under-trial or convicted, irrespective of race and colour. But my Resolution includes other topics as well in jail administration in India. Those are not the only two topics with which the Government ought to busy itself; there are various other topics which I have mentioned in the Resolution which I think ought to be gone into.

Sir, the question may be raised as to how is it that in the Central Legislature attempts are being made not only here but elsewhere to inquire into jail administration in the different provinces. Jail administration is no doubt a provincial subject but the responsibility of the Government of India in this matter cannot be denied and has not been denied. I will not go into the various details and the facts and figures which go conclusively to show that the Government of India has taken the responsibility in years previous, and even during the last few weeks, upon itself to solve these jail problems. I would only refer this Council to the statement made by the Honourable the Home Member in the other place in which he accepted the position that Government wants uniform rules to be in force in the different provinces and that the Government of India had already asked the different provinces to hold inquiries into all these details. Further, in the concluding portion of the statement which was issued by Government on that occasion it is clearly stated that Government reserves to itself the steps which ought to be taken after the opinions of the different provinces are received. It is to force that issue that I move my Resolution before this Council. It ought not to be left to the Government to decide which course is to be taken when the provincial opinions are received, but the whole matter ought to be gone into by a representative committee which would be in a better position to say to the country at large that these are the rules which ought to be enforced in every jail in the country irrespective of the place where it may be situated. The same opinion has been expressed by all the different commissions and committees appointed in various provinces, namely, that there ought to be one uniform body of rules throughout the country. With regard to the minute details, they might be left to the provinces, but with regard to the main details, the Government of India is responsible and that responsibility has not been shirked. I may refer, Sir, to a passage which appears in the report which has just been published on the working of the reformed constitution in

Bengal. There it is brought to the notice of the public at page 183 of the report, paragraph 261, that—

"Under the Prisons Act, 1894, and rules made thereunder, the general control of prisons in all provinces is vested in the Government of India. In 1922 the Government of India issued certain instructions regarding the use of the punishment of whipping and the classification of political offenders. To those orders the Government of Bengal took exception without success. In 1928 the subject of whipping was raised again by a Resolution carried in the Legislative Council in favour of the abolition of whipping in jails. The Government of Bengal submitted certain proposals which did not meet with the approval of the Government of India. The difficulty was finally solved by the Government being permitted to issue executive instructions on the subject, the statutory rules remaining unaltered."

So, it is not a fact that the provinces have been left to formulate the rules according to local exigencies. The Government of India have always sat upon the proposals made by the different provinces. Not only that, but sections 59 and 60 of the Prisons Act vest the powers in the Government of India. No rule can be issued by the Provincial Governments without the Government of India's sanction, and with regard to some rules power is vested in the Government of India alone. Therefore, I submit that it is up to the Government of India to take this opportunity of going into the matter in all its details and to come to such a conclusion as will, so far as the present situation is concerned, set the matter at rest.

Sir, next with regard to the general principles that ought to be followed by a committee in respect of all the points I have mentioned here; those principles have been enunciated at different times in India and on the Continent and in America, and the Government of India also have accepted the position—when the Jails Committee report of 1919-20 was made—that those principles ought to be given effect to here. But there were certain reservations made by the Government of India at that time, and those reservations ought to be further inquired into by the present Government and ought also to be examined by a committee consisting of non-official representatives and experts.

Sir, if anybody would read the reports of the different committees which had been appointed by Government during the last century and at the beginning of this century, he would find what a condemnation of the jail system in India is contained therein. The whole jail system in India is rotten to the core—all the principles which had been in vogue in Britain or in other places at the time when these rules and regulations were first initiated about 40 or 50 years ago still continue to exist. It appears, Sir, that proposals for reforms have been made by committees or by different other authorities in the country from time to time, but owing to financial exigencies or to political reasons most of those recommendations have not been given effect to. But this is the psychological moment when not only the whole of India but the whole world is stirred by the grim determination of the hunger strikers in India when the Government of India ought to be alive to the responsibility which it owes to every convict in the jail, whether that convict is an under-trial convict or a convict who is undergoing imprisonment.

Sir, the first principle which should guide all persons who are to deal with jail administration is not that the punishment is a deterrent punishment but that the person on being taken to the jail should be placed in such circumstances that when he comes out of it he should be at least in the same position

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as he was when he went to jail, if not in a better position. As it was truly declared by one who had experience of Indian jail administration. "It is the duty of the State to ensure that the infliction of imprisonment and punishment shall not for avoidable causes involve damage to the mind, health, morals or intellect of the persons imprisoned or punished; or, in other words, every person imprisoned or punished has an inalienable right to be returned to society no worse than he was before his imprisonment or punishment. To me this truth is axiomatic, despite anything that may be said to the contrary; but simple as it is, self-evident as it is, it has never been acted upon by the British administration." "Further, I maintain" the same authority continues — "that unless and until this principle is in its essence formally accepted as the basis of future penal methods, progress is impossible." Sir, I need only refer to the various resolutions which have been passed in different parts of the world and especially to the forty-one resolutions which were passed in the Cincinnati Conference now many years ago; though they are about 60 years old, most of those principles are as true to-day as they were when enunciated.

Sir, I shall just briefly touch on some of the points which have been specifically raised in the Resolution. With regard to superintendence, the opinion has been expressed previously by every Committee which had been appointed that superintendence of the jails ought not to be left in the hands of the Civil Surgeons, but it ought to be left in the hands of whole-time experts. I need not go into the details, but this principle is uncontroverted by any other authority, whether by Government or by any other public authority. In spite of the enunciation of this principle, it is known to every Member of this House that that principle has not been given effect to except in the case of the Central jails. Even in the other jails, where you have 300, 400, 600 or even 800 prisoners, this principle has not been given effect to. The Civil Surgeon, who has to look to his private practice, to his duties as the medical head of the district and to do many other things, is placed at the head of the jail administration, and we can very well imagine what would be the position. The administration is really left in the hands of the subordinate officers who are not thought by Government itself to be competent to be placed in independent charge of the jails. Then again, Sir, with regard to the administration of the jails, it was recommended that there ought to be conferences biennially of the Inspectors-General and some of the Jail Superintendents with representatives of public opinion from different provinces. No doubt conferences have been held, but only with the Inspectors-General and Jail Superintendents. Public opinion is not voiced in the conferences that have been held. With regard to the reformatory influences that are to be exercised in the jail, various questions arise. In America and in the Continent of Europe, principles have been accepted of introducing a system of gratuities, the system of having recreation for these convicts, the system of having religious and moral instruction, giving a human tone to the jail life of the convict in general. In this connection I need only draw the attention of the House to the report which is published every year by the Prison Commissioners for England and for Scotland, and I have in my hand the report for Scotland for the year 1928, and if any Member would go through the report he would see what detailed arrangements have been made to make

the prisoners' life in the jail not a life of hardship alone, but to give an educative tone by which you make them better men, by which you fit them in a better way to return to society after the term of imprisonment is over. It is not the deterrent punishment alone which guides all the jail authorities in the different parts of the world, but I am sorry to say that that principle has not yet been accepted in India. It is no doubt true that Christian missionaries are allowed access to the jail and there are libraries within the jail, but what is the opportunity that is given to the convicts to come into intimate touch with outside life, not with outside political life, but outside life which would enlighten them, which would enliven them and make them fitter when they come back to society. Sir, you will find at page 64 of this report that in one jail, the Edinburgh prison, for instance, there were as many as seven lectures given to the prisoners by different authorities, not missionaries, but public men who can have great influence with the prisoners; 29 concerts were given by different authorities within the jail, and that is the state in all the other jails also that are described here. Sir, I would like the Committee to go into this question of making the jail life of the convict much more human than what it is now.

Sir, the next point that I would like to deal with is hygiene. About hygiene and about the hospitals that we have in the jails, the less said the better, because the indictment that was made by the Jails Committee in 1919-20 and the evidence that was given before the Jails Committee about the condition of the hospitals in the jails staggered the imagination of even the most die-hard of bureaucrats. Sir, I will read only two or three sentences from the evidence that was given by Lieutenant-Colonel Mulvany:

"They have no nursing. And though the jail hospitals in Bengal in 1916 contained a daily average of 785 patients exclusive of those under observation, there was not a single nurse beyond the unskilled convict attendants amongst them..... The average jail hospital kitchen contains a couple of large chulons with a scratch lot of convict cooks who even were they qualified have no facilities for preparing the class of food necessary for the sick. Milk, arrowroot and sago are the limits of jail hospital resources. Of course, there is always a perennial shortage of milk. This statement will doubtless be denied, so I would ask the Committee to compare the average number of sick requiring milk with the amount shown in the quarterly return as having been supplied to the hospital."

And in another place he goes on:

"Take the average jail hospital with its filthy earthen floor and squalid appointments. Let us go into the dysentery wards, especially in the early morning before the Superintendent has made his round. The atmosphere is heavy, the suggestive tarred gum-las by the bedsides (for those who are too ill to use the still more suggestive dry-earth latrine which is but too frequently just a corner of the ward, shut off by an insufficient white-washed screen) strike the eye at once. Note the limewashed floor and the tarred dado—tarred to keep the lower area comparatively free from bugs. See the blood-stained splashes on the walls where some of these loathsome pests have met their fate. The beds are possibly good, or they may be the veriest old string charpoys. Mattresses there are none and pillows are conspicuous by their absence (they are forbidden by the Code), a folded blanket is the utmost rest a weary head can find. Nursing, there is none, for the accidental hospital servants are even more ignorant than the worst of Sairey Gamps. The badly cooked sago or arrowroot stands in loathsome semi-congested masses in the rusting iron batis, for the hospital boasts at most one or two feeding cups."

Well, Sir, I need not go into further details about this. About nursing the position is the same as it was in 1918 as described by Colonel Mulvany.

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About hospitals, there is no step taken by the different jail authorities to make it even the semblance of a hospital. Sir, this is a question which ought to be gone into immediately. Although this has not been pointedly brought to the notice of Government at the present moment by the persons who are agitating for better treatment in jails, this is one question which I think ought to be immediately tackled and for all the different provinces.

Sir, there are one or two other points which I should like to touch upon. One is about prison discipline and the other about the classification of prisoners. About prison discipline, according to the rules under the Prisons Act, flogging is permitted. I just now read to you the report of the Bengal Committee where it was brought out that flogging was proposed to be abolished from jails by the Bengal Council. But that has been vetoed by the Government of India. Handcuffs and fetters as punishment for jail discipline were found by the Jails Committee in 1919-20 as also by the previous Committees to be not tolerated in any other part of the world. But still the Committee stated by a majority that, owing to the special circumstances in India, you cannot wholly abolish this form of punishment. I think, since that report was submitted there has been sufficient change in the angle of vision and the Government may be prevailed upon to be more humane in the treatment of jail convicts. And not only that, but different punishments were meted out to the prisoners for different offences. For example, if a prisoner commits one breach, he is put on low diet and if he commits another offence during that period, he is put in fetters. That is, even if he should be physically incapable of having the handcuffs and fetters through being on the lowest diet possible, these things are put on. These are questions which should surely be gone into.

Sir, there is one other point on which I wish to touch before I sit down, and that is the classification of prisoners. Sir, this question has been before the Government and before the public more conspicuously than any other point, and, Sir, in the report which was submitted by the Jails Committee the following indictment appears on page 244 :

"In most Provinces of India the existing arrangements for unconvicted criminal or under-trial prisoners are among the least satisfactory features of the prison administration of this country. . . . In some Provinces the treatment of an under-trial, as soon as he enters a jail, resembles too nearly that of a convicted prisoner. The practice of taking unconvicted prisoners through the streets from the jail to the court and back, often handcuffed, some times fettered or roped, is too common."

And though the question was gone into by the Committee, no adequate step has yet been taken in the different provinces. Sir, the reason is that different rules are in vogue in different provinces, and when one set of rules are sent up to the Government of India by one province, say in 1923, there may be one person in authority; in 1926, when another set of rules are sent up by another province, another gentleman is in authority in the department and he may have quite a different opinion. It is therefore absolutely necessary to look into all these rules at one and the same time as soon as possible.

Sir, I do not think I need tire the patience of the House with regard to the details of the other questions that are raised in the Resolution, and I commend this Resolution for the acceptance of the House and I am sanguine that when Government has already accepted the position that an inquiry is to be made in the different provinces, and when the Government of India is going to look into all these matters, let that be done by a representative committee so that Government may hereafter say that we had the authority of the representative committee behind our back before we took this step.

THE HONOURABLE MR. C. W. GWYNNE (Home Department: Nominated Official): Sir, I have listened—and I am sure the House has listened—with great interest to the speech of the Honourable Mover in discussing a subject which is attracting a good deal of public interest at the present moment. I would also state that the subject is one to which the Government of India themselves and the Local Governments have devoted very considerable attention during the last ten years. They are fully alive to the importance of these problems and to the adoption of sound penological methods in this country. And for that very reason, may I say at once without further introduction that the Government are not satisfied that an occasion has now arisen for the appointment of a Committee to inquire into the question generally or on the specific subjects dealt with by the Honourable Mover? And there are abundant

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reasons for this, as I feel sure the House will agree when they realise the extent to which enquiries have been carried out in various directions in recent years affecting general jail administration. I do not propose to follow the Honourable Member's philosophical discourse on the theory of punishment but I would point to a few practical considerations. In 1919 the Indian Jails Committee was appointed. It examined every phase of jail administration and made comprehensive recommendations after studying the many and complicated problems with which they had to deal not only in India but also in England and America. Their report, which examined the whole range of jail administration and cognate problems in great detail, was submitted towards the end of 1920 and their recommendations were carefully examined by the Government of India in consultation with Local Governments during the course of the next two years. As far as possible—and Honourable Members will recollect that at that time India was suffering from a state of financial stringency—but as far as possible and in so far as the recommendations were applicable to Indian conditions, they have very largely been adopted and carried out. They could not all be put into immediate operation, but as circumstances permit the process of carrying out or at least of adapting some of the more important recommendations of that Committee still continues. As the House is aware, prisons is a provincial subject, subject to central legislation, and we have every reason to believe that the provinces are fully alive to the importance of sound jail administration. This is clear both from the action taken in various provinces and from the interest shown in the subject in the various provincial Legislatures. Provincial committees consisting of officials and non-officials have been appointed already by various provinces, for example, in the Punjab and Bengal, and the last province which has appointed such a committee is the United Provinces, whose report was published only this year. I may point out to Honourable Members that these reports of provincial committees are valuable and useful not only to the province which actually appoints the committee but

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also to all other provinces in India, since many of the problems discussed are common to India as a whole in their essential features: the information collected and the principles formulated by one province may often serve as a guide to another. Thus we may reasonably claim that there is almost perpetual enquiry into the subjects which the Honourable Mover has mentioned. Moreover, as the Honourable Mover has said, Local Governments have again been recently addressed on some of the points mentioned by him and particularly on the point on which he laid great stress, namely, the classification of prisoners. They have also in some cases already appointed committees in pursuance of the letter addressed to them asking them to make enquiries and submit their recommendations. In other directions too the Government of India and Local Governments are taking such steps as seem to them desirable to ensure that Indian jail administration keeps in touch with modern developments. The Honourable Mover has referred to the Conference of Inspectors General of Prisons. This takes place every two years in one or other province. The next Conference will take place at Lucknow this winter. At these conferences every conceivable question of jail administration is discussed and valuable results are secured from this interchange of ideas and experience. The Honourable Mover complained that the public were not also present at these conferences but the public also have ample opportunity of expressing their views or giving their opinions on questions of jail administration, for every jail has now non-official visitors and in the recent communication which the Government of India has addressed, non-official opinion was particularly asked for.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: Why are not non-official visitors invited to that Conference?

THE HONOURABLE MR. C. W. GWYNNE: Non-official opinion has been invited.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: Are non-official visitors allowed in that Conference?

THE HONOURABLE MR. C. W. GWYNNE: Non-officials are not allowed in that Conference. I said that non-official visitors can always express their opinion, and I am at the moment referring to the opinions which have been asked for by the Government of India on certain points, in regard to which they particularly asked that non-official opinion should be invited. In addition to these conferences in India a representative of India is sent, when it meets, to the International Prisons Commission. In such circumstances I hope the House will agree that there is no necessity for the appointment of a committee of enquiry on the lines suggested by the Honourable Mover.

I will now turn very briefly to some of the specific points mentioned by him. As I have already explained, some of these points are already under enquiry in consultation with the various provinces, and on this matter I would refer the House, and the Honourable Mover to the statement made by the Honourable the Home Member in another place only a few days ago. The Honourable Mover has in addition referred to a few other matters, such as inspection and superintendence of prisons, prison discipline, prison

hygiene and medical administration. Two points that he has not specifically touched upon but upon which I would like to say a few words are visitors and the treatment of the child offender. On none of these points, I maintain, would any useful purpose be served now by the appointment of a committee. On the technical side close attention is given to inspection and superintendence. The Honourable Mover complained that whole-time Superintendents have not been appointed in all these jails. But whole-time Superintendents are appointed in all central jails, the most important jails, and I think it is only a question of time before the question of appointing whole-time Superintendents of Jails is seriously considered, at any rate. Of course, we know that a recommendation has been made.

Then, as regards prison hygiene and medical administration, the Honourable Mover has referred to a very harrowing report made some 12 years ago. I prefer to rely on more recent jail reports of the various provinces which show that there has been a steady and systematic improvement in the health of the jail population. This year, the reports that I have read so far describe it as eminently satisfactory.

Then, as regards visitors, ample provision is now made for non-official visitors and any one familiar with district administration—and I speak here with fresh and personal experience—any one familiar with district administration would bear testimony to the fact that visitors take their duties very seriously, that they frequently inspect both district and central jails and make very useful suggestions, which receive careful consideration from the Superintendent of the Jail and, if necessary, from the Inspector General of Prisons.

Now, the subject of the child offender is another very important subject. Although the Honourable Member did not discuss that question, it is one of the points which he has mentioned in his Resolution. The position as regards the child offender in India is as follows. Children Acts, i.e., Acts dealing with the child offender, juvenile courts and kindred matters are already in operation in the provinces of Madras, Bombay, Bengal and the Punjab. In the Central Provinces and Burma Children Acts have been passed by the Legislatures but have not yet actually been brought into operation. Except in Madras the experience of the operation of these Acts has not been very extensive or illuminating, and the present position is that the question of the advisability of introducing an all-India Act will be discussed at the next Conference of Inspectors General of Prisons at Lucknow this winter and will thereafter be considered by the Government of India. The subject is one which has already occupied a good deal of the attention both of the Government of India and of Local Governments. It is a subject in which obviously India cannot and would not wish to remain stationary. It is one in which the League of Nations takes particular interest. Local and provincial experience is being gradually acquired and built up and from that it may be possible to arrive at principles which may be of general application throughout India. Meanwhile, there is considerable advantage in proceeding by the method of experiment, that is, whereby provinces are enacting their own Acts with special reference to local conditions. In such circumstances it seems to me that the appointment of a committee would be difficult to justify.

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I now wish to turn to another aspect of the question of considerable importance from the practical point of view. Far be it from me to suggest that very valuable work has not been done by committees of the Legislature. One has only to glance at the list of committees which have been appointed from time to time to realise the extent to which almost every sphere of administration has at one time or another benefited by their labours and investigations, but I would ask the Council earnestly to reflect on another side of the matter. The cost of these committees and commissions to the revenues of India has in the past eight years been very considerable. I have made a rough calculation of this cost. As far as I can compute it the amount already spent is well over a crore of rupees.

THE HONOURABLE SETH GOVIND DAS : Who is responsible for that ?

THE HONOURABLE MR. C. W. GWYNNE : The committees have been appointed by the Legislature. I do not say that they have not done excellent work. I simply say that when committees are appointed they want money.

THE HONOURABLE SETH GOVIND DAS : Always when Government want them to be appointed.

THE HONOURABLE MR. C. W. GWYNNE : Far from it. Well, I was saying that the cost of these committees in the past eight years has been something over a crore of rupees, and while very excellent work has been done by these committees, and while the Government does not grudge the expenditure of money on them when there is a general demand for their appointment and when circumstances indicate that there is a real need for an immediate inquiry into certain matters, yet the aggregate cost of the appointment of committee after committee cannot but be a matter of some apprehension and rightly produce an attitude of caution against the appointment of a committee which in the present instance would clearly be very costly, as it would have to tour widely, unless there is very substantial and definite justification for such action. In the questions now discussed by the Honourable Mover, as I hope I have satisfied the House, there has been almost continuous and perpetual inquiry during the last ten years, and therefore I urge the House to agree that the appointment of a committee as proposed is unnecessary in view of what has been done and what is being done, and would be in the nature of an extravagance which the present financial situation would not justify.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE : Sir, the principal point urged by the Honourable Member in charge is that there has been continual inquiry during the last ten years, but he has not been able to say what action those inquiries have produced. There have been inquiries no doubt and those inquiries have been continued by the Department concerned, and what those inquiries lead to may be found in the archives of the Department.....

(The Honourable Sir Maneckji Dadabhoy made an interruption which was inaudible at the Official Reporters' table.)

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE : The Honourable Member referred to the inquiries which have been made by the Department concerned after the submission of the Jails Committee's report. The Jails Committee report was submitted in 1920.

THE HONOURABLE SIR MANECKJI DADABHOY : I am referring to the annual jail administration reports in which the improvements which have taken place from time to time are reiterated.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE : Sir, I would ask my Honourable friend to refer me to any of the jail reports in the different provinces where the recommendations of the Jails Committee have been fully given effect to. Take for instance one point. In the Jails Committee report it was recommended that the warders should be of a better class. That was in 1920. I cannot speak of other provinces, but in Bengal during the last ten years it has not been found possible to have a better class of warders. It is only in 1929 that provision has been made in the Budget for a better class of warders.

THE HONOURABLE SIR MANECKJI DADABHOY : Because you have not a better class of criminals there.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE : Because the Government is not manned by such a class of men as to allow of a better class of warders. Sir, the Honourable Member in charge has used a very guarded expression, namely, that the recommendations of the different committees have been carried out as far as circumstances permitted and as far as the local conditions of India permitted. Now the local conditions which might appeal to the Government in 1920 would certainly be very different in 1929, because he knows as well as every Member of this House that the angle of vision is changing. What was regarded as absolutely impossible a few years ago is now thought to be possible. I need not go further for an illustration of that than to the case of these Punjab hunger strikers. Certain orders were issued and a statement was made by the Home Member in the Legislative Assembly saying that the Government could go thus far and no further. But what do we see now ? Only three days ago—after a lapse of a few weeks only—the position is changed and a step which was thought by the Home Member to be absolutely impractical was conceded by the Government.

THE HONOURABLE SETH GOVIND DAS : On account of the death of Jatindra Nath.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE : Yes, because of moral pressure—it is the prick of the conscience which is now responsible for this change in the Government. That there has been a continuous inquiry in this matter I am prepared to accept, but what action has resulted from that inquiry ? It is to have all those different inquiries co-ordinated and brought to the notice of the public, so that the public may know what steps have been taken and should be taken, that I claim that a committee should be appointed. Sir, with regard to the appointment of this committee the Honourable Member in charge made one general remark that there have been too many committees during the last few years.

THE HONOURABLE MR. C. W. GWYNNE: I did not say too many. I said there had been many and I particularly said their work has been very valuable.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: The work has been very valuable but the cost has come to about a crore. But for how many committees may I ask was the Legislature responsible and for how many the Government; and what is the total cost incurred for the different commissions which have come out to India? That would come to several lakhs in each case, but when committees are appointed by the Legislature the cost only comes to a few thousands. And in the case of the present committee, it would not require to tour round all the provinces, because the major portion of the work will be done by the provincial committees and it will be left to the all-India committee to take into consideration the recommendations of those provincial committees and come to some conclusion upon them. It is only when you have a committee touring round the whole country or in different parts of the world even, that the cost comes to lakhs and lakhs.

Sir, the Honourable Member has referred to two other points. One is about whole-time Superintendents. He was about to make a statement that the principle of having whole-time Superintendents for the district jails would be accepted, but before he could complete the sentence he checked himself and said that that principle is being worked out.

THE HONOURABLE MR. C. W. GWYNNE: I was not about to say that it was going to be accepted.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: Whether the principle is accepted or not, I would like to know whether the principle of having whole-time Superintendents in district jails has been accepted by the Government or not.

THE HONOURABLE MR. C. W. GWYNNE: It was recommended many years ago; it will have to be taken into very careful consideration when it is possible to do so; it is not possible to do it at once.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: If in the course of ten years Government has not been able to make up its mind whether the principle is to be accepted or not, whether it is feasible or not, I do not know when it will be able to make up its mind.

With regard to the health of these convicts, the health is reported by Inspectors-General to be eminently satisfactory; and reference was made to the presence of the non-official visitors in the different jails. Need I refer the Honourable Member to the report which we read in the paper only yesterday about the restrictions which were put on non-official visitors in Bengal, when Mr. Sen Gupta and Mr. Subhas Chandra Bose wanted to see Mr. Satindra Nath Sen at Barisal; they were Members of the Legislative Council and when they wanted to see the under-trial prisoners in the jail they were told that "His Excellency the Governor of Bengal thinks that you must not make any statement to the press about any other thing except that you have seen them, or you must not publish any message from Mr. Satindra Nath Sen".

THE HONOURABLE MR. C. W. GWYNNE: They were visiting the jail to see under-trial prisoners; they were not visiting it in their capacity as non-official visitors of the jail, which is quite a different matter.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: Sir, is it not a fact that every non-official Member of the Legislative Council is entitled to go to a jail after information is given to the Superintendent of the jail? I think that is a rule, which is followed, and at least that was referred to by Mr. Sen Gupta in his telegram to the Governor and that is not controverted by the Governor or by any other person. It was on that statement that I state: "Here are these non-official visitors of the position of Mr. Sen Gupta and Mr. Subhas Chandra Bose on whom those conditions are imposed."

With regard to child offenders, I did not take up that point, because there are so many points about jail administration that it is not possible within the time at our disposal here to deal with them all. We are not enquiring into all the points that have been mentioned by the Resolution, but when the Honourable Member has referred to this, I may just state one thing. Child offenders, he himself acknowledged, are treated in a special way only in Madras; in other provinces Acts have just been introduced or passed.

THE HONOURABLE MR. C. W. GWYNNE: I said that in Madras, Bombay, Bengal and the Punjab Acts have been passed and are in operation. In the Central Provinces and Burma, Childrens Acts have been passed, but not yet brought into operation.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: In Bengal the Borstal Jail Act, I think it was called, was passed only a few months ago, but that has not yet been wholly given effect to. An institution has just been started and you cannot say that the scheme has been given effect to. What I say is this. If after the lapse of 10 or 15 years institutions are not started in different parts of India according to the Childrens Acts, who is responsible for that? The Government of India's responsibility in the matter is there and they ought to come down on Provincial Governments, whether it be on the reserved or transferred side, to see that that work is being properly done by the provinces.

THE HONOURABLE RAI BAHADUR SURESH CHANDRA BASU (Bengal: Nominated Official): There is a Borstal institution at Bankura; it has been in existence for over a year now.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: After the Act was passed, that institution was brought into existence.

THE HONOURABLE MR. J. A. WOODHEAD (Commerce Secretary): May I say that the Childrens Act in Bengal has been in operation for a considerable time and the Borstal jail at Bankura was opened one or two years ago. I would ask the Honourable Member whether the Party to which he belongs voted for the expenditure for this jail.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: I do not think it is necessary for me to go into those details, because the Borstal Jail Act which was introduced there is something quite different from the Acts in different parts of the world, and the Government wanted to have powers and authority

[Srijut Rama Prasad Mookerjee.]

with regard to those institutions and wanted to put the inmates of those institutions in such a condition that it was not possible for the different parties to vote for such a measure.

THE HONOURABLE MR. J. A. WOODHEAD : May I ask another question? Did the Party to which the Honourable Member belongs vote for the increased pay of warders in Bengal?

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE : Here again the question of detail will have to be considered. (Laughter.) Some Honourable Members without knowing the facts may laugh, but the way in which the reform is being actually brought into practice in Bengal is something quite different to what we find in the Indian Prisons Act. If Honourable Members will have patience, I can go through the recommendations in the Jails Committee's report: I am ready with these, but I do not think it will be necessary at this stage to go into those details. The class of people from which warders were appointed in the different jails was criticised by the Jails Committee. The warders were recommended to be of a better class of people. Then there was another recommendation that the jail administration should be in the hands of persons who would be experts in criminology. It is not Civil Surgeons who should be placed in charge. Now, Government take up a bit here and a bit there, so far as it is possible for them as they think, so far as it is convenient to them, and they want to have those improvements only engrafted on the system. Objection is rightly taken by Members when such piecemeal legislation is made or piecemeal improvement is made without taking note of the different parts of the constitution. It is in regard to that that objection was taken in Bengal. About child offenders, a very detailed scheme has been drawn up in different parts of America and in England as well, and what is the system that we have in India?

THE HONOURABLE SIR MANECKJI DADABHOY : In England they pay an income-tax of 4 shillings in the pound. Don't forget that.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE : What is the average income per diem in England? What is the minimum income on which Englishmen pay income-tax and what is the minimum income on which Indians pay income-tax?

THE HONOURABLE THE PRESIDENT : This is becoming rather irrelevant. The Honourable Member will come back to child offenders.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE : Sir Maneckji Dadabhoy referred to it.

THE HONOURABLE THE PRESIDENT : The Honourable Member is not obliged to take note of every interruption in the Council; he will progress with his speech more satisfactorily if he ignores them.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE : I ignore interruptions as far as possible, but when it comes from a Member of the position of Sir Maneckji Dadabhoy, I have to reply to it. Sir, I was speaking about child offenders. I have already stated that there is another point which I wanted

to refer to. With regard to hospitals and the mentally deficient inmates of the jail, the Honourable Member has not referred to that point. I would only refer him to the steps that have been taken in different parts of the world about those mentally deficient offenders. If those mentally deficient offenders are separately treated, then the difficulties of the jail administration will be minimised to a great extent, and it has been accepted in the different parts of the world that you ought to go to the root of the criminal instinct of a person and not try to keep out the criminal instinct by oppressive measures.

Sir, I had thought that this Resolution of mine which was to a great extent in conformity with the Communiqué which has been already issued by the Government of India with regard to jail administration would be acceptable to Government, but I am surprised to find that in this case also Government opposes this. The position is this, that only a few weeks ago, in August, when that Resolution or communiqué was issued, Government stated that it could not make up its mind until and unless the recommendations of the provincial committees were received as to what procedure should be adopted. But to-day the Honourable Member in charge says, irrespective of that, without any qualification, that no committee can be appointed. That is to say, the Department will deal with the matter as best they can. I think it is to the interest of the Government itself to have a committee appointed and to go into the matter fully.

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 take steps to appoint, at an early date, a committee consisting of Members of the Central Legislature and other representatives to investigate the subject of Jail Administration in general in British India and with special reference to—

- (1) Inspection and superintendence of prisons;
- (2) Classification and separation of prisoners;
- (3) Prison discipline;
- (4) Treatment of under-trial prisoners;
- (5) Prison hygiene and medical administration;
- (6) Visitors;
- (7) Treatment of the child offender;
- (8) Treatment of State prisoners and political offenders; and
- (9) Special classes of prisoners'."

The Council divided :

AYES—13.

Asthana, The Honourable Mr. Narayan Prasad.	Mukherjee, The Honourable Srijut Lokanath.
Desika Chari, The Honourable Mr. P. C.	Ram Saran Das, The Honourable Rai Bahadur Lala.
Govind Das, The Honourable Seth.	Ramadas Pantulu, The Honourable Mr. V.
Khaparde, The Honourable Mr. G. S.	Rama Rau, The Honourable Rao Sahib Dr. C.
Mahendra Prasad, The Honourable Mr.	Subrawardy, The Honourable Mr. Mahmood.
Mehr Shah, The Honourable Nawab Sahibzada Saiyad Mohamad.	Surpat Singh, The Honourable Mr.
Mookerjee, The Honourable Srijut Rama Prasad.	

NOES—20.

Akbar Khan, The Honourable Major Nawab Mahomed.	Fyfe, The Honourable Mr. J. H.
Akram Hussain Bahadur, The Honourable Prince A. M. M.	Graham, The Honourable Mr. L.
Basu, The Honourable Rai Bahadur Suresh Chandra.	Gwynne, The Honourable Mr. C. W.
Burdon, The Honourable Mr. E.	Harper, The Honourable Mr. K. B.
Charanjit Singh, The Honourable Sardar	Latifi, The Honourable Mr. Alma.
Clayton, The Honourable Mr. H. B.	Maqbul Husain, The Honourable Khan Bahadur Sheikh.
Dadabhoy, The Honourable Sir Maneckji.	Ryan, The Honourable Mr. T.
Dutt, The Honourable Mr. P. C.	Symons, The Honourable Major-General Sir Henry.
Fazl-i-Husain, The Honourable Khan Bahadur Mian Sir.	Thompson, The Honourable Sir John.
	Weston, The Honourable Mr. D.
	Woodhead, The Honourable Mr. J. A.

The motion was negatived.

The Council then adjourned till Eleven of the Clock on Tuesday, the 24th September, 1929.

COUNCIL OF STATE.

Tuesday, 24th September, 1929.

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

QUESTIONS AND ANSWERS.

NUMBER OF PASSENGERS COMING TO AND STARTING FROM THE ALLAHABAD, CAWNPORE AND LUCKNOW RAILWAY STATIONS DURING THE LAST FIVE YEARS, ETC.

68. THE HONOURABLE MR. NARAYAN PRASAD ASTHANA: Will Government be pleased to lay on the table a statement showing the number of railway passengers coming to and starting from the Allahabad, Cawnpore and Lucknow railway stations, respectively, during the last five years as well as a comparative statement of the income derived from passenger traffic at the above stations during the same period?

THE HONOURABLE MR. J. A. WOODHEAD: I am not sure that all the information asked for by the Honourable Member is available, but I will obtain and send him such figures as can readily be extracted from the existing records.

THE HONOURABLE MR. NARAYAN PRASAD ASTHANA: A supplementary question, Sir. Is the Government going to collect the information required?

THE HONOURABLE MR. J. A. WOODHEAD: Yes, Sir. My answer definitely says: "I will obtain and send him such figures as can readily be extracted from the existing records."

EXPENDITURE ON THE CONSTRUCTION OF THE NEW RAILWAY STATIONS AT LUCKNOW AND CAWNPORE.

69. THE HONOURABLE MR. NARAYAN PRASAD ASTHANA: Will Government be pleased to state the amount spent on the construction of the new railway stations at Lucknow and Cawnpore?

THE HONOURABLE MR. J. A. WOODHEAD: The amounts spent on the new railway stations at Lucknow and Cawnpore up to the end of March, 1929, were Rs. 63 lakhs and Rs. 45 lakhs, respectively.

RECRUITMENT OF THE SUBORDINATE RAILWAY SERVICE ON THE EAST INDIAN AND NORTH-WESTERN RAILWAYS.

70. THE HONOURABLE MR. NARAYAN PRASAD ASTHANA: (a) What is the system adopted for the recruitment of the subordinate railway

service on the East Indian and North-Western Railways, with special reference to the portions of these railway lines situated within the United Provinces of Agra and Oudh ?

(b) Is any preference given to the residents of these provinces in such recruitment ?

THE HONOURABLE MR. J. A. WOODHEAD : (a) Recruitment is effected on each division by Selection Committees or through the Personnel Officer.

(b) As recruitment is effected locally, the inhabitants of the areas close to the recruiting centres derive a certain advantage from their geographical proximity to such centre.

THE HONOURABLE MR. NARAYAN PRASAD ASTHANA : A supplementary question, Sir. Where is the recruitment for the portion of the railway which is situated in the United Provinces of Agra and Oudh made ?

THE HONOURABLE MR. J. A. WOODHEAD : I should like to have notice of that question, Sir.

AMALGAMATION OF THE BENGAL AND NORTH-WESTERN RAILWAY AND THE ROHILKUND AND KUMAON RAILWAY.

71. THE HONOURABLE MR. NARAYAN PRASAD ASTHANA : (a) Have the Bengal and North-Western Railway and the Rohilkund and Kumaon Railway administrations been amalgamated ?

(b) When do the terms of contracts of the above two railways expire ?

(c) Is it intended to take them over as State lines on the expiry of the term of their present contracts ?

(d) If not, why not ?

THE HONOURABLE MR. J. A. WOODHEAD : (a) The control of the working of the Rohilkund and Kumaon Railway was vested in the Bengal and North-Western Railway from the 1st July, 1924.

(b) The contracts expire on the 31st December, 1932.

(c) and (d). The question whether the Railways should be taken over by the State on that date has not yet been considered.

PASSENGER FARES ON STATE RAILWAYS.

72. THE HONOURABLE MR. NARAYAN PRASAD ASTHANA : (a) Are the rates of passenger fares on all State Railway lines equal ?

(b) If not, have Government considered the advisability of equalising them ?

THE HONOURABLE MR. J. A. WOODHEAD : Financial conditions on different State Railways prevent entire uniformity in the matter of passenger fares.

ISSUE OF RETURN TICKETS AT REDUCED FARES ON THE GREAT INDIAN PENINSULA RAILWAY.

73. THE HONOURABLE MR. NARAYAN PRASAD ASTHANA : (a) Will Government be pleased to state whether the system of issuing return tickets at reduced fares has been introduced on the Great Indian Peninsula Railway ?

(b) If not, why ?

THE HONOURABLE MR. J. A. WOODHEAD : The Honourable Member is referred to the reply given by Mr. Parsons to question No. 181 asked by Mr. A. H. Ghuznavi on the 29th January, 1929, in the Legislative Assembly.

FREE ALLOWANCE OF LUGGAGE TO PASSENGERS ON RAILWAYS.

74. THE HONOURABLE MR. NARAYAN PRASAD ASTHANA : How long has the present scale of free luggage allowed to passengers on railways been in force ?

THE HONOURABLE MR. J. A. WOODHEAD : So far as I am aware, the scale has been in force for some 40 years.

REVISIONS OF PASSENGER FARES ON RAILWAYS DURING THE LAST 25 YEARS.

75. THE HONOURABLE MR. NARAYAN PRASAD ASTHANA : How many times has the scale of fares of railway passengers been revised by the different railway administrations within the last 25 years ?

THE HONOURABLE MR. J. A. WOODHEAD : I am placing on the table a statement showing passenger fares in force on Class I Railways during the different periods since 1910. I am afraid that this information prior to 1910 is not readily available.

Statement showing the fares in force for 1st Class during the different periods since 1910.

Date of revision.	Fares in force.	Date of revision.	Fares in force.
	N. W. RAILWAY.		O. & R. RAILWAY.
1-1-10*	18 pies 1st 300 miles. 12 pies additional distance.	1-1-10	18 pies all distances.
1-7-17	18 pies all distances.	1-2-22	24 pies 1st 300 miles. 18 pies additional distance.
1-1-22	24 pies 1st 300 miles. 18 pies additional distance.		
1-4-26	18 pies all distances.		
1-2-27	18 pies 1st 300 miles. 12 pies additional distance.		
*18 pies all distances over the Mushkaf-Bolan and Sind-Pishin Sections.			
	E. B. RAILWAY.†		E. I. RAILWAY.
1910	18 pies all distances.	1-1-10	18 pies 1st 300 miles. 12 pies additional distance.
1-12-21	24 pies 1st 150 miles. 18 pies additional distance.	1-5-17	18 pies all distances.
15-5-22	30 pies 1st 150 miles. 20 pies additional distance.	1-10-21	24 pies 1st 300 miles. 18 pies additional distance.
1-8-27	24 pies 1st 150 miles. 18 pies additional distance.	1-6-22	30 pies 1st 300 miles. 18 pies additional distance.
† Different fares were in force on branch lines worked by the E. B. Railway and in return journey fares.			
		1-4-24	24 pies 1st 300 miles. 18 pies additional distance.
		1-2-27	24 pies 1st 100 miles. 18 pies 101—300 miles. 12 pies additional distance.

Statement showing the fares in force for 1st Class during the different periods since 1910—contd.

Date of revision.	Fares in force.	Date of revision.	Fares in force.
	G. I. P. RAILWAY.		B., B. & C. I. RAILWAY.
1-1-10	18 pies 1st 300 miles. 12 pies additional distance.	1-1-10	B. G. and M. G.—all trains. } 18 pies 1st 300 miles. 12 pies additional distance.
1-6-17	18 pies all distances.	1-6-17	B. G. and M. G.—all trains. } 18 pies all distances.
1-4-21	24 pies 1st 300 miles. 18 pies additional distance.	1-4-21	B. G. and M. G.—all trains. } 24 pies 1st 300 miles. 18 pies additional distance.
1-5-22	30 pies 1st 300 miles. 18 pies additional distance.	1-5-22	B. G. and M. G.—all trains. } 30 pies 1st 300 miles. 18 pies additional distance.
1-10-24	24 pies 1st 300 miles. 18 pies additional distance.	1-10-24	B. G. and M. G.—all trains. } 24 pies 1st 300 miles. 18 pies additional distance.
1-4-26	18 pies all distances.	1-4-26	B. G. and M. G.—all trains. } 24 pies 1st 150 miles. 18 pies additional distance.
	M. & S. M. RAILWAY.		B. N. RAILWAY.
1-1-10	B. G. and M. G.—all trains. } 18 pies 1st 300 miles. 12 pies additional distance.	1-1-10	18 pies 1st 300 miles. 12 pies additional distance.
1-4-17	B. G. and M. G.—all trains. } 18 pies all distances.	1-5-17	24 pies 1st 200 miles. 12 pies additional distance.
1-6-21	B. G.—all trains and M. G.—mail. } 24 pies 1st 300 miles. 18 pies additional distance. M. G.—Ordinary—18 pies all distances.	1-10-21	24 pies 1st 200 miles. 18 pies additional distance.
1-6-22	B. G. and M. G.—all trains. } 30 pies 1st 300 miles. 18 pies additional distance.	1-6-22	24 pies 1st 300 miles. 18 pies additional distance.
1-10-24	B. G. and M. G.—all trains. } 24 pies 1st 300 miles. 18 pies additional distance.		
1-10-26	B. G. and M. G.—all trains. } 24 pies 1st 150 miles. 18 pies additional distance.		

Statement showing the fares in force for 1st Class during the different periods since 1910—contd.

Date of revision.	Fares in force.	Date of revision.	Fares in force.
	S. I. RAILWAY (<i>Nilgiri excepted</i>).		BURMA RAILWAYS.
1-1-10	*Mail—12 pies all distances.	1-1-10	15 pies all distances.
	Ordinary—12 pies all distances.		30 pies all distances on Lashio Br. and Southern Shan States Railway.
1-2-17	*Mail—18 pies all distances.		18 pies all distances.
	Ordinary—12 pies all distances.	1-6-18	36 pies all distances on Lashio Br. and Southern Shan States Railway.
1-7-21	*Mail { 24 pies 1st 300 miles. 18 pies additional distance.		24 pies 1st 300 miles.
	Ordinary—18 pies all distances.	1-12-21	18 pies additional distance.
15-4-22	*Mail { 30 pies 1st 300 miles. 22½ pies additional distance.		Lashio Br. and Southern Shan States. { 48 pies 1st 300 miles. 36 pies additional distance.
	Ordinary—22½ pies all distances.		18 pies all distances.
1-1-26	Mail { 24 pies 1st 300 miles. 18 pies additional distance.	15-6-26	Lashio Br. and Southern Shan States. { 36 pies all distances.
	Ordinary—18 pies all distances.		
1-1-27	Mail { 24 pies 1st 150 miles. 18 pies additional distance.		
* The Mail fares apply also to Trivandrum Express trains—Metre gauge.			
	B. & N. W. RAILWAY.		NIZAM'S RAILWAY.
1-1-10	12 pies all distances.	1-1-10	B. G.—18 pies all distances.
1-7-17	18 pies all distances.		M. G.—12 pies all distances.
1-4-27	18 pies 1st 150 miles. 12 pies additional distance.	1-3-17	B. G. and M. G.—18 pies all distances.

Statement showing the fares in force for 1st Class during the different periods since 1910—concd.

Date of revision.	Fares in force.	Date of revision.	Fares in force.
	J. B. RAILWAY.		A. B. RAILWAY.
1-1-10	18 pies 1st 100 miles. 15 pies 101—200 miles. 12 pies additional distance. 12 pies all distances on J. H. Ry. and Jhudo and Khadro (a) Branches.	1910	18 pies all distances.
1-5-17(b)	18 pies all distances.	1-7-17	24 pies 1 to 50 miles (rounded off to a maximum of 18 pies at 80 miles).
1-8-20	18 pies all distances.		18 pies from 81 miles and beyond.
1-5-21(c)	24 pies 1st 300 miles. 18 pies additional distance.	15-8-20	18 pies all distances on the C. S. Ry. Otherwise as above.
1-5-22(d)	30 pies 1st 300 miles. 24 pies additional distance.	1-4-22	24 pies 1st 300 miles. 18 pies additional distance.
1-11-24(e)	24 pies all distances.	1-7-22	30 pies 1st 300 miles. 16 pies additional distance.
	(a) Jhudo Branch was opened on 18th April, 1909, and Khadro Branch on 1st January, 1912.		R. & K. RAILWAY.
	(b) These fares were brought into force in local booking from 1st May, 1917, and in through booking from 15th May, 1917.	1910	<i>Bareilly Kathgodam Section—</i> 3 annas per mile subject to a maximum of Rs. 10.
	(c) These enhanced fares were brought into force in local booking from 1st May, 1921, and in through booking from 1st June, 1921.	1-8-22	The maximum of Rs. 10 was withdrawn and fares calculated at 3 annas per mile on the actual distance.
	(d) These fares were brought into force in local and through booking from 1st May, 1922, but in through booking from stations on certain Rys. to stations on this Ry. from different dates as the revised fare lists could not reach them in time.		<i>M. R. & L. K. Sections—</i> 3 annas per mile.
	(e) These fares have been revised over the Jodhour Ry. only. Over the Bikaner State Ry. the fares remain the same as were in force over the J. B. Ry. from 1st May, 1922 to 31st October, 1924.	1910	<i>Bareilly Soron Section—</i> 18 pies all distances.
		1910	<i>Lucknow-Bareilly Section including branches—</i> 18 pies all distances.

Statement showing the fares in force for 2nd Class during the different periods since 1910.

Date of revision.	Fares in force.	Date of revision.	Fares in force.
	N. W. RAILWAY.		O. & R. RAILWAY.
1-1-10(a)	9 pies 1st 300 miles. 6 pies additional distance.	1-1-10	9 pies all distances.
1-7-17	9 pies all distances.	1-2-22	12 pies 1st 300 miles. 9 pies additional distance.
1-1-22	12 pies 1st 300 miles. 9 pies additional distance.		
1-4-26	9 pies all distances.		
1-2-27	9 pies 1st 300 miles. 6 pies additional distance.		
(a) 9 pies all distances over the Mushkaf-Bolan and Sind-Pishin Sections.			
	E. B. RAILWAY.*		E. I. RAILWAY.
1910	9 pies all distances.	1-1-10	9 pies 1st 300 miles. 6 pies additional distance.
1-12-21	12 pies 1st 150 miles. 9 pies additional distance.	1-5-17	9 pies all distances.
15-5-22	15 pies 1st 150 miles. 10 pies additional distance.	1-10-21	12 pies 1st 300 miles. 9 pies additional distance.
		1-6-22	15 pies 1st 300 miles. 9 pies additional distance.
		1-4-24	12 pies 1st 300 miles. 9 pies additional distance.
		1-2-27	12 pies 1st 100 miles. 9 pies 101—300 miles. 6 pies additional distance.

* Different fares were in force on branch lines worked by the E. B. Railway and in return journey fares.

Statement showing the fares in force for 2nd Class during the different periods since 1910—contd.

Date of revision.	Fares in force.	Date of revision.	Fares in force.
	G. I. P. RAILWAY.		B., B. & C. I. RAILWAY.
1-1-10	9 pies 1st 300 miles. 6 pies additional distance.	1-1-10	B. G. & M. G.—all trains—9 pies 1st 300 miles. 6 pies additional distance. N. G.—all trains—9 pies all distances.
1-6-17	9 pies all distances.	1-6-17	B. G. & M. G.—all trains—9 pies all distances.
1-4-21	12 pies 1st 300 miles. 9 pies additional distance.	1-1-21	B. G. & M. G.—all trains—9 pies all distances.
1-5-22	15 pies 1st 300 miles. 9 pies additional distance.	1-4-21	N. G.—all trains—18 pies all distances. B. G. & M. G.—all trains—12 pies 1st 300 miles. 9 pies additional distance.
1-10-24	12 pies 1st 300 miles. 9 pies additional distance.	1-5-22	N. G.—all trains—18 pies all distances. B. G. & M. G.—all trains—15 pies 1st 300 miles. 9 pies additional distance.
1-4-26	9 pies all distances.	1-10-24	N. G.—all trains—18 pies all distances. B. G. & M. G.—all trains—12 pies 1st 300 miles. 9 pies additional distance.
	M. & S. M. RAILWAY.	1-4-26	B. G. & M. G.—all trains—12 pies 1st 150 miles. 9 pies additional distance.
1-1-10	B. G. & M. G.—all trains—9 pies 1st 300 miles. 6 pies additional distance.		B. N. RAILWAY.
1-4-17	B. G. & M. G.—all trains—9 pies all distances.	*1-1-10	8 pies 1st 300 miles. 6 pies additional distance.
1-6-21	B. G.—all trains—12 pies 1st 300 miles. M. G.—mail—9 pies additional distance.	1-5-17	12 pies 1st 200 miles. 6 pies additional distance.
	M. G.—ordinary—9 pies all distances.	1-10-21	12 pies 1st 200 miles. 9 pies additional distance.
1-6-22	B. G. & M. G.—all trains—15 pies 1st 300 miles. 9 pies additional distance.	1-6-22	12 pies 1st 300 miles. 9 pies additional distance.
1-10-24	B. G. & M. G.—all trains—12 pies 1st 300 miles. 9 pies additional distance.		*During the period 1910-17, over the E. C. Section (Cuttack to Waltair including Puri and Vizagapatam branches) and over the N. G. lines [viz., (1) Gondia-Chanda-Nagpur Section, (2) Itwari-Chindwara Section, Satpura Extn., Dhamtari branch, Purulia, Lohardaga branch] the scale of charge was 9 pies per mile for any distance.
1-10-26	B. G. & M. G.—all trains—12 pies 1st 150 miles. 9 pies additional distance.		

Statement showing the fares in force for 2nd Class during the different periods since 1910—contd.

Date of revision.	Fares in force.	Date of revision.	Fares in force.
	S. I. RAILWAY (Nilgiri Railway excepted).		BURMA RAILWAYS.
1-1-10	*Mail—6 pies all distances.	1-1-10	9 pies all distances.
	Ordinary—6 pies all distances.		18 pies all distances on Lashio branch and Southern Shan States Railway.
1-2-17	*Mail—9 pies all distances.		12 pies 1st 300 miles.
	Ordinary—6 pies all distances.		9 pies additional distance.
1-7-21	*Mail— $\left\{ \begin{array}{l} 12 \text{ pies 1st 300 miles.} \\ 9 \text{ pies additional distance.} \end{array} \right.$	1-12-21	Lashio branch and Southern Shan States. $\left\{ \begin{array}{l} 24 \text{ pies 1st 300 miles.} \\ 18 \text{ pies additional distance.} \end{array} \right.$
	Ordinary—9 pies all distances.		9 pies all distances.
15-4-22	*Mail— $\left\{ \begin{array}{l} 15 \text{ pies 1st 300 miles.} \\ 11\frac{1}{2} \text{ pies additional distance.} \end{array} \right.$	15-6-26	Lashio branch and Southern Shan States. $\left\{ \begin{array}{l} 18 \text{ pies all distances.} \end{array} \right.$
	Ordinary—11½ pies all distances.		
1-1-26	Mail— $\left\{ \begin{array}{l} 12 \text{ pies 1st 300 miles.} \\ 9 \text{ pies additional distance.} \end{array} \right.$		
	Ordinary—9 pies all distances.		
1-1-27	Mail— $\left\{ \begin{array}{l} 12 \text{ pies 1st 150 miles.} \\ 9 \text{ pies additional distance.} \end{array} \right.$		
*The mail fares apply also to Trivandrum Express trains—metre gauge.			
	B. & N. W. RAILWAY.		NIZAM'S RAILWAY.
1-1-10	6 pies all distances.	1-1-10	B. G. & M. G.—6 pies all distances.
1-7-17	9 pies all distances.		
1-4-27	$\left\{ \begin{array}{l} 9 \text{ pies 1st 150 miles.} \\ 6 \text{ pies additional distance.} \end{array} \right.$	1-3-17	B. G. & M. G.—9 pies all distances.

Statement showing the fares in force for 2nd Class during the different periods since 1910—concl'd.

Date of revision.	Fares in force.	Date of revision.	Fares in force.
	J. B. RAILWAY.		A. B. RAILWAY.
1-1-10	$\left\{ \begin{array}{l} 8 \text{ pies 1st 100 miles.} \\ 7 \text{ pies 101—200 miles.} \\ 6 \text{ pies additional distance.} \end{array} \right.$ Same fares were in force on J. H. Ry. and Jhudo and Khadro branches. (a)	1910	9 pies all distances.
1-5-17(b)	9 pies all distances.	1-7-17	$\left\{ \begin{array}{l} 12 \text{ pies 1 to 50 miles (rounded off to a maximum of 9 pies at 80 miles).} \\ 9 \text{ pies from 81 miles and beyond.} \end{array} \right.$
1-8-20	9 pies all distances.	15-8-20	9 pies all distances on the C. S. Ry. Otherwise as above.
1-5-21 (c)	$\left\{ \begin{array}{l} 12 \text{ pies 1st 300 miles.} \\ 9 \text{ pies additional distance.} \end{array} \right.$	1-4-22	$\left\{ \begin{array}{l} 12 \text{ pies 1st 300 miles.} \\ 9 \text{ pies additional distance.} \end{array} \right.$
1-5-22 (d)	$\left\{ \begin{array}{l} 15 \text{ pies 1st 300 miles.} \\ 12 \text{ pies additional distance.} \end{array} \right.$	1-7-22	$\left\{ \begin{array}{l} 15 \text{ pies 1st 300 miles.} \\ 9 \text{ pies additional distance.} \end{array} \right.$
1-11-24 (e)	12 pies all distances.		
(a) Jhudo branch was opened on 18th April, 1909, and Khadro branch on 1st January, 1912.			
(b) These fares were brought into force in local booking from 1st May, 1917, and in through booking from 15th May, 1917.			
(c) These enhanced fares were brought into force in local booking from 1st May, 1921, and in through booking from 1st June, 1921.			
(d) These fares were brought into force in local and through booking from 1st May, 1922, but in through booking from stations on certain railways to stations on this railway from different dates as the revised fare lists could not reach them in time.			
(e) These fares have been revised over the Jodhpur Railway only. Over the Bikaner State Railway the fares remain the same as were in force over the Jodhpur Bikaner Railway from 1st May, 1922 to 31st October, 1924.			
	R. & K. RAILWAY.		
	Bareilly Kathgodam Section.		
1910	15 pies all distances subject to a maximum of Rs. 5.		
1-8-22	The maximum of Rs. 5 per mile was withdrawn and fares calculated at 15 pies per mile on the actual distance.		
	M. R. & L. K. Sections.		
1910	15 pies all distances.		
	Bareilly Soron Section.		
1910	9 pies all distances.		
	Lucknow Bareilly Section including branches.		
1910	9 pies all distances.		

Statement showing the fares in force for Inter Class during the different periods since 1910.

Date of revision.	Fares in force.	Date of revision.	Fares in force.
	N. W. RAILWAY.		O. AND R. RAILWAY.
1-1-10*	3½ pies 1st 300 miles.	1-1-10	3 pies all distances.
	3 pies additional distance.		4½ pies all distances.
1-7-17	4½ pies all distances.	1-5-17	5½ pies all distances.
	4½ pies all distances by all trains.	1-6-22	
1-1-22	except by Bombay and Calcutta mail trains. { 6 pies 1st 300 miles. 4½ pies additional distance.	1-1-26	Mail— { 7 pies 1st 300 miles. 3½ pies additional distance.
1-6-22	5 pies all distances.		Ordinary— { 5 pies 1st 300 miles. 3½ pies additional distance.
1-4-26	5 pies 1st 50 miles. 4½ pies additional distance.		
*4½ pies all distances over the Mushkaf-Bolan and Singl-Pishin Sections.			
	E. B. RAILWAY†.		E. I. RAILWAY.
1910	Mail and Ordinary { 4 pies all distances.	1-1-10	Mail and Ordinary { 3½ pies 1st 300 miles. 3 pies additional distance.
1-6-17	Mail and Ordinary { 4½ pies all distances.	1-5-17	Mail and Ordinary—4½ pies all distances.
		1-10-21	Mail— { 6 pies 1st 300 miles. 4½ pies additional distance.
1-12-21	Mail— { 6 pies 1st 150 miles. 4½ pies additional distance.	1-6-22	Ordinary—4½ pies all distances. 7½ pies 1st 300 miles.
	Ordinary—4½ pies all distances.		Mail— { 5½ pies additional distance.
15-5-22	Mail and Ordinary { 6 pies 1st 150 miles. 4½ pies additional distance.	1-4-24	Ordinary—5½ pies all distances. 7 pies 1st 300 miles.
			Mail— { 5 pies additional distance.
		1-1-26	Ordinary—5 pies all distances. 7 pies 1st 300 miles.
			Mail— { 3½ pies additional distance. 5 pies 1st 300 miles.
		1-3-28	Ordinary—3½ pies additional distance.
			Mail and Ordinary—5 pies 1st 300 miles. 3½ pies additional distance.

†Different fares were in force on branch lines worked by the E. B. Railway and in return journey fares.

Statement showing the fares in force for Inter Class during the different periods since 1910—contd.

Date of revision.	Fares in force.	Date of revision.	Fares in force.
	G. I. P. RAILWAY.		B., B. AND C. I. RAILWAY.
1-4-12	4½ pies all distances.		No Inter Class.
1-1-21	6 pies all distances.	1-8-22*	B. G.—See note below.
1-5-22	7½ pies all distances.	1-7-23†	M. G.—See note below.
1-10-22	7½ pies 1st 300 miles. 6 pies additional distance.	1-10-24‡	M. G.—See note below.
		15-10-24§	B. G.—See note below.
1-4-26	Mail— { 7½ pies 1st 300 miles. 6 pies additional distance.	1-4-26	B. G. and M. G. all trains. { Mail—6 pies 1st 150 miles. 5 pies additional distance.
1-5-28	Ordinary—6 pies all distances. Mail and Ordinary—6 pies all distances.		Ordinary—5 pies 1st 150 miles. 4 pies additional distance.
*Between Bombay and Viramgam by Kathiawar Express trains—7½ pies all distances.			
†Over the Agra-Achnera-Cawnpore and Delhi-Rewari-Bhatinda Sections by certain slow trains—6 pies all distances.			
‡Over the Agra-Achnera-Cawnpore and Delhi-Rewari-Bhatinda Sections by certain slow trains—5 pies all distances.			
§Between Bombay and Viramgam by Kathiawar Express trains—6 pies all distances.			
	M. AND S. M. RAILWAY.		B. N. RAILWAY.
1-1-10	Mail and Ordinary { 4½ pies all distances.	1-1-10*	Mail and Ordinary { 3½ pies all distances.
1-4-13	Mail and Ordinary { 4 pies 1st 300 miles. 3 pies additional distance.	1-5-17	Mail and Ordinary { 4½ pies all distances.
1-2-17*	Mail and Ordinary { 4½ pies 1st 300 miles. 3½ pies additional distance.	1-8-20	Mail† { 5 pies 1st 400 miles. 4½ pies additional distance.
1-4-17	Mail and Ordinary { 4½ pies all distances.		Ordinary—4½ pies all distances.

Statement showing the fares in force for Inter Class during the different period since 1910—contd.

Date of revision.	Fares in force.	Date of revision.	Fares in force.
	M. & S. M. RAILWAY—contd.		B. N. RAILWAY—contd.
1-8-20	Mail—5 pies all distances.	1-10-21	Mail† { 6 pies 1st 300 miles. 4½ pies additional distance.
	Ordinary—4½ pies all distances.		Ordinary—4½ pies all distances.
1-6-21	Mail—6 pies all distances.		
	Ordinary—4½ pies all distances.	1-6-22	Mail† { 7 pies 1st 300 miles. 5 pies additional distance.
1-6-22	Mail—7 pies all distances.		Ordinary—5 pies all distances.
	Ordinary—5 pies all distances.		
1-6-23	Mail—6 pies all distances.	1-1-26	Mail { 7 pies 1st 300 miles. 3½ pies additional distance.
	Ordinary—5 pies all distances.		Ordinary { 5 pies 1st 300 miles. 3½ pies additional distance.
1-3-24	Mail and { 5 pies all distances.		
	Ordinary { }		

*From 1st February 1917 Inter class fares over metre gauge were—

4 pies 1st 300 miles.

3 pies additional distance.

*During the period 1910-17, over the East Coast Section (Cuttack to Waltair including Puri and Vizagapatam Branches) and over the N. G. lines (viz., (1) Gondia-Chanda-Nagpur Section, (2) Itwari-Chhindwara Section, (3) Satpura Extension, (4) Dhamtari branch and Purulia-Lohasdag branch] the scale of charge was 4½ pies per mile.

† These fares also apply to Express trains.

	S. I. RAILWAY.		BURMA RAILWAYS.
	Inter class accommodation in metre gauge Boat Mails only was introduced from 1st June 1922 at 7½ pies for any distance.		No Inter class.
	No Inter class in ordinary trains.		
	B. AND N.-W. RAILWAY.		NIZAM'S RAILWAY.
1-1-10	3 pies all distances.		No Inter class.
1-7-17	4½ pies all distances.		
1-4-27	4 pies all distances.		

Statement showing the fares in force for Inter Class during the different periods since 1910—contd.

Date of revision.	Fares in force.	Date of revision.	Fares in force.
	J. B. RAILWAY.		A. B. RAILWAY.
1-1-10	3 pies 1st 200 miles. 2½ pies additional distance. Same fares were in force on J. H. Railway and Jhudo and Khadro Branches (a).	1910	4½ pies all distances. 3½ pies all distances—when booked locally from and to any stations between Comilla and Akhaura, both inclusive.
1-12-11	3 pies 1st 300 miles. 2½ pies additional distance. Same fares were in force on J. H. Railway and Jhudo and Khadro Branches (a).	1-6-13	4½ pies all distances. 4 pies all distances—when booked locally from and to any stations between Comilla and Akhaura, both inclusive.
1-5-17(b)	4 pies all distances.	15-6-17	6 pies 1 to 29 miles (rounded off to a maximum of 4½ pies at 43 miles). 4½ pies 44 miles and beyond.
1-8-20(c)	4½ pies all distances.		6 pies 1 to 29 miles and at 5 pies per mile to be rounded off at 34 miles up to 400 miles.
1-5-22(d)	6 pies all distances.	1-8-20	4½ pies for distances beyond 400 miles.
1-11-24(e)	5 pies all distances.	15-8-20	6 pies all distances over the C. S. Railway branch.
	(a) Jhudo branch was opened on 18th April, 1909 and Khadro branch on 1st January, 1912.	1-4-22	6 pies 1st 300 miles. 4½ pies additional distance.
	(b) These fares were brought into force in local booking from 1st May, 1917 and in through booking from 15th May, 1917.	1-7-22	6 pies 1st 300 miles. 5 pies additional distance.
	(c) These revised fares were brought into force in local booking from 1st August, 1920, and in through booking from 1st September, 1920.	1-5-26	5 pies 1st 300 miles. 4 pies additional distance.
	(d) These fares were brought into force in local and through booking from 1st May, 1922, but in through booking from stations on certain railways to stations on this railway from different dates as the revised fare lists could not reach them in time.		
	(e) These fares were revised on the J. B. Railway only. Over the Bikaner State Railway the fares remain the same as were in force over the J. B. Railway from 1st May, 1922 to 31st October, 1924.		

Statement showing the fares in force for **Inter Class** during the different periods since 1910—concl'd.

Date of revision.	Fares in force.	Date of revision.	Fares in force.
	R. AND K. RAILWAY.		
	<i>Bareilly Kathgodam Section.</i>		
1910	8 pies per mile between Kichha and Kathgodam.		
	5 pies per mile between Kichha and Bareilly Junction.		
	<i>M. R. and L. K. Sections.</i>		
1910	5 pies all distances.		
	<i>Bareilly Soron Section.</i>		
1910	4 pies all distances.		
15-7-17	4½ pies all distances.		
	<i>Lucknow-Bareilly Section including branches.</i>		
1910	4 pies all distances.		
15-7-17	4½ pies all distances.		

Statement showing fares in force for **3rd Class** during the different periods since 1910.

Date of revision.	Fares in force.	Date of revision.	Fares in force.
	N. W. RAILWAY.		O. AND R. RAILWAY.
1-1-10*†	2½ pies all distances.	1-1-10	2½ pies 1 to 75 miles. 2 pies 76 to 150 miles. 1½ pies additional distance.
1-6-16*†	2½ pies 1st 100 miles. 2 pies additional distance.	1-5-17	3 pies all distances.
1-7-17	3 pies all distances.	1-6-22	3½ pies all distances.
1-6-22	3½ pies all distances.		
1-4-26	3½ pies 1st 50 miles. 3 pies additional distance.	1-1-26	Mail { 5 pies 1st 300 miles. 3½ pies 301—600 miles. 3 pies additional distance.
1-2-27	3½ pies 1st 50 miles. 3 pies 51—300 miles. 2 pies additional distance.		Ordinary { 3½ pies 1st 300 miles. 2½ pies additional distance.
1-4-28	3½ pies 1st 50 miles. 2½ pies 51—300 miles. 1½ pies additional distance.		
* 3 pies all distances over the Mushkaf-Bolan and Sind-Pishin Sections.			
† 2½ pies all distances over the Nowshera-Dargai and Kohat-Thal Sections from 1st July, 1912 to 30th June, 1917.			
	E. B. RAILWAY‡.		E. I. RAILWAY.
1910	Mail and Ordinary—2½ pies all distances.		
1-6-17	Mail and Ordinary—3 pies all distances.	1-1-10	All trains { 2½ pies 1st 100 miles. 2 pies 101 to 300 miles. 1½ pies additional distance.
1-12-21	Mail { 4 pies 1st 150 miles. 3½ pies additional distance.	1-5-17	All trains—3 pies all distances.
	Ordinary—3 pies all distances.	1-10-21	Mail { 4 pies 1st 300 miles. 3½ pies additional distance.
	‡ Different fares were in force on branch lines worked by E. B. Railway and in return journey fares.		Other trains—3 pies all distances.

Statement showing fares in force for 3rd Class during the different periods since 1910—contd.

Date of revision.	Fares in force.	Date of revision.	Fares in force.
	E. B. RAILWAY*—contd.		E. I. RAILWAY—contd.
15-5-22	Mail { 5 pies 1st 150 miles. 4 pies additional distance.	1-6-22	Mail { 5 pies 1st 300 miles. 4½ pies additional distance.
	Ordinary—3½ pies all distances.		Other trains—3½ pies all distances.
1-8-27	Mail and Ordinary. } 3½ pies all distances.	1-1-26	Mail { 5 pies 1st 300 miles. 3½ pies 301—600 miles. 3 pies additional distance.
* Different fares were in force on branch lines worked by E. B. Railway and in return journey fares.			Ordinary { 3½ pies 1st 300 miles. 2½ pies additional distance.
15-3-29	† Mail and Ordinary. { 3½ pies 1st 150 miles. 2½ pies 151—300 miles. 1½ pies additional distance.	1-2-27	Mail { 5 pies 1st 50 miles. 4 pies 51—300 miles. 2½ pies additional distance.
			Ordinary { 3½ pies 1st 50 miles. 3 pies 51—300 miles. 2 pies additional distance.
		1-3-28	Mail and Ordinary. { 3½ pies 1st 50 miles. 3 pies 51—300 miles. 2 pies additional distance.
		1-5-28	Mail and Ordinary. { 3½ pies 1st 50 miles. 2½ pies 51—300 miles. 1½ pies additional distance.
			B., B. AND C. I. RAILWAY.
1-1-10	Mail— 3 pies all distances. Ordinary— 2½ pies 1st 300 miles. 2 pies additional distance.	1-1-10	Mail— B. G. and M. G. { 3 pies 1st 300 miles. 2 pies additional distance.
			Ordinary— B. G. { 2½ pies 1st 200 miles. 1½ pies additional distance.
			M. G. { 2 pies 1st 200 miles. 1½ pies additional distance.
			N. G. all trains—3 pies all distances.
			G. I. P. RAILWAY.
			Mail— 3½ pies all distances.
			Ordinary— 3 pies all distances.

† In local booking (except over the Sara-Sirajganj, Cooch Behar State, Raja Bhat Khawa-Dalsingpara and Khulna-Bagherhat Railways) and in through booking from 1st April, 1929.

Statement showing fares in force for 3rd Class during the different periods since 1910—contd.

Date of revision.	Fares in force.	Date of revision.	Fares in force.
	G. I. P. RAILWAY—contd.		B., B. & C. I. RAILWAY.—contd.
1-6-17	Mail— 3½ pies all distances. Ordinary— 3 pies all distances.	1-6-17	Mail— B. G.—3½ pies all distances. M. G.—3 pies all distances.
			Ordinary— B. G.—3 pies all distances. M. G.—2½ pies all distances. N. G. all trains.—3 pies all distances.
1-1-21	Mail— 4 pies all distances. Ordinary— 3 pies all distances.	1-3-18	B. G. and M. G. { Mail and Ordinary. { As on 1st June 1917.
			N. G. all trains—4 pies all distances.
1-5-22	Mail— 5 pies all distances. Ordinary— 4 pies all distances.	1-8-20	B. G. and M. G. { Mail—3½ pies all distances. Ordinary—3 pies all distances.
			Mail— B. G. and M. G.—3½ pies all distances.
1-10-22	Mail— 5 pies 1st 300 miles. 4½ pies additional distance. Ordinary— 4 pies 1st 300 miles. 3½ pies additional distance.	1-1-21	Ordinary— B. G. and M. G.—3 pies all distances. N. G. all trains—4½ pies all distances.
			Mail— B. G. and M. G. { 4 pies 1st 300 miles. 3½ pies additional distance.
1-4-26	Ordinary— 4 pies 1st 150 miles. 3½ pies 151—300 miles. 3 pies additional distance.	1-5-22	Ordinary— B. G. and M. G.—3½ pies 1st 300 miles. 3 pies additional distance.
			B. G. and M. G. { 3½ pies 1st 300 miles. 3 pies additional distance.
*1-3-28	Mail and Ordinary— 4 pies 1st 150 miles. 3½ pies 151—300 miles. 3 pies additional distance.	1-10-24	Mail— B. G. and M. G. { 4 pies 1st 300 miles. 3½ pies additional distance.
			Ordinary— N. G. all trains—4½ pies all distances.
			Mail— B. G. and M. G. { 3½ pies 1st 300 miles. 3 pies additional distance.
			Ordinary— B. G. and M. G.—3½ pies 1st 300 miles. 3 pies additional distance.

*In local booking only.

†From 1st May, 1922 to 31st December, 1922, the scale over the Broad Gauge was 3½ pies.

Statement showing fares in force for 3rd Class during the different periods since 1910—contd.

Date of revision.	Fares in force.	Date of revision.	Fares in force.
	G. I. P. RAILWAY—concd.		B., B. & C. I. RAILWAY—concd.
1-5-28	Mail and Ordinary— 4 pies 1st 50 miles. 3½ pies 51—150 miles. 3 pies 151—300 miles 2½ pies additional distance.	1-4-26	Mail— B. G. and { 4 pies 1st 300 miles. M. G. { 3 pies additional distance.
			Ordinary— B. G. and { 3½ pies 1st 300 miles. M. G. { 2½ pies additional distance.
	M. & S. M. RAILWAY.	1-8-28	B. G. and { 3½ pies 1—150 miles. M. G. { 3 pies 151—300 miles. 2½ pies additional distance.
			B. N. RAILWAY.
1-1-10	Mail— B. G. and M. G.—2½ pies all distances.	1-1-10	Mail— 2 pies all distances.
	Ordinary— B. G.* and M. G.—2 pies all distances. W. I. P.—2½ pies all distances.		Ordinary— 2 pies all distances. (a)*
		1-1-13	Mail— 3 pies all distances.
			Ordinary— 2½ pies 1st 200 miles (a). 2 pies additional distance.
	Mail— B. G.—3 pies all distances. M. G. (Poona Miraj)—3 pies all distances. M. G. (other sections)—2½ pies all distances.	1-5-17	Mail and Ordinary— 3 pies all distances.
1-2-17	Ordinary— B. G. and { 2½ pies 1st M. G. (Poona Miraj and Guntur Masulipatam sections). { 200 miles. 2 pies additional distance.	1-8-20	Mail— 4 pies 1st 100 miles. 3½ pies additional distance. } (b)
	M. G. (other sections)—2 pies all distances. W. I. P.—2½ pies all distances.		Ordinary— 3 pies all distances.
	* Over the N. E. line 2½ pies per mile.		

(a) Over the Dhantari and Parulia Ranchi branches the scale of charge in force during the years 1910-17 (April) was 3 pies per mile. * During the period 1910-12, the scale of charge over the lengths Howrah-Cuttack, Khargpur-Gomoh including Bhojudih-Mohuda Loop, Cuttack-Waltair including Puri and Vizagapatam Branches, was 2½ pies per mile.

Prior to May 1917, the scale of charge over the Itwari-Chhindwara Section, was 3 pies per mile.

(b) This scale also applies to Express trains.

Statement showing fares in force for 3rd Class during the different periods since 1910—contd.

Date of revision.	Fares in force.	Date of revision.	Fares in force.
	M. & S. M. RAILWAY—contd.		B. N. RAILWAY—contd.
1-4-17	Mail— B. G. and M. G.—3 pies all distances.	1-10-21	Mail— 4 pies 1st 300 miles. 3½ pies additional distance. } (b)
	Ordinary— B. G. and M. G.—2½ pies all distances.		Ordinary— 3 pies all distances.
1-8-20	Mail— B. G. and M. G.—3½ pies all distances.	1-6-22	Mail— 4½ pies 1st 300 miles. 4 pies additional distance. } (b)
	Ordinary— B. G. and M. G.—3 pies all distances. W. I. P.*—2½ pies all distances.		Ordinary— 3½ pies all distances.
1-6-21	Mail— B. G. and M. G.—4 pies all distances.	1-1-26	Mail— 4½ pies 1st 300 miles. 3½ pies 301—600 miles. 3 pies additional distance.
			Ordinary— 3½ pies 1st 300 miles. 2½ pies additional distance.
1-6-22	Mail— B. G. and { 4½ pies 1st 100 miles. M. G. { 4 pies additional distance.	1-1-26	
	Ordinary— B. G. and { 3½ pies 1st 100 miles. M. G. { 3 pies additional distance.		
1-6-23	Mail— B. G. and M. G.—4 pies all distances.		
1-10-26	Ordinary— B. G. and { 3½ pies 1st 50 miles. M. G. { 3½ pies 51—100 miles. 3 pies additional distance.		
1-10-28	Mail— 4 pies 1—100 miles. 3½ pies 101—300 miles. 2½ pies additional distance.		
	Ordinary— 3½ pies 1—50 miles. 3 pies 51—150 miles. 2½ pies 151—300 miles. 2 pies additional distance.		
	* 3 pies from 1st October 1920.		

(b) This scale also applies to Express trains.

Statement showing fares in force for 3rd Class during the different periods since 1910—contd.

Date of revision.	Fares in force.	Date of revision.	Fares in force.
1-1-10	S. I. RAILWAY (NILGIRI RAILWAY EXCEPTED). Mail*— B. G. { Calicut-Mangalore—2 pies all distances. Other Sections—2½ pies all distances. M. G. { Boat 2½ pies 1st 50 miles. Mail 2½ to 2 pies additional distance.	1-1-10	BURMA RAILWAYS. 3 pies all distances. 6 pies all distances on Lashio branch and Southern Shan States Railway.
	Ordinary— B. G.—2 pies all distances. M. G.—2½ pies to 2 pies all distances. Shoranur-Cochin Tiru. 2½ pies pattur-Krishnagiri and all Morapur-Dharmapuri. } distances.		Mail and fast trains— 4 pies all distances. Ordinary— 3 pies all distances.
1-7-11	Mail— B. G.—East of Podanur† (including Tirupattur-Krishnagiri and Morapur-Hosur Railways and Mettupalaiyam branch.	25-5-22	All trains— 8 pies all distances on Lashio branch and Southern Shan States Railway.
	B. G.—West of Podanur excluding Shoranur-Cochin Railway. †Shoranur-Cochin Ry.—2½ pies 1st 50 miles.		All trains— 4 pies all distances. 8 pies all distances on Lashio branch and Southern Shan States Railway.
	M. G.—Boat mail—2½ pies 1st 50 miles.		3 pies per mile on certain busy sections of the line.
	B. G. & M. G. { 2 pies 51 to 200 miles. 1½ pies additional distance.		All trains— 4 pies 1st 300 miles. 3.5 pies additional distance. 6 pies all distances on Lashio branch and Southern Shan States Railway.
1-1-29	Ordinary— B. G.—All Sections excluding Shoranur-Cochin, Tirupattur-Krishnagiri and Morapur-Hosur Railways. } 2 pies 1st 50 miles.	15-6-26	3½ pies 1st 300 miles. 3 pies additional distance.
	* The mail fares apply also to Trivandrum Express trains—M. G. † From 1st July 1913 to 31st January 1917 the basis of fares over Tirupattur-Krishnagiri, Morapur-Hosur and Shoranur-Cochin Railways were reduced from 2½ to 2 pies a mile.		1-1-29 { 3½ pies 1st 50 miles. 3½ pies 51—150 miles. 3 pies 151—300 miles. 2½ pies additional distance.

Statement showing fares in force for 3rd Class during the different periods since 1910—contd.

Date of revision.	Fares in force.	Date of revision.	Fares in force.
1-7-11	S. I. RAILWAY (NILGIRI RAILWAY EXCEPTED)—contd. B. G.—* Shoranur-Cochin, } 2½ pies Tirupattur-Krishnagiri and Morapur-Hosur Railways. } 1st 50 miles.	1-2-17	M. G.—2½ to 2 pies 1st 50 miles. B. G. { 2 pies 51 to 200 miles and { 1½ pies additional distance. M. G. { 1½ pies additional distance.
	Mail— B. G. & M. G.—3 pies all distances.		Ordinary— B. G. & M. G.—2½ pies all distances.
1-7-21	Mail— B. G. & M. G.—4 pies all distances.	15-4-22	Ordinary— B. G. & M. G.—3 pies all distances.
	Ordinary— B. G. & M. G.—3 pies all distances.		Mail— B. G. & M. G.—5 pies all distances.
1-11-25	Ordinary— B. G. & M. G.—3½ pies all distances.	1-2-26	Ordinary— B. G. { 4½ pies 1st 100 miles. & { 4 pies additional distance M. G. { 4 pies additional distance
	Mail— B. G. & M. G.—3½ pies all distances.		Ordinary— B. G. { 3½ pies 1st 50 miles. & { 3 pies additional distance. M. G. { 3 pies additional distance.
1-1-27	† Mail— B. G. { 4 pies 1—100 miles. & { 3½ pies 101—300 miles. M. G. { 2½ pies additional distance.	1-10-28	† Ordinary— B. G. { 3½ pies 1—50 miles. & { 2½ pies 51—300 miles. M. G. { 2 pies additional distance.
1-1-10	* From 1st July 1913 to 31st January 1917 the basis of fares over Tirupattur-Krishnagiri, Morapur-Hosur and Shoranur-Cochin Railways were reduced from 2½ to 2 pies a mile. † These fares will not operate on Nilgiri Mountain and Shoranur-Nilambur Sections.	1-1-10	NIZAM'S RAILWAY. Mail— B. G. & M. G.—2½ pies all distances. Ordinary— B. G. & M. G.—2 pies all distances.
	B. & N. W. Ry. 2 pies 1st 150 miles. 1½ pies additional distance.		* No mail trains are at present run on the M. G.

Statement showing fares in force for 3rd Class during the different periods since 1910—contd.

Date of revision.	Fares in force.	Date of revision.	Fares in force.
	B. & N. W. RAILWAY—contd.		NIZAM'S RAILWAY—contd.
1-7-17	2 pies all distances.	1-2-10	Mail— B. G. & M. G.* { 3 pies 1st 50 miles. 2½ pies additional distance.
1-5-21	2½ pies all distances.		Ordinary— B. G. & M. G. { 2½ pies 1st 50 miles. 2 pies additional distance.
1-4-27	{ 2½ pies 1st 50 miles. 2 pies additional distance.	1-3-17	Mail— B. G. & M. G.—*3 pies all distances.
			Ordinary— B. G. & M. G.—2½ pies all distances.
		1-4-20	Mail— B. G. & M. G.*—3½ pies all distances.
			Ordinary— B. G. & M. G.—3 pies all distances.
			* No mail trains are at present run on the M. G.
	J. B. RAILWAY.		A. B. RAILWAY.
1-1-10	{ 2 pies all distances. 2½ pies all distances on J. H. Ry. and Jhudo and Khadro branches (a).	1910	3 pies all distances.
1-5-17 (b)	2½ pies all distances.		1½ pies all distances.—When passengers are booked through from the E. I., R. N., B. & N. W., O. & R. & G. I. P. Rys. via Goalundo and Chandpur to the stations on the Gauhati-Tinsukia Section and stations on the D. S. Ry.
1-8-20(c)	3 pies all distances.	1-11-14	3 pies all distances.
1-5-22 (d)	4 pies all distances.	15-6-17	4 pies 1 to 20 miles (rounded off to a maximum of 3 pies at 30 miles).
1-11-24(e)	4 pies all distances.		3 pies 31 miles and beyond.

- (a) Jhudo branch was opened on 18th April 1909 and Khadro branch on 1st January 1912.
 (b) These fares were brought into force in local booking from 1st May 1917 and in through booking from 15th May 1917.
 (c) These revised fares brought into force in local booking from 1st August 1920 and in through booking from 1st September 1920.
 (d) These fares were brought into force in local and through booking from 1st May 1922 but in through booking from stations on certain Railways to stations on this Railway from different dates as the revised fare lists could not reach them in time.
 (e) These fares have been revised over the Jodhpur Railway only. Over the Bikaner State Railway the fares remain the same as were in force over the J. B. Railway from 1st May 1922 to 31st October 1924.

Statement showing fares in force for 3rd Class during the different periods since 1910—concl.

Date of revision.	Fares in force.	Date of revision.	Fares in force.
			A. B. RAILWAY—contd.
		1-8-20	{ 4 pies 1st 100 miles. 3½ pies additional distance.
		15-8-20	{ 4½ pies all distances—Over the C. S. Ry. branch. Otherwise as above.
		1-4-22	{ 4 pies 1st 300 miles. 3½ pies additional distance.
		1-7-22	{ 4½ pies all distances—Over the C. S. Ry. & K. L. Ry. branches. Otherwise as above.
			Note.—Special rates quoted for Tea garden coolies—when booked from Chandpore and via and Gauhati and via and Pandu and via to certain cooly booking stations and vice versa and coolies for A. B. Railway capital or construction works.
			R. & K. RAILWAY.
			Bareilly Kathgodam Section.
1910	{ 4 pies per mile between Kichha and Kathgodam.		
1-7-21	{ 2½ pies per mile between Kichha and Bareilly Junction. 3 pies per mile between Kichha and Bareilly Junction.		
1910	{ 2½ pies all distances.		
1-3-23	{ 3 pies all distances.		
			Bareilly Soron Section.
1910	{ 2 pies all distances.		
15-7-17	{ 2½ pies all distances.		
1-4-21	{ 3 pies all distances.		
			Lucknow Bareilly Section including branches.
1910	{ 2½ pies per mile between Bhojepura Jn. and Bareilly Jn.		
1-7-21.	{ 2 pies per mile between Bhojepura Jn. and Lucknow Jn. 2½ pies per mile between Bareilly Jn. and Lucknow Jn.		
1-3-23	{ 3 pies per mile between Bhojepura Jn. and Bareilly Jn.		

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 the following Bills which were passed by the Legislative Assembly at its meeting held on the 23rd September, 1929:

A Bill further to amend the Indian Income-tax Act, 1922, for certain purposes.

A Bill to restrain the solemnisation of child marriages.

INDIAN INCOME-TAX (PROVIDENT FUNDS RELIEF) BILL.

THE HONOURABLE MR. E. BURDON (Finance Secretary): Sir, I desire to give notice that, subject to your permission, Sir, and the permission of the Council, I wish to move on Thursday next that the Bill to amend the Indian Income-tax Act, 1922, which has just been laid on the table, be taken into consideration, and, if that motion is accepted, further to move that the Bill be passed.

THE HONOURABLE MR. G. S. KHAPARDE (Berar Representative): That does not give us three days' notice, Sir.

THE HONOURABLE THE PRESIDENT: I, as the Council knows, am always prepared to be guided by the Council in this matter of shortening the period of three days' notice. The Honourable the Finance Secretary has asked me to shorten that notice and to allow the Bill to amend the Indian Income-tax Act, 1922, for certain purposes, as passed by the Legislative Assembly, to be taken up after two days, that is to say, on Thursday. I see no reason to shorten the period of notice in this case if there is a feeling in the Council that the full period of notice should be given. I should be glad to hear the view of the Council in the matter.

THE HONOURABLE MR. G. S. KHAPARDE: I am inclined to ask for the full three days' notice, Sir. It is a very important matter and there has been much discussion, and there is a wide difference of opinion in the country itself.

THE HONOURABLE THE PRESIDENT: Is the Honourable Member sure which Bill he is referring to?

THE HONOURABLE MR. E. BURDON: May I explain? I should like to explain the reason why I ask that notice might be shortened. It is this. The Bill in question.....

THE HONOURABLE THE PRESIDENT: I may explain to the Honourable Mr. Khaparde that the Bill we are at the moment referring to is not the Bill to restrain the solemnisation of child marriages, but the Bill to amend the Indian Income-tax Act. I do not know whether the Honourable Member realises that.

THE HONOURABLE MR. G. S. KHAPARDE: I was thinking it was the Child Marriage Bill.

THE HONOURABLE THE PRESIDENT: In that case, I understand the Honourable Member does not wish to press his objection to short notice?

THE HONOURABLE MR. G. S. KHAPARDE: Not on this Bill.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE (West Bengal: Non-Muhammadan): Sir, if the Bill is to be taken up on Thursday, I think if notice of amendment is given by any Honourable Member, it will be accepted to-morrow?

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN (Education, Health and Lands Member): Certainly.

THE HONOURABLE MR. E. BURDON: Yes, Sir.

THE HONOURABLE THE PRESIDENT: Undoubtedly that will be so. I direct then that the consideration of the Bill, as passed by the Legislative Assembly, be put on the list of business for Thursday.

CHILD MARRIAGE RESTRAINT BILL.

THE HONOURABLE MR. V. RAMADAS PANTULU (Madras: Non-Muhammadan): Sir, I beg to give notice of my intention to move that the Bill to restrain the solemnisation of child marriages, as passed by the Legislative Assembly, be taken into consideration, and if that motion is adopted, also to move that the Bill, as amended, if necessary, be passed. This will be, Sir, on such date as you may fix.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN (Education, Health and Lands Member): It is no doubt true, Sir, that the 26th is a Government day, but as soon as Government business is finished, I will be very glad, if the Council so desires, to give the rest of the day to the motion that the Honourable Mr. Pantulu has just announced he would like to make.

THE HONOURABLE MR. G. S. KHAPARDE (Berar Representative): I wish to oppose the proposal of my Honourable friend Mr. Ramadas Pantulu about the Bill being taken on Thursday. My reason is that this is a very important Bill which deals with many important matters, and we should have the full three days' time to consider all its details.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN: My position is this. I do not press that it must be taken into consideration on Thursday, although I must confess that I cannot understand the argument given by the Honourable Mr. Khaparde of not having sufficient time to consider this measure which has been before the Simla public now for some weeks, and which has been before the country for some months, if not years. Still, as I say, the position of Government is that if the Council desires this Bill to be considered on Thursday, after Government business is over, Government will be very pleased to place the rest of that day at the disposal of this Council for this motion. If, on the other hand, Honourable Members desire that it should be discussed not on Thursday but later, Government will try to do its best to meet their wishes.

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces : Nominated Non-Official) : Sir, I think it advisable to take up the Bill on Thursday after Government work is concluded. It is necessary in this way that the Bill is of a very important character and probably there will be a full dress debate on the Bill in this House. We may not be able to finish the Bill on Thursday and we will be able to avail ourselves of Friday under such circumstances, with the result that we will be able to finish our work on Friday evening, and on Saturday most of us will be able to clear out of Simla. (Laughter) As far as I understand, the general opinion in the House is that the Bill should be taken on Thursday.

THE HONOURABLE MR. NARAYAN PRASAD ASTHANA (United Provinces Northern : Non-Muhammadan) : Sir, I support the motion that has been made that the Bill should be taken into consideration on the 26th after the Government business is over, because I think that those who oppose the Bill hardly need any time. Of course those who wish to move amendments do require some time. I think Mr. Khaparde's objection—he opposes the Bill tooth and nail—will not commend itself to the House. I hope you will ascertain the wishes of the House.

THE HONOURABLE MR. SURPUT SING (Bihar and Orissa : Non-Muhammadan) : Sir, the Bill ought to be taken into consideration during the Delhi Session. This Bill was only passed in the other House yesterday, and, as this House is a revising Chamber, Members ought to get ample opportunity to think over and give their opinion on it. So I suggest that the Bill be taken into consideration in the Delhi Session.

THE HONOURABLE MR. G. A. NATESAN (Madras : Nominated Non-Official) : Sir, I strongly support the suggestion that we should take up the Bill after Government business on Thursday. The matter has been discussed for a very long time, almost *ad nauseam*. I really think this House will be consulting its own interests and the interests of the country at large by proceeding with the Bill on Thursday and arriving at a decision by Friday.

THE HONOURABLE MR. V. RAMADAS PANTULU : I assure my friends who want time that they will have ample opportunity. So far as I am concerned, in moving the consideration of the Bill, I promise this House to be as brief as I can be, because the Honourable Members know all about the Bill and I shall take a very very short time. Also during the debate I shall see to it that those who are on my side supporting the Bill will take as little time as possible and leave the opposite side as much time as they want. As Member in charge of the Bill I shall accept any amendment which may come in up to Wednesday night, and I shall not even object to any amendments being tabled on Thursday. With this assurance I hope that my friend Mr. Khaparde will not press his objection, because some of us do wish to go away as soon as possible—I myself have urgent business—and want to finish by lunch time on Friday, if possible. I appeal to the House to agree to Thursday with the assurance that the opponents of the Bill will have full opportunities of debate.

THE HONOURABLE MR. G. S. KHAPARDE : Sir, I first put my objection very briefly as I thought it would be very easy to settle the matter, but I see that there are gentlemen intent upon forcing the Bill through on Thursday

and finishing it by Friday. And the ground taken is that it has been much discussed. But that is the very ground on which we think a longer time should be taken to discuss it, because there is a great deal of agitation in the country about it, and it would not be right for this Honourable Council to hurry it through. The very reason which they give is conducive to my argument.

THE HONOURABLE THE PRESIDENT : In a matter of this kind, when I ask the guidance of the House, I like to have unanimity. In view of the fact that the Honourable Mr. Khaparde adheres to his objection, I feel that, if the Government can provide time on Friday for the Bill, it should be taken up on Friday.

PROVIDENT FUNDS (AMENDMENT) BILL.

THE HONOURABLE MR. E. BURDON (Finance Secretary) : Sir, I move that the Bill further to amend the Provident Funds Act, 1925, for certain purposes, be taken into consideration.

Sir, if Honourable Members will turn to the Statement of Objects and Reasons they will, I think, see that this is a very simple and straightforward measure. As I said when introducing the Bill the other day, the Bill has three purposes of which the first two are very largely formal. The first of these purposes is to legalise withdrawals from a provident fund for the payment of subscriptions or premia to a family pension fund. The Act already provides that withdrawals may be made for the payment of premia on a policy of life assurance, and this extension of the same principle is considered both desirable and logical. I should like to explain, and I think Honourable Members would be interested to know, that this amendment will have a fairly wide application. In addition to the family pension fund which has recently been created for the superior civil services, there are five other family pension funds which Government has already recognised and which should consequently be recognized for the purposes of withdrawal from a Government provident fund. These are :

1. The Bombay Uncovenanted Service Family Pension Fund.
2. The Madras and Bengal Service Family Pension Fund.
3. The General Family Pension Fund.
4. The Hindu Family Annuity Fund.
5. The Bengal Christian Family Pension Fund.

Honourable Members will remember that for many years the general provident fund has allowed payments to recognized family pension funds to be substituted for subscription to the general provident fund. So what is being proposed here is really nothing new in the way of policy, and I think the Council will agree that it is desirable. Before I leave this particular point, I should like to explain that it is possible at the present moment for Government to allow by rule withdrawals from a provident fund to be made for the payment of subscriptions to a family pension fund, but statutory provision is required, the statutory provision which I ask the Council to make, for this reason, that, without such provision the deposits in the provident fund will not conform to

[Mr. E. Burdon.]

the definition of "compulsory deposits", and consequently they will not legally be entitled to the protection which it is the purpose of the Provident Funds Act to secure to them.

Now, Sir, the second purpose is to delete from the definitions of "compulsory deposit", "contribution" and "provident fund" words which have recently been interpreted to mean that contributions to a contributory provident fund should bear some relation to the subscribers' subscriptions apart from that of being an addition to them: that, for instance, they should be credited at the same time as subscriptions or bear a particular proportion to them. No justification is found for such a restriction and it is considered expedient to remove it. I wish to explain to the Council that the need for this amendment was brought to light in connection with the drafting of the Indian Civil Service (non-European Members) Contributory Provident Fund Rules. The Government contribution under those rules is to be a lump contribution made to the subscriber at the end of his service, provided his service did not terminate by dismissal or within five years of his entry into the service. Here again the amendment of the law is required in order to retain for the deposits in the provident fund the character of compulsory deposits and so to secure to the deposits as a whole the protection of the Provident Funds Act.

Now, Sir, this brings me to the third purpose, which is really the only substantive proposal in the Bill, namely, the proposal to extend the benefits of the Provident Funds Act to quasi-Government provident funds. Honourable Members are probably aware that parallel legislation has been in progress elsewhere for the purpose of extending the concession of exemption from income-tax to the provident funds of private commercial companies and firms—I am referring here to the Bill which only a few minutes ago was laid upon the table of this Council. Now, Sir, in considering this particular proposal in the Bill which is before us, Honourable Members may wish to ask the question which has several times been put to me in the course of the official correspondence which has preceded the proposals for legislation. The question is, why do you differentiate in this matter between Government servants and quasi-Government servants on the one hand, and, on the other hand, those private persons to whom you are prepared to make some concession in the matter of their provident funds? Why do you give to the former all the benefits and protection of the Provident Funds Act and to the latter only the immunity from income-tax? The answer is, Sir, that the benefits and the protections which have been denied to the latter—the chief of these being that their deposits in the provident funds are immune from attachment for debt—as I say, Sir, these protections constitute a serious invasion of the ordinary rights of private creditors which may be justifiable in the case of public servants but becomes dangerous once any process of extending it commences. The reason why it is believed to be justifiable to give this protection to public servants is, I think, clear. Everyone will agree, I think, that it is desirable that the instruments and servants of Government should in their way of living command and deserve the confidence and respect of the public. As it is their business to apply the rule of law in their own particular sphere, to enforce regularity and obedience on others, it is right that their own conduct should be regular, orderly

and respectable, that they should be a good rather than a bad example. In order to promote the achievement of these results, there are a number of things which Government do which are held to be right and proper, and one of these is to be found in the special protection afforded by the Provident Funds Act. I should explain that the protection carries with it a restriction. If deposits cannot be attached for debt, also they cannot be assigned or charged, and so the depositor is restrained from running into debt. The quasi-provident funds, according to our conception of the matter, will be funds for categories of subscribers hardly distinguishable from Government servants in respect of the status they hold or in respect of the standards which it is desirable in the public interest that they should observe. The representatives of trade and commerce, with whom Government discussed the proposal to extend some concessions to the provident funds of private commercial firms and companies, accepted the differentiation which we proposed to make and the reasons for it which I have given the House to-day.

As Honourable Members will have seen, it is proposed that there should be a Schedule with power to add to it. The Government of India have been very strict in their initial selection of the funds to be placed in the Schedule which is to become law with the rest of the Bill. The approximation of the beneficiaries to Government servants is very close indeed, and the Schedule is intended to signify to the Council, as exactly as possible, the type of funds to which admission to the Schedule will be restricted. There are six items in the Schedule. The Pasteur Institute of India, Kasauli, the Calcutta Improvement Tribunal, a Court of Wards, the Indian Central Cotton Committee, the Trustees for the European Hospital for mental diseases at Ranchi and the National Association for supplying female medical aid to the women of India. I do not think it is necessary for me to enter into the merits of each of the institutions which I have mentioned. I think they are well known to the public and to Honourable Members of this Council at any rate. Sir, I move.

THE HONOURABLE THE PRESIDENT: The question is that the Bill further to amend the Provident Funds Act, 1925, for certain purposes, be taken into consideration.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE (West Bengal: Non-Muhammadan): Sir, I have given notice of three amendments.

THE HONOURABLE THE PRESIDENT: The Honourable Member will have an opportunity shortly to move these amendments. Does he want to speak on the motion that the Bill be taken into consideration?

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: No, Sir; I shall speak later on.

THE HONOURABLE THE PRESIDENT: The question is:

"That the Bill further to amend the Provident Funds Act, 1925, for certain purposes, 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 SRIJUT RAMA PRASAD MOOKERJEE: Before clause 2 is taken up, I would suggest that we take up the Schedule first, because on the amendment that I have given notice of, namely, an addition to the Schedule, will depend the alteration in the other clauses.

THE HONOURABLE THE PRESIDENT: I do not quite follow the Honourable Member's suggestion in that respect. It is always the practice to take up the clauses of the Bill first and to take up the Schedule thereafter. I do not see that any item in the Schedule will affect the working of clause 2. It is not a Schedule to the Bill. It is a part of a clause of the Bill, and the amendment of the Schedule will come up when clause 4 is taken into consideration.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: If I may be allowed to explain, what I meant was this. My amendments were that....

THE HONOURABLE THE PRESIDENT: The Honourable Member is, I think, making a mistake. His amendment is to sub-clause (2) of clause 3. I have here no amendment from the Honourable Member affecting clause 2.

The question is:

"That clause 2 do stand part of the Bill."

The motion was adopted.

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 SRIJUT RAMA PRASAD MOOKERJEE: I understand that the new amendment which I have suggested has been placed in your hands, as also in the hands of the Honourable Mr. Burdon. I may be allowed to substitute that amendment for the one which I have given notice of.

THE HONOURABLE THE PRESIDENT: It is irregular to move that now. I have put the question to the Council that clause 3 do stand part of the Bill and I called the Honourable Member to move the two amendments standing in his name to clause 3 of the Bill.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: I was going to mention that as soon as I have your permission....

THE HONOURABLE THE PRESIDENT: I understand now that the Honourable Member's one amendment is in substitution of all the amendments of which he has given notice.

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 THE PRESIDENT: Clause 4.

THE HONOURABLE MR. E. BURDON: Sir, I desire to move the amendment which stands in my name. The amendment runs as follows:

"In the Schedule to the Act inserted by clause 4 of the Bill for '6. The National Association for supplying female medical aid by women to the women of India' substitute '6. The National Association for supplying female medical aid to the women of India'."

The amendment is of a purely formal character, the purpose being to give in the Schedule the exact designation of the Association, which is an incorporated body and which therefore it is necessary to define very precisely.

The amendment was adopted.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: Sir, I have your leave then to move the substituted amendment which is in your hand already.

THE HONOURABLE THE PRESIDENT: The Honourable Member may move.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: I move:

"That in clause 4 of the Bill the following item be added to the Schedule, namely:

'7. A college affiliated to a University established by Statute'."

As it has already been explained by the Honourable Member in charge that the purpose for which this Bill is introduced is to include institutions which are not Government institutions in the sense in which the term is used in section 2 of the Provident Funds Act for that purpose, I want to add another class of institutions which, in my opinion, come within the purview of this Bill. Sir, according to section 2 (e) of the Provident Funds Act, a provident fund which is stated to be governed by this Act is a fund in which subscriptions or deposits of any class or classes of employees are received and held on their individual account and includes any interest accruing from such subscriptions, and so on. Sir, you will find further that the Government provident fund is meant to be a fund which is "constituted by the authority of the Government for any class of institutions or any class of its employees." But the institutions which are included in the Schedule in this amending Bill are not institutions of this character. But under clause 3, before any institution mentioned in the Schedule is brought within the purview of the Provident Funds Act, the Government must satisfy themselves that those provident funds are constituted according to certain general principles to which the Honourable Member has already referred. Sir, according to the Indian Universities Act the colleges are affiliated by Government, although the recognition is only recommended by the University in the first instance, but they are not entitled to send up candidates to the different examinations until Government affiliates those institutions. Provident funds have been introduced in many of the colleges in Bengal, because the University has insisted on either a pension or a provident fund scheme being introduced in those colleges. Sir, when an attempt is being made to bring institutions which are not Government institutions within the Provident Funds Act, I think that that class of institutions should also be brought in here. I need not say anything further on this point, because I understand my amendment will have the support of the Honourable Member in the way in which it has now been put, and I commend this amendment for the acceptance of the House.

THE HONOURABLE MR. E. BURDON: Sir, I am very glad to be able to say that Government wish to accept this amendment. Actually the institutions to which my Honourable friend has referred, for the purpose which we are

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here discussing, I think, come within the spirit of section 2 (d) of the Provident Funds Act which runs as follows :

“ ‘Government Provident Fund’ means a Provident Fund, other than a Railway Provident Fund, constituted by the authority of Government for any class or classes of its employees or of persons employed in educational institutions or employed by bodies existing solely for educational purposes.”

The essential point of policy has already been conceded by Government some considerable time ago. Actually the institutions which my Honourable friend has in mind do not come under clause 2 (d) because their provident funds have not been constituted by the authority of Government, but the form of amendment which my Honourable friend has now adopted will enable Government, if not to constitute the provident funds of the institutions in question, at any rate to see, before they are notified in the Gazette of India as entitled to the protection of the Act, that the rules are in conformity with those standards which it is necessary should be observed in this matter. The principal requirements of the rules are, first, that they should not open any door to fraud upon the revenue, and secondly, that they should protect adequately the interest of the subscribers against any possible inroads on the part of the employer. If the Council accept the amendment, then the subsequent proceedings will be that the University authorities will forward the names of individual educational institutions to the Government of India through the Local Government, together with a copy of the Provident Fund rules of the institution, and on Government seeing that the Provident Fund rules satisfy the requirements laid down, the institution will then be notified and will thus secure the protection of the Act. As I say, Sir, I have pleasure in accepting my Honourable friend's amendment.

THE HONOURABLE MR. V. RAMADAS PANTULU (Madras: Non-Muhammadan): Sir, I am thankful to the Honourable Mr. Burdon for accepting this amendment. On the wording of the amendment I would just suggest one verbal alteration. The Mover of the amendment mentions “affiliated” colleges, an expression which occurs in the Indian Universities Act. There are certain Universities who have got separate Acts in which colleges are divided into affiliated and constituent colleges. For instance, all the colleges situated within a radius of ten miles from Madras, in the University of Madras, are called under the Madras University Act “constituent” colleges. They are University colleges. All these would be outside the amendment. I am anxious to see that the wording of the amendment is such as to include all colleges which are affiliated in the old sense, though the later Acts call some of them constituent colleges; and I should like to see that these constituent colleges in the city of Madras are not excluded. It is only a verbal alteration which I hope will also be accepted.

THE HONOURABLE MR. E. BURDON: I am afraid, Sir, there is a legal point here which has not received my attention.

THE HONOURABLE THE PRESIDENT: I would suggest to the Honourable the Finance Secretary that he might give the House an assurance that the matter will be examined and, if an amendment is necessary to bring the institutions referred to by the Honourable Mr. Ramadas Pantulu within the Act, there will be an opportunity to move amendments in another place.

THE HONOURABLE MR. E. BURDON: Yes, Sir. I gladly accept that suggestion. It is desirable that we should have time to see that the institutions to which my Honourable friend refers are statutorily in the same position as the colleges covered by the Honourable Mr. Rama Prasad Mookerjee's amendment.

THE HONOURABLE MR. V. RAMADAS PANTULU: They are just the same, Sir. It is only a difference in designation.

THE HONOURABLE MR. E. BURDON: -Yes, but I must satisfy myself.

THE HONOURABLE MR. V. RAMADAS PANTULU: I will satisfy you on the matter by a reference to the Madras University Act.

THE HONOURABLE MR. NARAYAN PRASAD ASTHANA (United Provinces Northern: Non-Muhammadan): Sir, may I make a suggestion that, if the amendment is to be considered further, there are intermediate colleges in the United Provinces which are recognised by the Board of Education. They are not affiliated to the University but they are intermediate colleges teaching up to the intermediate standard, and I think, if these colleges could also be included in the amendment, it would be a good thing.

THE HONOURABLE SIR MANECKJI DADABHOY: Why not primary schools also?

THE HONOURABLE MR. NARAYAN PRASAD ASTHANA: These are not public schools: they are colleges.

THE HONOURABLE MR. E. BURDON: I am afraid, Sir, that without notice and consideration I am not able to agree to any further extension of the amendment already accepted.

THE HONOURABLE THE PRESIDENT: The original question was:

“That clause 4 do stand part of the Bill.”

Since which an amendment has been moved:

“That in clause 4 of the Bill the following item be added to the Schedule, namely:

‘7. A college affiliated to a University established by Statute’.”

The question is that that amendment be made.

The motion was adopted.

Clause 4, as amended, 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. E. BURDON: Sir, I move that the Bill, as amended, be passed.

The motion was adopted.

INDIAN SOFT COKE CESS BILL.

THE HONOURABLE MR. J. A. WOODHEAD (Commerce [Secretary]): Sir I move that the Bill to provide for the levy of a cess on soft coke despatched

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by rail from collieries in the provinces of Bengal and Bihar and Orissa, as passed by the Legislative Assembly, be taken into consideration.

This, Sir, is also a short Bill. As the Honourable Members of this Council are doubtless aware, Indian collieries have for some time past suffered from trade depression, particularly those producing the quality of coal known as second class. About two years ago, the Indian Mining Federation brought the matter to the notice of the Government of India. They pointed out that, although there had been a considerable increase since the war in the outturn of Indian coal, this increase in production had not been accompanied by a corresponding increase in the demand. They were of opinion that, if the problem was to be solved, the demand for coal must be increased and considered that this could best be done by popularising the use of coal in the form of soft coke as a domestic fuel. The original proposals put forward by the Indian Mining Federation were somewhat larger in their scope than those of the present Bill as they included, in addition to a cess on the despatches of soft coke, a very small cess on all kinds of coal despatched from the collieries. This question of a cess on coal was considered, but it was found that it could not be proceeded with because the support from the coal trade in general was not sufficient. In regard to these cesses which are levied for the benefit of a particular trade, it has been the practice of the Government of India to legislate only when the cess meets with the approval of the great majority of the trade. This Bill is therefore limited to a cess on the despatches of soft coke from the collieries in Bengal and Bihar and Orissa.

The Bill itself is modelled very largely upon the provisions of the Tea Cess Act and the Lac Cess Act, and the detailed provisions of the Bill do not, I think, require much explanation.

Clause 3 provides that there shall be levied and collected on all soft coke despatched by rail from collieries in the provinces of Bengal and Bihar and Orissa a cess at the light rate of 2 annas per ton. This cess will be collected by the Railway administrations concerned by means of a surcharge on freight and the net proceeds will be made over to a Committee constituted as described in clause 4 of the Bill. This Committee will be presided over by the Chief Mining Engineer to the Railway Board and will contain representatives of the Governments of Bengal and Bihar and Orissa, one member nominated by the Indian Mining Association and seven members nominated by the Indian Mining Federation. Practically all the proprietors of the collieries producing soft coke are members of the Indian Mining Federation, and it is for this reason that the majority of the Committee will be elected by that body.

I should explain, Sir, that the Bill is strongly supported by the Indian Mining Federation; in fact, they sent us a congratulatory telegram on its passage through the Assembly. I do not think I need say much more about the Bill. I hope, Sir, that if the Bill becomes law, it will not only be of material assistance in bringing about increased prosperity to those collieries engaged in the production of soft coke but will also be of benefit to India as a whole in so far as it will encourage the use of soft coke as a domestic fuel in the homes of the agriculturists and thereby set free for its proper use an article which came under discussion yesterday, and which at present enjoys an almost

universal monopoly as a domestic fuel instead of being utilised for its proper purpose of fertilising the soil.

Sir, I move.

The motion was adopted.

Clauses 2, 3, 4, 5, 6, 7, 8 and 9 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. A. WOODHEAD: Sir, I move that the Bill, as passed by the Legislative Assembly, be passed.

The motion was adopted.

INDIAN BOILERS (AMENDMENT) BILL.

THE HONOURABLE MR. T. RYAN (Industries and Labour Secretary): Sir, I move that the Bill further to amend the Indian Boilers Act, 1923, for certain purposes, as passed by the Legislative Assembly, be taken into consideration.

Sir, this is a very simple Bill and the House will not, I think, require any explanation or justification of it beyond what is afforded by the Statement of Objects and Reasons.

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. T. RYAN: Sir, I move that the Bill, as passed by the Legislative Assembly, be passed.

The motion was adopted.

INDIAN CENSUS BILL.

THE HONOURABLE MR. C. W. GWYNNE (Home Department: Nominated Official): Sir, I move that the Bill to provide for certain matters in connection with the taking of the Census, as passed by the Legislative Assembly, be taken into consideration.

This Bill is of a purely formal nature, but is necessary in order to provide for the taking of the decennial census. This is a piece of legislation which has been enacted every ten years since the first regular census was taken in 1881. I need not dilate at any length on the practical objects and value of a census. The large amount of information, statistical and otherwise, which is collected, collated and tabulated, and the census reports, are of great value to all who take an intelligent interest in the growth and development and prosperity of the country. The main necessity of this Bill is to give legal authority and

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sanction to the large number of non-official agents who are appointed to carry out the work of the census. The Bill confers the status of public servants on these persons and enables them to put authorised questions to members of the public, and enjoins upon the public to answer those questions. The principle of census work as a public duty imposed in the interests of the community has always been enforced in all Census Acts and this principle is merely repeated in the present Bill. I need hardly say that the taking of the census is a normal incident in all civilized countries.

Sir, I move.

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY (East Bengal: Non-Muhammadan): Sir, I beg to move:

"That in sub-clause (2) of clause 4 of the Bill, after the words 'under this section to perform shall' the words 'without sufficient cause being shown' be added."

My object in bringing this amendment is to allow a person to escape the operation of this penal section if he has sufficient cause to show why he cannot perform the duties imposed upon him, and I hope the House will accept the amendment which is a reasonable one.

THE HONOURABLE MR. C. W. GWYNNE: Sir, I am afraid that Government cannot accept that amendment for various reasons. The first is that it is very necessary for this Bill to be passed as early as possible, as census operations will be starting very soon. Further, this clause, to which the Honourable Member takes exception, has appeared in the Census Bills of, I think, the last six decades—at any rate since 1881, and no exception has ever been taken to it in the past. I think the Honourable Mover has the unique distinction of being the only Member who has ever moved an amendment to a Census Bill. As to the point which he raises, I would say that Local Governments and census officers always show the very greatest consideration in calling upon persons to undertake these duties. If any enumerator or supervisor who has been appointed says he cannot do the work and shows sufficient cause why he cannot do it, somebody else naturally will be appointed. Moreover, the number of cases instituted under the Census Acts shows that there has been extraordinarily close co-operation between the authorities and the public in this matter. In 1910 Sir Herbert Risley said that prosecutions were exceedingly rare and that has been the case ever since. I would, therefore, ask the House not to accept this amendment, on the ground that it is unnecessary and will delay the passage of the measure.

THE HONOURABLE THE PRESIDENT: The question is:

"That in sub-clause (2) of clause 4 of the Bill, after the words 'under this section to perform shall' the words 'without sufficient cause being shown' be added."

The motion was negatived.

Clause 4 was added to the Bill.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: In view of the fate that has befallen my last amendment I do not propose to move my amendments to clause 5.

Clause 5 was added to the Bill.

Clauses 6, 7, 8, 9, 10, 11, 12 and 13 were added to the Bill.

THE HONOURABLE THE PRESIDENT: Clause 14.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: As this is a negative motion (that clause 14 be omitted), I think it will not be necessary to move my amendment?

THE HONOURABLE THE PRESIDENT: The Honourable Member may speak to the motion that clause 14 do stand part of the Bill but not move the amendment.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: The object of this clause is to impose a portion of the cost upon the limited funds of municipal and local boards. As the cost of this census operation is going to be large, I do not think the Government will benefit much by levying a contribution from these boards with their limited funds. I therefore oppose the clause.

THE HONOURABLE MR. C. W. GWYNNE: Sir, again I am afraid the Government cannot accept this amendment.....

THE HONOURABLE THE PRESIDENT: No amendment has been moved. The Honourable Member has merely made a speech opposing the clause.

THE HONOURABLE MR. C. W. GWYNNE: I would then simply ask that the clause be retained. The omission of this clause would not bring census operations to an end or cause any very serious inconvenience; at the same time it would have the effect of delaying the passage of the Bill. I would point out that there will be no sort of general levy upon local bodies. The clause merely empowers Local Governments, if they desire to do so, to impose certain very small charges on local authorities. I might explain to the Honourable Member what these charges are. The whole object of the clause is in the interests of economy. The expenditure which it is intended should be met in this way is in regard to the paper on which enumerators prepare their rough estimates, pens and ink, paint for painting the numbers on houses and the necessary labour. Experience has shown that if these expenses are borne locally they amount to very little indeed—perhaps a few annas per 50 houses. If, on the other hand, they are centralised they tend to mount up. In any case it is not a mandatory provision but merely gives the Local Governments discretion. For this reason I urge that the clause be allowed to remain on the Bill.

THE HONOURABLE MR. V. RAMADAS PANTULU (Madras: Non-Muhammadan): In view of what the Honourable Member has said, though it may not be possible for him to accept the proposal now, I hope he will consider the suggestion of my friend very seriously. Because whatever may be said of municipal or local funds, as regards union and village funds there is really a hardship. I know the working of some of the village panchayats; they are really starving. The worst of it is that the money taken from rural areas is

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mostly spent in urban areas leaving the villages and union areas which contribute revenues to starve for want of funds. Government ought to be liberal and exempt at least the union and village funds from the operation of this section. As the Honourable Member has said that the section is not mandatory but merely enabling, I hope, at least, that some instructions will be given to Local Governments to work this clause so as not to operate harshly upon village and union panchayat funds.

THE HONOURABLE MR. C. W. GWYNNE: As regards the point raised by the Honourable Mr. Pantulu, I can guarantee that his remarks will be conveyed to Local Governments, if that will meet his wishes. We can suggest to them that in the case of poor municipalities and local bodies unable to bear the cost this clause should not be applied. In any case this clause merely gives discretion and there is no doubt that it will be considerably applied.

THE HONOURABLE THE PRESIDENT: The question is:

"That clause 14 do stand part of the Bill."

The motion was adopted.

Clause 14 was added to the Bill.

Clause 15 was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. C. W. GWYNNE: Sir, I move that the Bill

12 NOON. to provide for certain matters in connection with the taking of the Census, as passed by the Legislative Assembly, be passed.

The motion was adopted.

BENGAL PILOT SERVICE (CENTRALISATION OF ADMINISTRATION) BILL.

THE HONOURABLE MR. J. A. WOODHEAD (Commerce Secretary): Sir, I move that the Bill further to amend the Calcutta Pilots Act, 1859, and the Indian Ports Act, 1908, in order to vest the control of the Bengal Pilot Service in the Governor General in Council, as passed by the Legislative Assembly, be taken into consideration.

Sir, this is a short Bill with a very simple object. Although the subject "Shipping and Navigation" has been a Central subject since the Reforms, the Government of India did not at once assume direct control of the actual administration. This was largely due to the fact that the statutory authority under the various Acts of the Legislature lay with the Local Governments and not with the Government of India. During the last two years legislation has, however, been passed transferring to the Governor General in Council the statutory powers formerly vested in Local Governments in connection with Light-houses and the administration of the Indian Merchant Shipping Act. This Bill is another step forward in the same direction. The Bengal Pilot Service is a Central service and the expenditure on the service is a Central charge, but

as the statutory powers still remain with the Local Government, the Government of India can at present only exercise their control by issuing instructions and directions when and as necessary to the Local Government. As the Bengal Pilot Service is a Central subject, it is, I think, obvious that the Government of India must sooner or later assume direct control. In consequence of the centralisation of the Merchant Shipping administration, the Government have now an expert staff which will be able to advise them in the administration of the Bengal Pilot Service. The time is therefore opportune for the assumption by the Government of India of the direct control of the service and the transfer of the statutory power from the Local Government to the Government of India.

The Calcutta Pilots Act provides for the trial of pilots charged with breach of duty, but as I have already indicated, the statutory authority under the Act still vests in the Local Government. The Bill seeks to amend the Act so as to transfer this authority to the Central Government. The amendments are of a purely formal character consisting almost entirely of the substitution of the words "the Governor General in Council" in place of the words "Lieutenant-Governor" or "Local Government", as the case may be. I think I need not say more as regards the amendments of the Calcutta Pilots Act.

The cost of the Bengal Pilot Service, as I have already stated, falls on Central revenues, and as it is the intention of the Government of India that the service should be self-supporting, that is, the receipts from pilotage fees should be sufficient to defray the whole cost of the service, it is desirable that the Government of India should have the power to fix the rates of the pilotage fees. At present this power vests in the Local Government under section 35 of the Indian Ports Act of 1908. The Bill therefore proposes to give the Government of India power to fix the rate of pilotage fees at the Port of Calcutta and contains an amendment to section 35 of the Indian Ports Act in order to give effect to this.

I think, Sir, I have said sufficient to make clear to the House what the object of the Bill is and it is perhaps hardly necessary that I should amplify the subject further.

Sir, I move.

The motion was adopted.

Clauses 2, 3 and 4 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. A. WOODHEAD: Sir, I move that the Bill further to amend the Calcutta Pilots Act, 1859, and the Indian Ports Act, 1908, in order to vest the control of the Bengal Pilot Service in the Governor General in Council, as passed by the Legislative Assembly, be passed.

The motion was adopted.

RESOLUTION *RE* FIXATION OF MINIMUM WAGES IN CERTAIN TRADES.

THE HONOURABLE MR. T. RYAN (Industries and Labour Secretary):
Sir, the Resolution standing in my name is:

"That this Council having considered the draft Convention and Recommendation regarding the machinery for fixing minimum wages in certain trades adopted at the Eleventh International Labour Conference, recommends to the Governor General in Council that he should not ratify the draft Convention nor accept the Recommendation.

The draft Convention and the Recommendation here in question are printed in a Bulletin, No. 41, of Indian Industries and Labour, embodying the Report of the Delegates of the Government of India to the Eleventh International Labour Conference at Geneva. Copies of this Bulletin were supplied to Honourable Members some time ago, and copies are also in the Library. I should, however, perhaps explain briefly the question at issue and the Government of India's position in the matter.

The subject of minimum wage-fixing machinery in certain trades has for some time past been engaging the attention of the International Labour Organisation; and at the Eleventh International Conference, in May and June 1928, the draft Convention and the Recommendation now in question were adopted.

The draft Convention provides for the creation and maintenance by each Member—that is to say, by each State—which ratifies the Convention, of machinery whereby minimum rates of wages can be fixed for workers in certain trades or parts of trades (and in particular in home working trades) in which no arrangements exist for the effective regulation of wages by collective agreement or otherwise and wages are exceptionally low. The term "trades" includes manufacture and commerce. The Convention further provides that each Member, after consultation with organisations, if any, of workers and employers, shall be free to decide in which trades, etc., the minimum wage-fixing machinery shall be applied; and each Member is to be free to decide the nature and form of the machinery, subject to conditions, providing, amongst other things, for consultation of those concerned and for the association of employers and workers on equal terms. The draft Convention also contains various provisions of a more or less formal character.

The Recommendation is supplementary to the Convention, and records certain general principles the consideration of which is recommended to Members; these cover such things as methods of ensuring that necessary information is forthcoming to enable decisions to be taken; the desirability of paying special attention to trades in which women are employed; considerations relating to standards of living, and so forth. At the Conference at which the draft Convention and Recommendation were adopted, the Government of India delegates—Sir Atul Chatterjee and Dr. Paranjpye—abstained from voting, for reasons fully explained in a speech by the latter. This speech is printed at pages 25 and 26 of the Bulletin, and I shall quote only a few sentences from it.

Dr. Paranjpye said:

"After Provincial Governments had been consulted the Government of India came to the conclusion that further investigation of the matter is required, and that it is necessary to observe a non-committal attitude at the present stage.

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They have every desire to give full and sympathetic consideration to the subject, but at present they have not got the material before them which would justify them in coming to a conclusion that the establishment of wages boards in India is at present practicable or that, if established, they would be certain to be beneficial.

The Government of India therefore intend to place before their Legislature, with the draft Convention if it is adopted, a proposal for a thorough investigation into the practicability of setting up minimum wage-fixing machinery in the circumstances contemplated by the Convention, and into the advantages likely to accrue from such a step."

Since that speech was delivered, the appointment of the Royal Commission on Labour has been announced; and the question of the advisability and possibility of the statutory establishment of minimum wages is one of the subjects on which the Royal Commission is inviting evidence, and there can be no doubt but that the subject will be thoroughly investigated by the Commission.

This matter is now brought before the Council because it is necessary that draft Conventions and Recommendations adopted by the International Labour Organisation shall be brought before the Legislature within a specified period, as provided for in Article 405 of the Treaty of Versailles. The view taken by the Government of India, which has been agreed in by the Standing Advisory Committee attached to the Department of Industries and Labour, is that the recommendations of the Royal Commission should be awaited before a decision is taken regarding the adoption of the draft Convention and Recommendation in the present case. It is for this reason that the Resolution has been framed in the terms which I have read.

Sir, I move the Resolution.

THE HONOURABLE MR. V. RAMADAS PANTULU (Madras: Non-Muhammadan): Sir, so far as I remember, I do not think that we have received any papers in connection with the subject-matter of this Resolution. I feel that I am asked to do something of which I know nothing. My recollection is that on former occasions, when similar Resolutions were brought before this House, the connected literature was circulated to us. On this occasion I have not the slightest recollection of having received any papers. I take some care to look through the papers I receive and to file them when I get them, but I have been searching for these papers since yesterday and have not found anything. Therefore, Sir, I think it is unfair on the part of the Honourable Member for the Government to bring this Resolution in this form and to ask us to vote on this without giving us any material. He has told us that the decision of the delegates of the Government of India at the Convention was to abstain from voting. Now he wants us to go further and not to ratify the Convention. All that the Convention seems to have recommended is to suggest the need for a machinery for fixing minimum wages in certain trades. Unless we know a great deal more about the recommendation, it is obviously wrong on the part of any Member of this House—of course if he knows it is all right—but for those who know nothing about the matter it is obviously wrong to record a vote one way or the other. Again I do not see why we should be called upon to deal with this question of setting up machinery by recording a definite vote in favour of not ratifying the Convention. It would be tantamount to our disagreeing with it. Otherwise, I do not understand what the meaning of the words "not ratifying" is. At best it may probably mean that we reserve our liberty to take such action as we like to take later on in spite of not ratifying. For the present we shall

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be voting against it in a definite sense when we say we are not going to ratify it. I do not think it is right.

I have a recollection of a similar motion made by Sir Muhammad Habibullah when he was here, which looked very innocuous at first sight. Then, when we complained that the papers had not been circulated and when on seeing the papers we intimated to him our intention of opposing the motion in that form, he dropped it. I do not say this is as bad as that. It has happened once and may happen again. These are very important matters and our delegates are sent to international Conventions at considerable cost to India and the decisions of those Conventions deserve very serious consideration. But we are asked not to ratify them even without studying them. It seems to be a question of considerable importance for labour, and in a matter of this magnitude I for one would refuse to record a vote either way unless I get an opportunity to read the papers and make up my mind.

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces : Nominated Non-Official) : Sir, I entirely disagree with my Honourable friend, Mr. Ramadas Pantulu, on this occasion

THE HONOURABLE MR. V. RAMADAS PANTULU : Quite naturally, you are a capitalist.

THE HONOURABLE SIR MANECKJI DADABHOY : And I fully and unhesitatingly endorse the action taken by the Government in the matter and by the country's delegates who attended the Eleventh International Labour Conference. The line our representatives took there was that they had not sufficient materials before them to decide the question whether it was necessary to establish a machinery for fixing minimum wages in certain classes of trades, and I think their action was perfectly justified and a very prudent one. Considering they had no materials they did not want to commit the Government of India to any line of policy.

THE HONOURABLE MR. V. RAMADAS PANTULU : I did not criticise that. I did not question their action at all. I said we had no material to decide on its propriety or otherwise.

THE HONOURABLE SIR MANECKJI DADABHOY : I think you did indirectly.

THE HONOURABLE MR. V. RAMA DAS PANTULU : I beg your pardon. I did not.

THE HONOURABLE SIR MANECKJI DADABHOY : The subject is one of material importance to the trade of this country. The question of a minimum wage is not a small one. I know my Honourable friends on the other side attach no value to this question and are obsessed with the bogey of the working classes grievances and the need for watching their interests, without realising the dual responsibilities that are involved in a question of this momentous importance.

THE HONOURABLE MR. G. A. NATESAN (Madras : Nominated Non-Official) : That statement is wrong.

THE HONOURABLE SIR MANECKJI DADABHOY : I therefore think that the action of the Government of India in postponing the consideration of this matter till the decision of the Whitley Commission is reached in this matter is a very proper and prudent one. They wish to have ample evidence before them to consider the question from various points of view, and if it is necessary afterwards that such a minimum wage should be fixed, I have not the slightest doubt that a Resolution will be brought forward by the Government before this House for the ratification of the Convention. But till such proper inquiry is made and a correct decision arrived at, it is only just and proper that the further consideration of this matter should be postponed.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN (Education, Health and Lands Member) : May I, Sir, with your permission, try to ascertain whether there is a large body of Members who have not received the papers connected with this Resolution ?

(Five or six Honourable Members declared that they had not received the papers.)

In view of what the Honourable Members have said, I have no doubt that the Member in charge would be glad to supply the papers to them, because there is really no urgency to get the Resolution passed to-day without letting Members know what the nature of the Resolution is. If you will, Sir, kindly permit this Resolution to be taken up on Thursday with the other business on that day, that would probably meet the wishes of the Members and also not mean shelving this question for any length of time.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan) : I hope that in the meantime the papers will be supplied to us.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN : That is the intention.

THE HONOURABLE MR. T. RYAN : Sir, my information is that copies of the Bulletin, which gives complete information on the subject and the text of the draft Convention and Recommendation, were distributed to all Members of the Council of State on the 21st of February last; but, as the Honourable the Leader of the House has suggested, there will be no difficulty, if this is desired by the House, in distributing copies to Members afresh and in taking the Resolution at a later date.

THE HONOURABLE THE PRESIDENT : Motion moved :

"That the discussion on the Resolution be adjourned."

The motion was adopted.

MOTION FOR THE ELECTION OF A MEMBER TO THE GOVERNING BODY OF THE INDIAN RESEARCH FUND ASSOCIATION.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN (Education, Health and Lands Member) : Sir, I beg to move :

"That this Council do proceed to elect, in such manner as the Honourable the President may direct, one Member to sit on the Governing Body of the Indian Research Fund Association."

[Khan Bahadur Mian Sir Fazl-i-Husain.]

I need hardly remind the Council that this motion is in pursuance of the statement I made on the 17th September in connection with the Resolution moved by the Honourable Dr. Rama Rau.

The motion was adopted.

THE HONOURABLE THE PRESIDENT : Nominations for the election of a Member to the Indian Research Fund Association will be received up to the hour of noon to-morrow. If an election is necessary, the election will take place on the 26th, the day after to-morrow.

The Council then adjourned till Eleven of the Clock on Wednesday, the 25th September, 1929.

COUNCIL OF STATE.

Wednesday, 25th September, 1929.

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

QUESTIONS AND ANSWERS.

DELAYS IN TELEGRAPHIC COMMUNICATION BETWEEN INDIA AND BURMA.

76. THE HONOURABLE MR. K. B. HARPER : (a) Do serious delays occur every year, particularly during the monsoon, in telegraphic communication between India and Burma, in consequence of partial or complete breakdown of the two sets of land lines upon which such communication is predominantly dependent ?

(b) Is it the intention of Government to supersede or supplement the land lines by a more reliable means of telegraphic communication, and will Government be pleased to state what its intentions in this connection are ?

THE HONOURABLE MR. T. RYAN : (a) Yes.

(b) It is understood that the Director General, Posts and Telegraphs, is shortly submitting proposals for the adoption of a system of telegraphic communication between Calcutta and Rangoon which, it is hoped, will prove more reliable than the existing arrangements. The recommendations made by the Director General will receive the careful consideration of the Government of India.

ANNUAL GRANT TO THE TRUSTEES OF THE INDIAN MUSEUM, CALCUTTA, ETC.

77. THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE : (a) Will Government be pleased to state the amount the Trustees of the Indian Museum have during the last three years received from the Central Government ?

(b) Is the annual grant a lump sum contribution or a grant made under specific heads ?

(c) If the grant be under specific heads, what are the heads under which the grant is made ?

(d) Will Government be pleased to state whether the details of establishment of the Indian Museum are shown in the Demand Budget and Estimates for grants for the Central Government ?

(e) Will Government be pleased to state whether, under Article 62 of the Civil Account Code, a detailed statement of the permanent establishment is included in the Annual Return of the Trustees of the Indian Museum ?

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(f) If the answer be in the affirmative, will Government be pleased to state the names, if any, of the non-gazetted Government servants who had been omitted from the Annual Return for 1928-29 of the Trustees of the Indian Museum?

(g) If so, for what reasons were their names omitted?

(h) Has the attention of Government been drawn to the recent decision in a suit in the Original Side of the High Court at Calcutta brought against the Trustees of the Indian Museum?

(i) What is the total amount spent by the Trustees to defend the suit?

(j) Has the High Court ordered any cost to be paid by the Trustees to the plaintiff?

(k) If so, what is the amount?

(l) Did the Trustees apply to Government for an additional grant to meet the extraordinary expenditure?

(m) Will Government be pleased to state whether the amount spent by the Trustees in the suit above mentioned has come out of the ordinary Government grant given to the Indian Museum?

(n) Under which specific head has the ordinary expenditure been curtailed thereby?

(o) Will Government be pleased to state whether any person has up till now been granted pension for services in the Indian Museum?

(p) If so, was the pension sanctioned by Government and was the amount paid out of the grant to the Indian Museum or from any other source?

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN: (a) In 1926-27, 1927-28, and 1928-29, the Trustees of the Indian Museum received from the Central Government grants of Rs. 43,232, Rs. 43,433 and Rs. 43,232, respectively.

(b) and (c). The grant is a lump sum contribution, but for the sake of convenience it is distributed under the following major heads:

A. 1.—Grants-in-aid.

A. 2.—Other charges.

(d) Certain details are shown in the Budget Demands and Estimates, to which the Honourable Member is referred.

(e) Yes.

(f) and (g). The name of the Trustees' clerk was omitted in the annual return referred to, as the post had been vacant since the last incumbent was discharged on the 22nd August, 1927.

(h), (j), (l) and (m). Yes.

(i) Rs. 13,202-11-3, inclusive of all costs.

(k) Rs. 3,350-3-6.

(n) A. 1.—Grants-in-aid.

(o) and (p). The information asked for is being collected and will be supplied to the Honourable Member later.

UNEMPLOYMENT AMONG INDIANS BORN IN THE COLONIES WHO HAVE RECENTLY RETURNED TO INDIA.

78. THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: (a) Are Government aware that a large number of Indians born in the Colonies have recently returned to India and are without any work?

(b) If so, have Government received any memorial from the returned emigrants?

(c) If the answer be in the affirmative, will Government be pleased to state what steps have been taken to alleviate their grievances?

(d) Do the Government of Demerara require a number of colonists?

(e) If so, have Government in that connection considered the memorial of the returned emigrants?

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN: (a) Government believe that the facts are as stated.

(b) Yes.

(c) Government are considering whether anything can be done to help the repatriates.

(d) Government have no official information.

(e) Government will consider the matter, but I may inform the Honourable Member that no emigration to British Guiana under the scheme outlined in Notification No. 240-0s., dated the 23rd March, 1926, has yet taken place because the Colonial Administration have not been able to afford the expenditure in which the introduction of the scheme would have involved them.

ACCOUNTANTS IN THE POST OFFICE.

79. THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: (i) Have Government decided that senior passed accountants will get preference for promotion to selection grade appointments of accountants and assistant accountants in the Post Office?

(ii) Are there three appointments in the selection grade of Rs. 160—250 in the accounts department of the Calcutta General Post Office, namely:—

(a) assistant accountants,

(b) supervisor accountants,

(c) head clerk accountants.

(iii) If the answers to (i) and (ii) be in the affirmative, will Government be pleased to state what steps have been taken to fill these appointments by passed accountants?

(iv) Have passed accountants been given preference for promotion to selection grade appointments of accountants and assistant accountants in (a) Bombay, (b) Madras, (c) Punjab, (d) Sind and Baluchistan Circles?

(v) Will Government be pleased to state whether the principle referred to above has been given effect to in the Calcutta General Post Office?

If the answer be in the affirmative, will Government be pleased to state whether the claims of the passed accountants in the Calcutta General Post Office to the three appointments referred to in (ii) above have been considered by Government?

THE HONOURABLE MR. T. RYAN: (i) Yes.

(ii) Yes.

(iii) The Postmaster General has been instructed to fill these appointments by passed candidates when such men are available.

(iv) and (v). Information is being collected, and will be communicated to the Honourable Member in due course.

RAISING THE POSTS OF ACCOUNTANTS IN FIRST CLASS HEAD POST OFFICES TO THE SELECTION GRADE OF RS. 160—250.

80. THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: (i) Have the Government of India under consideration a proposal to raise the posts of accountants in first class Head Post Offices to the selection grade of Rs. 160—250?

(ii) Have the posts of accountants in the Bangalore, Poona, Delhi and Simla Head Offices already been raised to the selection grade under the proposal mentioned in (i)?

(iii) Are the Alipore, Howrah, Dacca and Chittagong Head Offices in the Bengal and Assam Circle treated as first class Head Offices?

(iv) Are there any selection grade posts of accountants in any Head Office in the Bengal and Assam Circle other than the Calcutta General Post Office?

(v) If the answers to (i), (ii) and (iii) are in the affirmative and the answer to (iv) is in the negative, will Government be pleased to state when the posts of the accountants in the Head Offices mentioned in (iii) will be raised to the selection grade?

THE HONOURABLE MR. T. RYAN: (i) No. No such general proposal is under consideration.

(ii) No. The posts in question were raised to the selection grade on the merits of each case and independently of any general proposal of the kind referred to in (i).

(iii) Yes.

(iv) No.

(v) The posts of the accountants in the Head Offices referred to will be raised to the selection grade only if and when it is considered that the duties and responsibilities of these posts are, on the merits of each case, such as to justify the selection grade rate of pay.

RENT PAID BY THE CALCUTTA TURF CLUB FOR THE USE OF THE MAIDAN.

81. THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: (i) Will Government be pleased to state whether the Calcutta Fort area is under the jurisdiction of the military authorities?

(ii) If the answer be in the affirmative, will Government be pleased to state:

- whether the Calcutta Maidan is beyond the limits of the jurisdiction of the Calcutta Corporation and is included within the Fort William area;
- when and by whom was permission originally given to the Calcutta Turf Club to have a race course and to put up structures on a portion of the Calcutta Maidan;
- what are the conditions under which the permission was originally given, and have those conditions been altered at any later time, if so, when and by whom was such change made;
- is any rent paid by the Calcutta Turf Club to Government for the use of the Maidan;
- has any attempt been made by Government to levy a fair and reasonable rent from the said Club, if not, why not;

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: The Fort is under the control of the military authorities, but I regret I am unable to give detailed information about the second part of the question without making local inquiries for which I have had no time as yet. Those inquiries have been instituted, and I will inform the Honourable Member of the result in due course.

OPENING OF NEW POST OFFICES IN THE YEARS 1925 TO 1929.

82. THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: (i) Will Government be pleased to state how many new Post Offices were opened in British India in each of the four years 1925-26, 1926-27, 1927-28 and 1928-29?

(ii) How many of the new Post Offices were in rural and how many in urban areas?

(iii) During the same periods, how many Post Offices were converted into combined Post and Telegraph Offices?

(iv) Will Government be pleased to state how many Post Offices were abolished during the periods mentioned in (i)?

(v) How many of the Post Offices abolished were in rural areas?

THE HONOURABLE MR. T. RYAN: The information desired by the Honourable Member is being collected and will be furnished to him in due course.

NUMBER OF STANDING COMMITTEES, STANDING ADVISORY COMMITTEES AND CENTRAL ADVISORY COMMITTEES ATTACHED TO THE DIFFERENT DEPARTMENTS OF THE GOVERNMENT OF INDIA.

83. THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: (i) Will Government be pleased to state how many Standing Committees, Standing

Advisory Committees, or Central Advisory Committees are there for the different Departments of Government ?

(ii) Will Government be pleased to place on the table the present constitution of each of the said Committees ?

(iii) Will Government be pleased to state the number of meetings held per year for each of those Committees from the year 1924 to date ?

(iv) Is there any Committee of which no meeting has been held during 1927-28 or 1928-29 ?

(v) If the answer be in the affirmative :

(a) why was no meeting called ;

(b) what are the Committees that have not met ?

THE HONOURABLE MR. C. W. GWYNNE : The information asked for is being obtained and will be supplied to the Honourable Member in due course.

EXTENSION OF THE DATE FOR THE SUBMISSION OF THE CLAIMS OF LASCAR SEAMEN TO THE CONTROLLER, LOCAL CLEARING OFFICE (ENEMY DEBTS).

84. THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE : Will Government be pleased to state whether the last date (31st March, 1928), within which lascar seamen were to submit their claims to the Controller, Local Clearing Office (Enemy Debts), has been extended ? If not, why not ?

THE HONOURABLE MR. L. GRAHAM : The reply is in the affirmative. A further extension of time has been granted till the 31st March, 1931, to enable lascar seamen to put in their claims for reparation awards.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE : Has that information been sent to the Seamen's Union ?

THE HONOURABLE MR. L. GRAHAM : I think, Sir, the answer is in the affirmative. Instructions have been issued to make every sort of attempt to give due publicity to the extension.

CATTLE PROTECTION BILL.

THE HONOURABLE SETH GOVIND DAS (Central Provinces : General) : Sir, I move for leave to introduce a Bill to prohibit the export trade in cattle meat.

Originally this Bill was introduced in the Legislative Assembly in 1924 by Pandit Sham Lal Nehru, and as it does not deal with the religious aspect of the question, it also was supported by my Muhammadan brethren in many public meetings in different parts of the country. This Bill simply asks for the stoppage of the export of cattle meat. It does not ask my Muhammadan brethren not to slaughter cattle for their religious purposes or even for their own use. It is the misfortune of this country that cattle are slaughtered here not only for the people of this land, but also for foreigners. It is really an irony of fate that while the people of this land, both Hindus and Muhammadans, are

crying for sufficient milk and are in fact starving and dying for want of sufficient nutrition, the palates of foreigners are being satisfied with our cattle meat. At this stage of the Bill I do not want to place any figures before this House, but I shall only say that I have collected these figures and I find that two lakhs of hundred-weight of cattle meat are being exported from this country every year. I have also worked out the figures about the number of cattle which are slaughtered, and I find that about six lakhs of cattle are slaughtered for this purpose. Before I sit down I want the House not to be misled into thinking that only useful cattle are slaughtered for the purpose. I have proved it on the floor of this House on more than one occasion that amongst the cattle which are slaughtered are the best cattle of our country and in my support I have quoted a number of reliable authorities. This is a very undesirable state of affairs, and I hope that this Bill, if passed, will improve the situation to some extent.

Sir, I move.

The motion was adopted.

THE HONOURABLE SETH GOVIND DAS : Sir, I introduce the Bill. I also want to inform you that I am not going to move for consideration of the Bill in this Session.

RESOLUTION *RE* MESSAGE RATE SYSTEM OF CHARGES LEVIED BY THE BENGAL TELEPHONE CORPORATION, LTD.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE (West Bengal : Non-Muhammadan) : Sir, the Resolution that stands in my name runs as follows :

" This Council recommends to the Governor General in Council that steps be taken to appoint a Committee consisting of Members of the Central Legislature and of representatives of local bodies in Bengal to enquire into the working of the message rate system of charges levied by the Bengal Telephone Corporation, Ltd., and to report whether any revision either of the rates or of the system is necessary and desirable "

Sir, the Bengal Telephone Company was registered in 1882, but the company has been working under the name of the Bengal Telephone Corporation, Ltd., from May 1922.

In 1903, a license was granted to the Company for 60 years by Government, fixing the maximum annual rental at Rs. 250 within a four mile radius of each of the different exchanges. In that agreement it was mentioned that the Government would have the option of purchasing the concern at the end of the 20th, 25th or 30th year. At that time the rate which was actually fixed by the Company was only Rs. 200 for all business telephone connections between Beadon Street on the north and Circular Road on the south. Outside that area it was Rs. 250 ; but for residential quarters the rate was Rs. 150 or Rs. 200 for the two areas. In 1921, Government decided not to exercise the option to purchase the whole. In 1922, there was another agreement arrived at between the Telephone Corporation and the Government of India. The maximum was then increased from Rs. 250 to Rs. 350, but new conditions were incorporated in the agreement about installation and other service rules, and, as soon as this agreement was arrived at, a notification was issued by the Company that the rate would be increased to Rs. 250 for residential houses

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and Rs. 300 for business quarters. There was thereafter a great agitation in Calcutta. After that a proposal was made by the Telephone Company to the Government of India that the message rate system might be introduced. When this proposal was made, the Government of India asked the Government of Bengal to appoint a Committee representing all the different interests in Calcutta to consider the proposal of the Telephone Company. That Committee, Sir, was appointed in December, 1923; it was presided over by the Honourable Mr. Donald, one of the Members of the Executive Council at that time, and there were on the Committee representatives of the different bodies, the Calcutta Corporation, the Bengal Telephone Corporation, the Bengal Chamber of Commerce, the European Association, the Marwari Chamber of Commerce, the Calcutta Trades Association, the Indian Association, the Bengal Mahajana Sabha, the Bengal National Chamber of Commerce, and the Government of India also was represented by the Deputy Chief Engineer in the Telegraph Department, Mr. MacGregor, and Mr. Gilchrist of the Commerce Department of the Government of Bengal acted as Secretary. This Committee went into the question thoroughly. There was some difference of opinion among the members of this Committee no doubt, but on one question the Committee was almost unanimous—that was about the introduction of the message rate system. The Committee finally recommended that the message rate system might be introduced provided the rate which had been suggested by the Company was reduced to a certain extent. Towards the end of the report it was further suggested as to when it would be the proper time for revising the message rate system which was being introduced here. Various proposals had been made by the different authorities represented on the Committee. But this is the recommendation of the Committee which appears at page 14 of the report:

“The Committee recommend that there should be no revision prior to the 1st of April, 1928, by which time the results of the new system will be evident. Some witnesses have told us that the introduction of the message rate at a reasonable figure will result in a much bigger demand for connections than the Telephone Corporation themselves expect. If this were so, it is possible that till the limits of the present accommodation are reached, the profits of the Corporation might be considerably increased.”

After the submission of the report the Government of India accepted the recommendation of the Committee and the message rate was introduced. My proposal now before this House is that as the date mentioned by the Committee—April 1928—has passed and the message rate system has been in vogue for a sufficiently long time, its working ought to be further inquired into. During the last two years this question has been taken up by some of the public bodies in Calcutta as also by an association started, namely, the Telephone Subscribers' Association. The Calcutta Corporation, of which I happen to be one of the councillors and one of the members of the Public Utilities Committee, have also taken this matter up. During the last 18 months the Public Utilities Committee has gone into the matter in minute detail and there have been various conferences between the representatives of the Telephone Corporation and the Public Utilities Committee. It came up before the Public Utilities Committee of the Corporation in this way. Although there is this agreement between the Government of India and the Telephone Corporation about their

right to have the monopoly of telephone service in Calcutta—not only in Calcutta, but for about 15 miles on both sides of Calcutta—still they have to take the permission of the Calcutta Corporation for laying their mains, either overhead wires or under the road, and also for other things to be done within the municipal limits of Calcutta. The period for which the contract between the Calcutta Corporation and the Bengal Telephone Company subsisted expired some time in 1925, and since then there has been correspondence between the Telephone Company and the Calcutta Corporation about the revision of the rates which are imposed by the Calcutta Corporation on the Bengal Telephone Corporation, Ltd. The Calcutta Corporation took that opportunity of insisting that the rates which were levied by the Telephone Company on the subscribers should be a somewhat lower rate. Before I go into the merits of the lower rate that might be introduced—a point which may be enquired into by the Committee—I would only place before the House one or two facts about the extension of the telephone service in Calcutta. As was expected by some of the witnesses before the Committee of 1923, the number of the subscribers had increased by leaps and bounds. The number of telephone connections in 1924 was 9,059; after the introduction of the message rate system, it has gone up to 13,925 at the end of the year 1927-28. The last report of the Board of Directors that we have is the report for the period ending the 30th June, 1928; in that report it appears that during the period 1st of July, 1928 and October, 1928, when the report was published, there were as many as 380 additional lines taken within those 3 or 3½ months. So the proposition that was put forward that the business would expand as soon as the message rate system was introduced has been justified by what has actually happened. It was pointed out by the Telephone Company before the Committee that, owing to the expansion of the telephone service, the Telephone Corporation would have to open new exchanges in different parts of the city. As a matter of fact during the last few years as many as five or six new exchanges have been opened: one at Barabazaar, another east of Circular Road, another at Howrah, another at Alipur, and another is also under construction, I understand. It was pointed out that, when these new exchanges would be opened, the Telephone Company would have to incur heavy capital expenditure to start these exchanges. During these five years, these exchanges have been started and the capital expenditure which they were bound to involve has been incurred. Therefore, this is the proper time when an inquiry may be instituted into the present condition of the Telephone Company and also to consider the question as to whether the message rate system should be continued, and, if so, what should be the rates. Sir, in this connection I would bring to the notice of the House that, when there was this correspondence between the Calcutta Corporation and the Telephone Corporation on the 21st January, 1929, the Secretary and General Manager of the Bengal Telephone Corporation wrote to the Chief Executive officer of the Calcutta Corporation on the subject of the reduction of rates in this way:

“Owing to the fact that in spite of the income-tax demand we were able last year to maintain the 7½ per cent. dividend of the previous year, there is an indication that the improvement in our financial position is gradually solidifying. We are alive to the fact that it is to our interest to sell telephone service as cheaply as possible and thus increase our business and there is in our accounts for last year an indication that if development continues

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we may in the course of a few years be in a position to approach the Government of India for permission to reduce our rates."

Thus the position has been accepted by the Telephone Corporation that in the near future there is the possibility of reduction of rates. I do not want to leave the matter entirely in the hands of the Telephone Corporation, but if an inquiry in the same way as the one that was held in 1923 on the initiative of the Government of India be conducted now, it will be done much more quickly and that will be to the best interests of the subscribers as also of the shareholders of the Telephone Corporation. There is the other fact which I wanted to bring to the notice of the House. I mentioned to the House that the present Company is not the original Company which started the telephone work in Bengal, but the present Bengal Telephone Corporation, Ltd., which took up the work in the year 1923. When the old Company was taken over by the new one, each shareholder of the old Company who had a share worth Rs. 100 was given 30 shares worth Rs. 10 each. That is, a shareholder who had Rs. 100 worth of shares got Rs. 300 worth of shares in the new Corporation. The result was that the capital was increased by twice the original amount, and, although the old Company was in a position to give a dividend at 8 per cent. during the last four or five years of their existence, as soon as the new Corporation came into existence they could give nothing in the first year. And then in the second year they could give only 3 per cent. and then they increased it to 6 and then increased to 7½, and last year also, in spite of income-tax demands, they were able to give 7½ per cent. Now, as soon as the new Corporation came into existence, although the total capital was increased three times, the fluid-capital did not increase thereby and the Company was compelled to issue debentures to the extent of £350,000. This was issued in 1924. When this was issued, it was issued at 1s. 4d. and throughout the accounts up to the 30th of June, 1928, the accounts which I have got in my hands, that 7 per cent. mortgage bond is being shown on the liability side not at the ordinary exchange rate of 1s. 6d. but at the exchange rate of 1s. 4d. The result is that the Company is showing in their book liabilities, to put it very mildly, which are not the actual liabilities of the Company. I mention these facts for the purpose of showing that these are questions which would be gone into by the Committee and which should be gone into when the Government of India holds an inquiry as to how the accounts are being kept. Sir, these are the two principal points, apart from the many other questions of accounting, with which I do not think this House need be troubled at present, but which the Committee or any authority appointed could go into. Sir, owing to the introduction of the message rate system, the subscribers who do not use the telephone more than twice or thrice a day, are paying no doubt less than what they would have been paying under the old system. But many a householder in a residence where the telephone is used, uses it not twice or thrice but four or five times daily, and if the number goes up to 150 per mensem, then he has to pay much more than he would have to pay under the old system. But the new rate has touched the business people most of all. Sir, the business people who have to use the telephone constantly throughout the day are paying double or sometimes even treble what they would have had to pay previously. The Bengal Telephone Corporation, Limited, in their report for the year ending 1928, show the aver-

age figure of the residence and business concern and point out that the average payment by the owner of a residence or by the owner of a business concern is less than what it would have been under the old rate. We cannot always go by the average. There are certainly some persons who are paying less. But those who are paying more, compared with the small subscribers, are proportionately paying more than they paid previously, and the fallacy of striking an average in a case like this is quite apparent.

Sir, on these grounds I think that the time has come, and the Telephone Corporation have themselves acknowledged that the time will be coming in the near future, when an inquiry ought to be instituted. I move the Resolution that stands in my name.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY (East Bengal: Non-Muhammadan): Sir, I beg to support this Resolution and I only want to add a few words about the system of accounting. The message rate system has involved the necessity of keeping an account as to how many messages you are sending. That, I submit, has been found to be impracticable in the actual working of the system. And then there is another point. Suppose I want a call but I do not get any response. I have to rely entirely upon the telephone people as to whether they have taken it into account as against me or not. All these matters also require careful investigation, and I think the scope of the Committee will be sufficiently wide enough to comprehend all these.

THE HONOURABLE MR. T. RYAN (Industries and Labour Secretary): Sir, I have listened with great attention to the observations made by the Mover of this Resolution and its supporter. I think it is very important, in considering a proposal of this kind, that it should be clearly understood what in fact the Government of India can do. I am sorry that the Honourable Member did not read a few words more from paragraph 16 of the report of the Bengal Government Telephone Committee because I think these few words will throw a slightly different light upon the case. I should like, Sir, just to read again what he has read, and a little more, on the question of the revision of charges:

"The Committee have considered this point—"

regarding certain changes anticipated—

"and recommend that there should be no revision prior to the 1st April, 1928, by which time the results of the new system will be evident. Some witnesses have told us that the introduction of the Message Rate, at a reasonable figure, will result in a much bigger demand for connections than the Telephone Corporation themselves expect. If this were so, it is possible that till the limits of the present accommodation are reached, the profits of the Corporation might be considerably increased. The possibility of revision from this point of view was also considered, but we have concluded that the present agreement which limits the dividend to 12½ per cent. and provides for the distribution of surplus profits, is sufficient to meet the circumstances."

I draw special attention to the last few words of the Committee, the conclusion that the present agreement which limits the dividend to 12½ per cent. and provides for the distribution of surplus profits is sufficient to meet the circumstances. Now, when this Committee reported, the report was referred for opinion to representative bodies in Calcutta and all their recommendations

[Mr. T. Ryan.]

were carefully considered, first by the Government of Bengal, and then by the Government of India. Although the Committee was, as the Honourable Member has mentioned, unanimous, or practically unanimous, the opinions expressed by those who were subsequently consulted were not unanimous, and there was, as might be expected, a considerable difference of opinion between the various parties. Anyhow, the Local Government and the Government of India, after considering all the opinions placed before them, decided that it would be proper to accept the report of the Committee and to enter into an agreement for the message rate charges on the basis of the Committee's recommendation. This was done in an agreement of the 8th September, 1924, which authorised the message rate system of charging, on the terms which the Honourable Member has briefly mentioned, as from the 1st of September, 1924. This agreement provides specifically in clause V :

"That the scale of charges hereby agreed shall be subject to revision upwards or downwards by arrangement between the two parties at any time not earlier than 1st April 1928, subject to the terms and conditions, except so far as expressly varied by this Agreement, set forth in Clause 3 of the Supplemental Agreement, in regard to revision of charges in excess of Rs. 300 per annum on the Flat Rate System thereby authorised."

This Committee, which was appointed in 1923 but which I think reported in 1924, recommended that there should be no revision of charges before 1st April, 1928. But it was also provided that any subsequent revision would be subject to the terms and conditions made in the previous Agreement: and I think it is necessary to mention those terms and conditions. They are that:

"The rates charged.....shall be subject to revision upwards or downwards after five years from the date hereof,—"

this is the earlier Agreement—

"it being understood however that the payment of a dividend on the paid-up capital of twelve and a half per cent., of which not more than eight per cent. shall be cumulative, shall be an essential factor of such revision and that in any year in which the net profits of the Company available for dividends shall exceed the above dividend on the paid-up capital such excess shall be applied as follows: namely, one-third thereof shall be credited to those telephone subscribers on the books at the date of the declaration of such dividend, etc."

That is to say, Sir, there is first to be a specified return on capital. I may say that a further provision specified the amount that might be set aside for depreciation and reserve. These were essential conditions on which the rates might be revised.

Now, Sir, there has, as the Honourable Member says, been considerable agitation in the last couple of years or so for a reduction of the telephone charges. Representations were received both by the Government of India and by the Local Government. So far as the Government of India were concerned, they felt that the proper course for dealing with the matter was to refer the complainants in the first instance to the Telephone Corporation against whom they were complaining, and if they were not satisfied by the reply of the Corporation, then to the Local Government. The Local Government inquired into the matter and their conclusions were summed up in a letter issued on the 19th December last to the Honorary Secretaries, Telephone

Subscribers' League, Calcutta. The letter is rather a long one, but I think I had better read it because it explains the case quite clearly. It runs as follows:

"With reference to your letter,"

dated, etc.:

"I am directed to make the following observations. As was explained to the members of the deputation on the 23rd July, the distribution among the subscribers of a portion of the profits of the Company can be considered only when the dividend paid to the shareholders exceeds 12½ per cent. on the paid-up capital. This is a specific provision in the existing Agreement between the Bengal Telephone Corporation and the Government of India. It was also pointed out to the deputation that the dividends paid by the Company had not exceeded 7½ per cent. in any year between 1922-23 and 1926-27.

I am to say that the position has now been further carefully examined by Government in the light of the latest balance-sheet of the Corporation. From this balance-sheet for the year ending the 30th June, 1928, it will be seen that out of a total profit of just above Rs. 7 lakhs plus the amount of Rs. 17,420 carried forward from the preceding year, after paying a dividend of 7½ per cent. on the preference shares and a dividend of 7½ per cent. on the ordinary shares, there remains a balance of Rs. 32,897 only to be carried forward to the next year. It is clear from the above figures that no revision of the rates is possible at the present moment.

Apart from the question of application of the profits of the Company towards the reduction of their charges, paragraph 5 of their Agreement of the 8th September, 1924, with the Government of India provides that the scale of charges is subject to revision upwards or downwards by arrangement between the two parties at any time not earlier than the 1st April, 1928, subject to the terms and conditions set forth in Clause 3 of the Agreement of the 11th April, 1922. That clause recites that the rates charged by the Company shall be subject to revision upwards or downwards after five years from the date thereof, it being understood, however, that the payment of a dividend on the paid-up capital of 12½ per cent. (of which not more than 8 per cent. shall be cumulative) shall be an essential factor of such revision. The same clause lays down that the amount set aside annually for depreciation and reserve or otherwise, before the payment of a dividend, shall not exceed 8 per cent. on the paid-up capital of the Company, whether in the form of share capital or debentures. This 8 per cent. would amount to just under Rs. 11 lakhs. The amounts set aside annually during the periods from the 1st July, 1923 to 30th June, 1927 for depreciation and reserve or otherwise have at no time exceeded the 8 per cent. limit and during the year ending the 30th June, 1928, depreciation was only Rs. 7,22,206 which, being added to the contribution of Rs. 1,45,530 to the Sinking Fund, makes a total of Rs. 8,67,736 only, which is considerably below the limit of Rs. 11 lakhs mentioned above.

I am also to point out that the accounts for 1927-28 show a new item of expenditure amounting to Rs. 1,37,113 for income-tax and super-tax.

These accounts also show an item of Rs. 1,151 for transfer fees which represents nearly 600 transfers. An examination of the share registers of the Company has shown that in recent years many Indians have invested money in this Company; indeed about half of the shareholders in the Company are now Indians. They, and others who have purchased the shares of the Corporation, have invested money at the market rates for the day, which depend not only on the prosperity of the Corporation, but also on the observance by both parties of the Agreement between them and the Government of India. It would be unfair to the Corporation itself and to shareholders in it were any action, unwarranted by the agreements on which the business of the Corporation is conducted, taken which would have a depreciating effect on the shares. I am therefore to say that, after careful consideration of the whole matter, Government do not consider that any compulsory reduction of the charges levied by the Bengal Telephone Corporation, Limited, is feasible."

Sir, I think it is clear from what I have said and from what is stated in that letter, that in view of the conditions in the Agreement as regards earning

[Srijut Rama Prasad Mookerjee.]

after the new Company came into existence. Although the profit increased from Rs. 4,71,000 in 1923 to Rs. 8,92,000 in 1924, the Company was not in a position to pay even a single farthing as dividend to the shareholders. That was owing to the artificial inflation of the capital. That is the point which I wanted to make in regard to this profit.

With regard to the point raised by my friend on the right about keeping accounts, that objection was raised before the Committee of 1923-24, and it was pointed out that when the system of message rate continues for some time it might be possible to go into the matter in further detail. The suggestion had been made by some witnesses then that the automatic system might be introduced so that no human agency might be responsible for the recording of completed calls. If an enquiry is instituted, that question might also be gone into, whether by a Committee or by conference between the Government and the Telephone Corporation. But something ought to be done. I may, in this connection, say that the telephone rate is being decreased in London and other places; and that revision is possible under the present circumstances is borne out by the fact that in London the rate was £8 per annum for a two-mile radius of the exchange. There are so many exchanges in London that this rate does not differ from the four-mile radius of the Bengal Telephone Corporation. The charge was 1½d.

THE HONOURABLE THE PRESIDENT: The Honourable Member is making a second speech in reply. Apart from the fact that it is irregular, it is quite unnecessary, in view of the fact that he indicated at the beginning of his remarks that he proposed to withdraw his Resolution.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: I did not want to make a second speech at all; that is far from my mind. I only draw the attention of the Government to one important fact, because I am not pressing the appointment of the Committee. This would be a fact which would be available to the Government, so that they might utilise it for determining whether an inquiry is to be made or not. I did not purposely mention it in the opening speech, because I left these matters to be gone into by the Committee. I shall not take more than two minutes more. In London the rate was decreased from 1½d. per call to 1¼d. in 1923, and last year it has been further decreased to 1d. per call. So, in spite of the heavy expenditure that is incurred in expensive places like London, it is possible to reduce the rates. There are certainly points of difference between London and Calcutta life; but those are questions which, I am sure, the Government will take into consideration when they discuss the matter further. On the assurance given, I do not press my Resolution.

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

RESOLUTION RE ESTABLISHMENT OF A PRIVY COUNCIL IN INDIA.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY (East Bengal: Non-Muhammadan): Sir, I beg to move:

"That this Council recommends to the Governor General in Council to take steps to have the Government of India Act so amended as to enable the Governor General in Council to establish a Privy Council in India composed of natural-born or naturalised Indians who—

(a) are or have been Ministers of the Central and Provincial Governments,

(b) are heads of various public, social, political, industrial, commercial, agricultural, professional, scientific and educational institutions in India to be included in a schedule from time to time by the Governor General in Council,

to be consulted by the Governor General and Governors of Provinces on matters of public importance and specially when exercising the right of veto or dissolution."

In most European countries and in the United States of America complaints are nowadays often being made by eminent men that the Legislatures are not attracting the best sorts of people in the country. Describing thus the state of affairs in the United States, Lord Bryce in his "Modern Democracies", Volume II, at page 69 says:

"In no country are there so many other careers which open so many doors to men of ambition, energy and practical capacity. The opportunities for power, as well as for winning wealth in the world of business are proportionate to the size and resources of the United States and are unequalled in the world. The Bar is another career in which the pecuniary prizes as well as the fame are immense..... the large number of American Universities and the influence their leading figures can exert offer another attractive prospect..... In America political life can hardly be called a career for it is liable to be interrupted by causes irrespective of personal merit. It is also a career the entrance to which is in most places neither easy nor agreeable, services are exacted, pledges are demanded which a man of high spirit does not like to render or to give."

J. A. Spender in his "Public Life", Volume II, at page 170 speaking generally of all countries says:

"Under our present system we are wasting a great deal of administrative ability and scientific knowledge which can at present find no outlet in the field of politics. Men of high capacity and long experience find themselves excluded from Parliament for long periods by the hazards of electioneering, other men of not less ability have neither the means nor the disposition to fight battles in the constituencies. We have got it into our minds that the duty of a Second Chamber must necessarily be to revise or veto the legislation of an elective House. Is it not possible to reverse conventional thought on this subject and think in future of a preparatory rather than a revising Chamber.... a Chamber in fact which would provide all that essential knowledge which is so apt to be obscured in the battles of parties and their electioneering cries? Recent experience in all countries suggest that what modern democracy most needs is some such authoritative organ of knowledge to see that political issues are shaped in intelligible terms and that electors are not driven to a choice between mischievous or impracticable alternatives..... Incidentally we might also provide a new way into public life for men whose contributions might be of the highest value and a way back for others whom the present course of politics is driving into the wilderness."

Following the principles enunciated above by the learned author, I propose in my Resolution that a Privy Council should be established in India with similar functions. It should, in my opinion, serve various purposes. Firstly, it should give the head of the administration independent and efficient advice and the utility of such an advising body becomes all the greater if the Legislatures are established on a uni-cameral basis. Such a Privy Council exists in England but the party system of Government which prevails there has made it almost functionless, specially since the time, I believe, Queen Victoria or the late King was snubbed by the then Prime Minister for having consulted some Privy Councillors over his head.

A similar institution founded by Napoleon I also exists in the Council of State in France and Lord Bryce speaks of it as follows at page 312 of Volume I of his book:

"This Council has won the commendation of some English writers who think that some similar institution might usefully be formed out of the British Privy Council. In France

[Mr. Kumar Sankar Ray Chaudhury.]

itself there are those who hold that it could well be used more largely than it is, for the purpose of drafting or revising projects of legislation and regret that the ministry and the chambers are too jealous of their own powers to share them with a nominated body."

A similar institution has also recently been established in Greece where the uni-cameral system has been adopted.

To remove, Sir, the jealousy of the Legislatures to share their powers with such a body I have proposed that the Privy Council shall be constituted in India by a natural process of selection of men who through their ability in the various spheres of activities in society come to be the heads of important public, social, political, industrial and other institutions in the country without requiring them to come forth through the undesirable process of an open elective political competition. My further object in constituting the Privy Council in this way is to induce people to form themselves into such organisations in order to enable them to take a more active part in the civic administration of the country, and through them thereafter to help the people in sending proper representatives to the Legislatures of the country. These bodies on being consulted by the Governors will then be able to give them quickly an idea of what the popular verdict is likely to be upon any important point in controversy and enable the Governors to come to proper decisions on such matters.

So long as India does not get full Dominion status and her affairs are ultimately controlled by the British Parliament acting through the agency of the Governors vested with powers of veto and dissolution over the Legislatures, the exercise of such powers are likely to be more frequent. In order, therefore, to avoid the danger of an abuse of such powers, and to minimise the personal responsibility of the Governors themselves, I propose in my Resolution that it should be made compulsory for them to consult the Privy Council before exercising such powers.

With these words I commend my Resolution for the acceptance of the House.

THE HONOURABLE MR. C. W. GWYNNE (Home Department : Nominated Official) : Sir, I regret that I must oppose the Honourable Member's latest dissertation on constitutional problems. I found it somewhat hard to gather what his proposal really is. From his numerous quotations he seemed to suggest that the Privy Council should be a natural adjunct of a uni-cameral system—a system which this House rejected only two days ago; secondly, that it should be appointed in order to provide careers for ambitious persons in this country, and, finally, that it would provide valuable instruction in civic duties. His Resolution is the successor of a series of Resolutions of which notice has been given from time to time during the last few years by Dr. Sir Hari Singh Gour, though the Honourable Mover's Resolution goes far beyond anything that has ever been proposed before. In 1922, when Dr. Gour moved his Resolution he withdrew it as the sense of the House was hostile, speaker after speaker speaking against it in no hesitating terms. The question of the creation of an Indian Privy Council has thus been brought from time to time before the Legislature and has been for a comparatively long time under discussion in this country. But it has never met with anything but a very frigid reception. The

Council will perhaps forgive me if I repeat what has now become a very trite remark—a remark which the Honourable Mover has heard a good many times in the course of this Session of the Council—that Resolutions are at present particularly inopportune which propose constitutional changes whether in the actual constitution of India or in its constitutional relationship with Great Britain, for the simple reason that the whole constitutional position is now under examination by the Statutory Commission. The Honourable Member would more appropriately have submitted his proposals to that body. I hope my Honourable friend will forgive me if, turning to the actual wording of his Resolution, I characterise its phraseology as somewhat vague and lacking the clarity and precision of its predecessors. What is the House to make of the suggested composition and functions of this Privy Council? The Honourable Member would limit its membership entirely to Indians of British India, thus excluding for example many persons distinguished in commerce and industry who one would expect would find a place in his category (b)—the industrial, commercial, and professional classes. Indian Members of Council would apparently be excluded, as the Honourable Member only refers to Ministers of the Central and Provincial Councils. Ministers and officials of Indian States would be excluded. Thus the Honourable Mover would unnecessarily deprive this Privy Council of a considerable wealth both of commercial and political experience. What does the Honourable Member mean by Ministers of the Central Government? There are no Ministers. In other respects too it is not easy to gauge his exact meaning from the terms of the Resolution. The Honourable Mover refers to a schedule. Presumably he means the Governor General would have to maintain a panel. But it is not easy to see how the Honourable Member proposes that this is to be done. What is meant by heads of social and political institutions? Does the Honourable Mover mean the heads of various political groups—the President of the Congress or the Muslim League and so forth? I do not for a moment suggest that these eminent citizens and statesmen should not be members of a Privy Council: I merely suggest that the meaning of the Honourable Mover is, to say the least, somewhat obscure.

Now, let me turn for a moment to the functions which my Honourable friend proposes for his Council. He suggests that the law should be so amended as to enable the Governor General in Council to establish a Privy Council, etc., to be consulted by the Governor General and Governors of Provinces on matters of public importance and specially when exercising the right of veto or dissolution. But how in practice would this advice be tendered to provincial Governors? Suppose the Government of Madras desires to consult the Government of India on a matter of public importance on which a decision is required without delay. The Privy Council, I presume, would sit at Delhi or Simla. When will it sit? Will it be in permanent session or will it on the English analogy meet very rarely. The English Privy Council, I believe, only meets actually as a whole Council on the occasion of a Sovereign's accession to the throne or at the marriage of a Sovereign. Will it be summoned urgently for any particular business that may be set before it? If the former, i.e., if it is in permanent session, it is really a sort of Executive Council. Normally of course a Governor when in difficulty would consult the Governor General in Council. If this Privy Council is to be summoned specifically, its members

[Mr. C. W. Gwynne.]

have to be called from the four corners of India. How can it in that event advise the Governor of a province on a matter of urgent importance? The crisis will have passed before the Council has assembled. If the Council is to sit permanently as a large and unwieldy body, it will be quite unsuitable for the adequate performance of the functions which the Honourable Mover would have it discharge.

It is really only an additional Cabinet. If it is to sit occasionally, how can Government consult it on points of urgent public importance? A matter, however, which is of much greater moment is that the Resolution enjoins consultation with this Privy Council before the Governor General exercises the power of veto. Now, the power of veto is a personal power conferred on the Governor General and Governors. It is specifically and designedly distinct from the powers of the Governor General in Council. Thus, the proposal is opposed to the fundamental principle of the present constitution, by which safeguards have been established whereby the Governor General and Governors may exercise a special personal power in cases of emergency and necessity. To lay down that these powers should only be exercised after consultation with the somewhat illusory and migratory body which the Honourable Member wishes to set up as the Privy Council, would not only deprive the Governor General and Governors of a salutary power, but would import anomalies and difficulties into the constitution which would gravely impair the successful progress of its working, and which might at times completely paralyse the administrative machinery.

I had expected that the Honourable Mover would expatiate on the analogy of the English Privy Council. He has not done so, and therefore it is unnecessary for me to explain how false any such analogy would be. The Honourable Mover has endeavoured to repair an omission which was emphasised in previous discussions that the English Privy Council as now constituted has no specific functions, or rather performs only formal duties. He has endeavoured to make good that omission by conferring upon his Privy Council certain definite functions. But, as I have tried to show, these functions are functions which cannot and should not be imposed upon a Privy Council in this country with the constitution as it is at present. For these reasons I maintain that the Resolution is both unnecessary and impracticable, and I would ask the House to reject it.

THE HONOURABLE MAJOR NAWAB MAHOMED AKBAR KHAN (North-West Frontier Province: Nominated Non-Official): Sir, I object to the Resolution on quite a different ground. Sir, to my mind, a huge expenditure is involved in the maintenance of the Privy Council, and I think the Honourable the Finance Secretary will support me in saying that the Government of India cannot have the means to make provision for same in the present condition of its finances. The reforms have already made the administration of the country top-heavy. Both the rich and the poor are grumbling against the present form of taxation, and it will be an extra source of excessive taxation again. The formation of a Privy Council, therefore, cannot in my opinion be given effect to without resorting to a considerable increase in every kind of taxation, and it would be highly advisable at the present moment to work

without a body which the Government of India cannot manage to finance without resorting to an increase in the existing rates of taxation. It would surely be adding to the miseries of the tax-payers in India, specially the agriculturists, who form 80 per cent. of the population, to ask them to support increased rates of taxation so that a Privy Council may be established in India. Leaving aside the question of cost and expenditure, I think India can have nothing to gain and everything to lose by the provision of a Privy Council here. There can be no denying the fact that in England there are the most eminent, the most cultured and the finest brains of the world. It is really impossible to hold a comparison of that with the knowledge and legal learning prevailing in this country, and that is why India will be more benefited by their advice and instruction in all important matters, judicial as well as political, instead of having a Privy Council here for their disposal. No doubt India can also boast of men of learning, but Englishmen on account of their being not in contact with Indian conditions of life and Indian state of affairs are more free from bias and prejudice. Their decisions on questions relating to Indian matters therefore can only be based on argument and the merits of the cases referred to them by the Government of India.

With these remarks, Sir, I oppose the Resolution.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: Sir I am glad to say that on this occasion the Honourable Member in Charge of the Department has given me some opportunity of discussing the merits of the Resolution itself instead of trying to throw it out on the ground that it is premature. His first objection, I think, was as regards confining my Resolution to natural born or naturalised Indians. My submission, with regard to that, is that if other people come here, who are not naturalised or natural born, and they come here simply for profit like birds of passage they have no right to take part in the political administration of the country. . .

THE HONOURABLE MR. C. W. GWYNNE: I did not take exception to natural born or naturalised Indians, but that his natural born or naturalised Indians are limited to those who come under categories (a) and (b) of the Honourable Member's Resolution.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: That I think disposes of that point.

Then I come to his contention that they are to be confined to Ministers of Central and Provincial Governments. My point was that my scheme, as embodied in the several Resolutions which I have already placed before this House, was a comprehensive scheme for a constitution for India, and as I wanted self-government for India, there is no scope for any Member of the Executive Council finding a place in that scheme. So I confined it only to Ministers.

The next point that was raised was whether this Council is to sit permanently. I never suggested that in any part of my Resolution. The Privy Council in England does not sit permanently. His Majesty can summon it at his pleasure and he can summon not the whole body but specific members only. I do not restrict the Governor's powers to summon the Privy Council in any way.

That disposes of the question of cost raised by my friend the Honourable Major Nawab Mahomed Akbar Khan.

Then it was asked: "What are the functions to be ascribed to this Privy Council?" They are merely to be consulted. That does not in any way fetter the powers of the Governors to exercise their discretion in any way.

Another point raised was: "Was the Governor of a province to summon the whole of the Privy Council?" To that I have already answered by saying that it is not incumbent upon him to summon the whole body. He can summon the Privy Councillors who happen to belong to his province and take their advice. That would, I submit, though he is not bound to follow it, strengthen his hands when he is acting on his personal responsibility.

Then, as regards the nature of the bodies which are to be given the power to elect their heads as Privy Councillors, I also leave that entirely to the discretion of the Governor General. He need not constitute Privy Councillors out of any and every organisation. The organisations have to be selected from time to time and placed in a schedule, and whoever occupies the post of head of that institution will be a Privy Councillor. The Governor General will take care to see what associations are important enough in the country for their heads to be made Privy Councillors. The Governor General and the Governors of Provinces retain their powers of veto and dissolution intact. I am only asking for a strengthening of their hands by getting public opinion to support them. That is all that my Resolution asks for, and I submit that the Honourable Member has not been able to assail me on that matter.

With these words, Sir, I commend my Resolution for 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 take steps to have the Government of India Act so amended as to enable the Governor General in Council to establish a Privy Council in India composed of natural born or naturalised Indians who—

- (a) are or have been Ministers of the Central and Provincial Governments,
 - (b) are heads of various public, social, political, industrial, commercial, agricultural, professional, scientific and educational institutions in India to be included in a schedule from time to time by the Governor General in Council,
- to be consulted by the Governor General and Governors of Provinces on matters of public importance and specially when exercising the right of veto or dissolution."

The motion was negatived.

HINDU LAW OF INHERITANCE (SECOND AMENDMENT) BILL.

THE HONOURABLE MR. NARAYAN PRASAD ASTHANA (United Provinces Northern: Non-Muhammadan): Sir, I move for leave to introduce a Bill to alter the order in which certain heirs of a Hindu male dying intestate are entitled to succeed to his estate.

The object of the Bill is briefly explained in the Statement of Objects and Reasons which I have appended to the Bill itself. It is in fact a companion Bill to the Act which has already been passed by this Honourable Council, namely, wherein the daughter's daughter, sister and sister's son have been placed in the category of heirs to a deceased male under the Mitakshara law. In fact at the time when that Bill was on the legislative anvil I tried to put in amendments, but at the time it was thought proper that a separate Bill should be brought for such family relations as were related not by blood but by marriage. I have therefore ventured to introduce this Bill in this Honourable Council in the hope that the injustice which is now being done to the son's widow and the brother's widow will be remedied.

I move for leave.

The motion was adopted.

THE HONOURABLE MR. NARAYAN PRASAD ASTHANA: Sir, I introduce the Bill. I may further state that I will move for consideration or for reference to a Select Committee in the Delhi Session.

ELECTION OF A MEMBER TO THE GOVERNING BODY OF THE INDIAN RESEARCH FUND ASSOCIATION.

THE HONOURABLE THE PRESIDENT: For the election of one Honourable Member to sit on the Governing Body of the Indian Research Fund Association, the following four Honourable Members have been nominated:

The Honourable Rao Sahib Dr. U. Rama Rau.

The Honourable Mr. P. C. Desika Chari.

The Honourable Mr. Mahmood Suhrawardy.

The Honourable Srijut Rama Prasad Mookerjee.

As I said yesterday, the election will take place at the meeting to-morrow.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: I beg to withdraw. When there are three other Honourable Members anxious to come in, I do not want to stand.

THE HONOURABLE THE PRESIDENT: That will leave three candidates for the membership on the Association. The election will take place to-morrow.

The Council then adjourned till Eleven of the Clock on Thursday, the 26th September, 1929.

COUNCIL OF STATE.

Thursday, 26th September, 1929

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. L. GRAHAM (Secretary, Legislative Department) :
Sir, I move that the Bill further to amend the Transfer of Property Act, 1882, for certain purposes, as passed by the Legislative Assembly, be taken into consideration.

Sir, with reference to this motion I find it somewhat difficult to decide exactly what course I should take. The Bill, which contains nearly 63 clauses, is a Bill of very considerable magnitude, not only in the length of the Bill, but in the importance of the changes which it makes in the law relating to transfer of property. There are so many principles involved in this Bill that I should find it difficult to set out broadly the changes which have been made in respect of the law without delivering a speech of very great length and necessarily a speech of very great detail, which, I think, the Council would only find extremely tedious. None the less, Sir, rather than devote myself to the details of the Bill I should like to say something about the history of the Bill. The Bill, Sir, has behind it a long history and connected with that history are many distinguished names, which I should like to bring before the Council. In the earlier stages which take us back to the period before the war, we find Sir William Vincent attempting a draft and putting some of his best work into that draft. Naturally, during the war, no further progress could be made, but the urgency of dealing with this very important subject has always been kept in mind by the Government of India, though they have not, it must be confessed, been very successful in the years immediately following the war. But for that there are, I think, ample reasons, and no charge of dilatoriness can be brought against the Government of India in this respect. Under the new Constitution, Sir, the first Law Member was Sir Tej Bahadur Sapru, and it is to his name in particular that I should like to pay a tribute, because he really is the initiative force at the back of this measure for bringing up to date the law relating to the transfer of property. Under Sir Tej Bahadur's instructions an officer was placed on special duty in the Legislative Department to collect the case law on the subject and generally to examine all suggestions which had been received from various quarters and also the material previously collected in this Department with a view to amending and bringing up to date the law. That officer, Mr. Mukherjee, performed, I consider, a very distinguished piece of work, and I may add that he is now a Judge of the Allahabad High Court. Most unfortunately, as Honourable Members are aware, Sir Tej Bahadur Sapru was not able to complete his term of office, and thereafter a period ensued in the

[Mr. L.^a Graham.]

Legislative Department when—I mean no disrespect to them—there were only temporary occupants of the post of Member, and it was impossible for them to carry on the work initiated by Sir Tej Bahadur Sapru. Two incumbents of the office, Sir Muhammad Shafi and Sir Narasimha Sarma, remained in office for comparatively so short a time, that it was impossible for them to take up this very great burden of work. On the appointment of Mr. S. R. Das, the work was resumed. The late Mr. S. R. Das, took a very great interest in this work, fully appreciating the importance of it, and after examining everything that had already been done, he decided that the best method of dealing with this very grave problem was to secure the appointment of a Special Committee, a Committee which by its constitution can undoubtedly be described as a Committee of experts. That Committee was constituted as follows: The Honourable Mr. S. R. Das, as Law Member, Chairman, the Honourable Mr. B. L. Mitter (as he then was), Advocate General, Bengal, Mr. D. F. Mulla, Dr. Surendra Nath Sen, at that time Advocate of the Allahabad High Court and now on the Bench of that High Court. By way of Statement of Objects and Reasons to this Bill, there has been appended the report of that Special Committee, and Honourable Members will have read that report including Appendix B which is made up of Notes on Clauses, which in themselves are a very valuable addition to the literature on the subject. If Honourable Members read this publication they will, I think, admit that the work was done with extreme care and thoroughness. The result, Sir, is the Bill before us and another Bill which I shall later ask the Council to take into consideration. I should like before referring to the points in the Bill place on record my profound regret—and I am sure the Council will share it—that the Honourable Mr. S. R. Das was not spared to bring this measure himself before the Indian Legislature.

From the report of the Special Committee attached to the Bill by way of Statement of Objects and Reasons, Honourable Members will see that the whole Act has been thoroughly overhauled. In so doing two main principles were borne in mind, the first to deal with obscurities and ambiguities which were shown to exist in the law as a result of the conflicting decisions of the High Courts—in some cases solved by final appeals to the Privy Council, but in other cases the conflict still remains—and the second to bring the law which dated back to 1882 up to date. The law of property is not a static law, and since that time there have been many developments. The additions to the British Statute-book will make that point clear to all Honourable Members. The progress in dealing with this branch of the law in England culminated with the Law of Property Act in 1925, and it was thought that we must consider not only the question of eliminating conflicts of decision which had arisen in the High Courts, but also to see to what extent we should bring our legislation into line with the latest developments in the English law. The main points in which the Bill now before the House seeks to amend the Act of 1882 are set out on page 3 of the Statement of Objects and Reasons and they are the following:

Firstly, the omission of the words “Hindus and Buddhists” in section 2 whereby the provisions of Chapter II will apply to all cases except those governed by a special rule of Muhammadan Law.

Secondly, the provision of making registration amount to notice of a registered document; also provision making constructive notice to an agent notice to the principal.

Thirdly, the validity of transfers in favour of a class, when some members of that class are unable to take.

Fourthly, the validity of a direction as to accumulation for a certain period and for certain purposes.

Fifthly,—this is a very important point indeed—the statutory recognition of the equitable doctrine of part performance.

Sixthly,—here the Committee's recommendations were not finally accepted in the lower House—the Committee proposes the compulsory registration of wills and mortgages relating to immoveable property of whatever value and of all leases except those from month to month or for any term not exceeding one month. I do not think any member of the Committee or the House will deny for a moment the desirability of that proposal, but it was felt that the country or parts of the country, at any rate, were not ready for that change, and consequently Government gave way.

Seventhly, the abolition of the remedy of foreclosure in the case of all mortgages except a mortgage by conditional sale or an anomalous mortgage providing expressly for foreclosure.

Eighthly, there is a provision for compelling a mortgagee to exhaust his remedies against the mortgaged property before enforcing his personal remedy.

Ninthly, the amendment of the provisions regarding sale without the intervention of the Court.

Tenthly, the extension of the principle of “subrogation.”

Eleventhly, the modification of the law of “merger”.

And, lastly, the provision requiring leases to be executed by both parties.

Honourable Members will observe the Bill is largely concerned with that extremely difficult subject, the Law of Mortgages, and Honourable Members who have read the detailed notes on clauses will, I trust, appreciate the amount of labour which was put into the work of the Committee, and will, I trust, agree with me that a great deal has been done towards disposing of the difficulties arising from the conflict of the Courts, and also that a very great deal has been done to reduce the amount of litigation which is in future likely to arise out of mortgages.

With these few words, Sir, I move.

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces: Nominated Non-Official): Sir, I feel I cannot refrain from paying my tribute of admiration and respect to our talented Law Member and the expert Committee that has devoted so much pains and expenditure of time and trouble over this most important measure. My Honourable friend, Mr. Graham, has already spoken of the work done in this connection by certain individuals who were connected with the Legislative Department, and particularly Sir William Vincent and other Law Members who during their term of office have contri-

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buted towards the preparation of this very important measure. The Transfer of Property Act to my mind is one of the most difficult, intricate and complicated measures, probably barring the Code of Civil Procedure. This law was framed in 1882, but before that law was framed, learned jurists and eminent lawyers who constituted the two Law Commissions had to devote for several years their attention to the formulation of a law which would not only include certain important provisions of the Conveyancing Act of England but the old Regulations of Bengal, of the years 1798 and 1806, and the Bombay Regulations of 1827, which referred to immoveable property. The Transfer of Property Act has, as some of the legal Members of this Council are aware, been amended on no less than 12 occasions since it was passed in 1882. But, unfortunately, no thorough revision of the measure was undertaken till this expert Committee was appointed by the Government of India for the purpose of going through the whole Act and finding out what changes were necessary by reason of the conflicting decisions of the various High Courts, by the alteration in the law of conveyancing in England, and also the difficulty experienced in the working of the Act. We have now in this Bill the result of the labours of this expert Committee, and I am glad to notice that in this Bill two cardinal principles have been strictly adhered to and no amendment has been attempted which would have merely the effect of improving the wording and phraseology of the old Act, but the new principles which have received sound judicial interpretation and which have been judicially recognised, have been examined, settled and incorporated in this Bill. The Bill also embodies new principles which have been necessitated by the revision of the Conveyancing Act in England from time to time, and the Bill now before this House may be regarded as a measure consolidating and codifying the whole law of property as it exists to-day. The most important modifications effected by the Bill may be summarised by stating that the Bill before the House makes the law explicit regarding notice, both actual and constructive, validating all transfers in favour of a certain class when some members of that class are unable to take, the compulsory registration of sales and mortgages relating to immoveable property of whatever value, in derogation of the existing law which permits the transfers of immoveable property of a value under Rs. 100 without registration; and the registration of all leases except those from month to month or for any term not exceeding one month. The present Bill also includes provisions for the abolition of the remedy of foreclosure in the case of all mortgages except a mortgage by conditional sale. It makes it obligatory on a mortgagee to exhaust his remedies in the first instance against the mortgaged property before enforcing his personal remedy.

It further provides for the validity of a direction as to accumulation for a certain period and for certain purposes, for the amendment of the provisions regarding sale without the intervention of the Court, the modification of the law of "merger", the extension of the doctrine of subrogation and the formal execution of leases both by the lessor and the lessee. It also has recast the law relating to fraudulent transfers, and it has provided for the doctrine of part performance. It has also recognised in a statutory manner the obligation to transfer to a third party instead of retransfer to the mortgagor on the liquidation of the mortgage-debt.

Sir, on a measure of such supreme importance, and complicated as it is, it would be idle for me or any other person in this House to offer comments on the individual provisions of the law. Even if I differed with the expert Committee in the recasting and framing of certain provisions, I would willingly surrender my opinion to the combined learning, knowledge and experience of this expert Committee who have taken such an amount of infinite trouble over this measure, and to the best of their ability and judgment have placed before the country a Bill of a most difficult character codified and consolidated in consonance with modern judicial decisions of the various High Courts. It is for this reason that I shall not take up the time of the Council in commenting on the various provisions of the Bill, particularly as we have the assurance of this expert Committee that they have scrutinized section by section the whole of the Transfer of Property Act in order to find out if any other provision of that Act which is not included in this Bill required revision. In view of that assurance, I am quite content to give my vote for the passing of this measure without any further discussion. I understand also that several amendments have been suggested by several Honourable Members which are to be moved to-day. I appeal to my Honourable friends that, in a measure of this supreme importance which has been so carefully considered by this expert Committee, in deference to their combined knowledge, not to press their amendments and I think that this Council will be doing a prudent thing if it passes the Bill as placed before this House to-day.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE (West Bengal: Non-Muhammadian): Sir, I join with my Honourable friend Sir Maneckji Dadabhoy in extending our most cordial thanks to, and expressing our appreciation of the great labour and assiduity with which this Bill has been drawn up by, the Special Committee, and I agree with the Honourable the Mover of this motion that it is to be really regretted that the Honourable Mr. S. R. Das is not to-day with us to join in the deliberations in connection with this Bill, a Bill which was initiated during his régime as Law Member. The proposal had no doubt been made in previous years to take up the amendment of the Transfer of Property Act from time to time, and that was ever since 1902 or 1903, when one of the earliest amendments of the Act was made. But it was not till the late Mr. S. R. Das took it up seriously as Law Member that the attention of Government was directly drawn to it, and we have the result to-day in the form of this Bill.

I cannot agree with my Honourable friend Sir Maneckji Dadabhoy that because there was a Special Committee, and because the Special Committee consisted of some of the most learned lawyers of the land, therefore we ought not to have any difference of opinion with that Committee. Sir Maneckji Dadabhoy, who at one time of his life had been in the legal profession, knows as much as I do that difference of opinion is tolerated in the legal profession to an extent which is not done in any other profession or any other calling; and especially when we are asked to consider such an important measure as the Transfer of Property (Amendment) Bill, by which, as the Honourable Mover as also the last speaker has pointed out, some of the most vital principles in the Transfer of Property Act are being amended, there is bound to be difference of opinion among the different Members of this House. Nobody can suggest that the opinion that is held by me or by any other Honourable Member

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is the correct one, because it must be left to the judiciary afterwards to decide which opinion is the correct one.

With regard to the more important problems that have been scrutinised by the Special Committee and the suggestions which have been made, I do not think any useful purpose will be served by repeating them or referring to them in detail at this stage. But, Sir, there is one point which I want to bring to the notice of this Council at this stage. A Bill which is of such importance, and of such magnitude—only if we look to the different clauses of the Bill—that Bill was passed by the other House the other day and the papers were circulated to us last week. We have no doubt got here the notes on the different clauses and we have also had circulated to us the opinions that were received from the different provinces after the Bill in its present form had been introduced in the Legislative Assembly. But, in my opinion at least, it is absolutely impossible for any Member of this House to go into the detailed provisions of these Bills and go through the opinions that have been expressed by the different public bodies or different authorities in the different parts of the country within the time that was at our disposal. The existence of a second Chamber in the constitution brings in the necessity of placing before the second Chamber the Bills that are passed in the other Chamber in the same way as they are done in the other Chamber. No doubt it is not open to the second Chamber to have another Select Committee, or to refer the Bill for public opinion if this has already been done by the other Chamber. But surely sufficient opportunity should be given to the Members of the second Chamber to go through the details of the Bills that are placed before them. Sir, in this case, amendments have been proposed to a large number of sections of the Transfer of Property Act; new sections have been added, and it is absolutely necessary to read the Bill together with the whole of the Transfer of Property Act. That is a responsibility which I think cannot be satisfactorily discharged by the Members of this House within the time at their disposal. Then again, Sir, when amendments are made in such extensive form, it should have been made possible for the Members of this House to have the original section and the amended section put side by side in a pamphlet circulated to the House. I understand that that was done at one stage before the Legislative Assembly, and I fail to see why that was not repeated here. The other difficulty that I had felt was that the Bill as passed by the Legislative Assembly is divided into different clauses; the numbering of these clauses has been altered by the Legislative Assembly from the numbering as it existed in the original Bill as introduced in the other House. The result is that the opinions we have got and the Notes on Clauses have reference to the originally numbered clauses and not to the clauses as now numbered. So far as Notes to Clauses are concerned, the sections of the Act are also mentioned and they can be easily traced, and it is easy to find out which particular clause of the original Bill is being amended or is being noted upon. But with regard to opinions we are in that difficulty. Moreover, the Bill had been introduced in the Legislative Assembly on a previous occasion and opinions had been sought by Government from the different provinces on that Bill. That Bill lapsed owing to the old Assembly being dissolved and the new Assembly coming into existence. But the opinions which had been received at that time were not circulated to

the Members of the House, and the difficulty is that throughout the opinions which we have now got reference is continually made to the opinions that were previously expressed. When I come to some of the amendments I shall point out, Sir, how it is impossible for us, who have not got the opinions expressed on the original Bill, to find out what the opinions of the different provinces were on the clauses of the Bill as originally drafted. These are difficulties which I do not want to press at this stage on this particular Bill, but I want Government to remember these points for the future, so that the Members of the second Chamber may not be under these disadvantages.

THE HONOURABLE MR. L. GRAHAM: Sir, I shall only deal with a few of the remarks made by the last speaker, who suggests that he has been put, as he says, at a disadvantage. The first complaint is that adequate time was not given. The Bill was only laid in this House a week ago and consequently he has not had time to give the necessary amount of attention to it. But, Sir, I would suggest to the Honourable Member that in this week all that has been necessary for him to consider is the amendments actually made by the Legislative Assembly. The previous stages of the Bill have all been published in the Gazette, and any Member who was interested in the law of transfer of property and the proposed amendments thereto, having his Gazette copies, would surely have scanned them to know what the position was when the motion was made in the other House that the Bill, as reported by the Select Committee, be taken into consideration. Therefore, Sir, as I understand the position, all that was necessary for him to examine in this last week were the amendments made in the other place.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: Was the report of the Select Committee circulated to the Members of this House?

THE HONOURABLE MR. L. GRAHAM: The Report of the Select Committee like all Reports of Select Committees was published in the Gazette and copies of the Gazette are supplied to Members. What they do with them I do not know. There was one more substantial point which came from the Honourable Member, and that was, that the earlier set of opinions was not supplied. Well, I could defend that on technical grounds, Sir, by saying that the opinions on the earlier Bill were not papers to this Bill, but I prefer to take a more generous line and say that, although there was no obligation on us to supply those papers, if the Honourable Member when examining the opinions on the second Bill had merely said to the Department that he found it somewhat difficult to follow those opinions, we of course should have supplied him with copies of the earlier opinions. But I cannot accept the suggestion, Sir, that we are obliged to circulate, that we should have circulated, the opinions on the earlier Bill, because, as I have said, they are not papers on this Bill. I trust then, Sir, that the House will not feel that they have been ungenerously treated in this respect. The reason really why we brought the Bill before the House this Session—I gave the House as long as possible, whereas I might have given them only three days—was that the Select Committee were very emphatic that this Bill should be brought into operation as soon as possible, and the date which they inserted in the Bill was the first day of April, 1930. Now, if we had delayed dealing with this Bill till our February Session, there is no doubt, Sir, that we should have been called upon to insert another amendment in the Bill giving a further period of notice for the Bill to be brought into

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operation, probably Members would have suggested the 1st of January, 1931; and so the delay which is already great would have been even more serious. I trust then, Sir, the House will agree with me that they have not been unreasonably treated.

THE HONOURABLE THE PRESIDENT: The question is:

"That the Bill further to amend the Transfer of Property Act, 1882, for certain purposes, as passed by the Legislative Assembly, be taken into consideration".

The motion was adopted.

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 SRIJUT RAMA PRASAD MOOKERJEE: Sir, I beg to move:

"That in clause 3 of the Bill the words 'the word "Hindu" and' be omitted and consequential changes be made."

THE HONOURABLE MR. L. GRAHAM: May I suggest that the amendment of the Honourable Kumar Sankar Ray Chaudhury be taken first. It is to omit the whole clause.

THE HONOURABLE THE PRESIDENT: I think it would be more satisfactory if the Honourable Srijut Rama Prasad Mookerjee moved his two amendments first. In the event of those both being defeated, the Honourable Kumar Sankar Ray Chaudhury's amendment will hardly arise. Whereas, on the other hand, if the Council first disposes of the Honourable Kumar Sankar Ray Chaudhury's amendment that the whole clause be omitted, we should still have to deal separately with each of the amendments of the Honourable Srijut Rama Prasad Mookerjee.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: Sir, as I want my two amendments to be voted on separately, that is why I have given notice separately. Sir, in clause 3 the reference is to section 2 of the Transfer of Property Act. In the last few lines of section 2 of that Act the words are:

"Nothing in the second Chapter of this Act shall be deemed to affect any rule of Hindu, Muhammadan or Buddhist law."

The effect of clause 3 of the Bill will be that "Hindu" and "Buddhist" will go out and only the Muhammadans would not be affected by the second Chapter of the Transfer of Property Act.

My objection to the deletion of the word "Hindu" is this. It is stated in the Notes on Clauses which have been circulated to Members that the word "Hindu" is not necessary here, because the only points of difference between the Hindu Law and the provisions of the Transfer of Property Act contained in Chapter II have now been changed and the law is the same in the Hindu law as in the Transfer of Property Act. In the first place, I do not agree that anybody can say with certainty that all the provisions of the Hindu law have been looked into by any person, by the Committee even; the Committee does not say in specific terms that all the provisions of the Hindu law have been examined and that there is no provision of the Hindu law anywhere which does not militate against the provisions of Chapter II of the Transfer of Property Act

The next point that is raised by the Committee and also by the Honourable the Law Member is that there ought to be certainty as to the law of property. The effect of section 2 of the Transfer of Property Act is that the whole of Chapter II would be applicable to all persons even if they be Hindus unless they can show that there is some provision of Hindu law which militates against the provisions of the Transfer of Property Act. The onus is on the person who alleges that there is some difference between the provisions of the Hindu law and the Transfer of Property Act. Therefore, there is no uncertainty with regard to law of property even if this provision is allowed to stand. I would in this connection draw the attention of the House to the remarks that were made at the time when the Act was originally passed in 1882. Sir, I would refer to the speech of the Honourable Mr. Evans in the Imperial Legislative Council on the 26th of January, 1882. The historical reason why this expression was added in the section is clear from this speech of Mr. Evans:

"In Chapter II (of the Transfer of Property Bill) several rules were introduced from the Succession Act, 1865, defining the limits within which property could be tied up by settlement *inter vivos* and laying down the rule restricting perpetuities".

The report of the proceedings at that time was not in the direct form, but was in the indirect form and the report continues in this way:

"He has always been apprehensive that these rules would unduly extend the powers now possessed by Hindus (under the rule in the Tagore case) of tying up the properties after their deaths. The rule in the Tagore case which prohibited gifts or bequests to unborn persons was not the Hindu law as declared by the highest tribunal, except so far as the rules now proposed to be embodied in the Act, had been made applicable to the wills of Hindus in Bengal by the Hindu Wills Act, 1870.....Mr. Evans' difficulties on this point had been removed in a singular manner. The Honourable Maharaja Jatindra Mohan Tagore and the Honourable Raja Siva Prasad, conceiving, in common with many of their fellow-countrymen, that the rule in the Tagore case did not correctly represent the Hindu law and that Hindus were by their own law empowered to tie up their property for ever without any restriction, had rejected the extensive powers conferred upon them by the Bill as too limited, and he asked that a clause should be added to Chapter II providing that nothing contained in that Chapter would affect any rule of Hindu law."

—and then the last sentence is important—

"As the effect of this was to leave this important question as it stood for the present and to give an opportunity for its full consideration in future, he had gladly acceded to the proposed amendment, though regarding it from a different point of view from that taken by his proposer."

This is what was stated by the Honourable Mr. Evans in 1882. But over and above that, I would like to point out that to my mind there is at least one other case where Chapter II, if applied, in the present form, would interfere with the provisions of Hindu law. It is known to the lawyer Members of this House that, if a gift is made by a Hindu to a person who ordinarily holds a limited stake in the property, then the presumption will be—in the absence of a definite statement in the document—that the gift is not an absolute gift, but a limited one.

If the provisions of Chapter II of the Transfer of Property Act be applied in that case, then under section 8 of the Act it would have to be shown from the document itself that the property given is not an absolute one but a limited one. Take, for instance, this concrete case. If a Hindu donor gives a property to his widow and in the same deed gives another property, say, to his nephew, then according to the principles of Hindu law the widow will be

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taken to get only a limited stake in the property, whereas the nephew would get an absolute stake in the property which is given to him. The language used might be the same, but according to the present decisions of the Judicial Committee the interpretation put on that deed will be that it was the intention of the donor to create in favour of the nephew an absolute stake in the property, but only a limited stake in favour of the widow. Sir, I would submit that this is one case which, if this amendment proposed in the amending Bill is accepted, would be modified.

The next point is this. Even if it be taken for granted for argument's sake that the existing provisions of the second Chapter of the Transfer of Property Act are in consonance with the provisions of Hindu law, what guarantee is there that no modification will be made in the second Chapter of the Transfer of Property Act which would militate against the provisions of Hindu law? Merely because the existing provisions of the second Chapter are in consonance with the provisions of Hindu law would not justify the deletion of the word "Hindu" from this section. If the word "Hindu" is retained in the section, then the position would be that, if at any later stage any proposal is made to modify any of the provisions of the second Chapter of the Transfer of Property Act, and if that provision militates against the provisions of Hindu law, then that will be brought directly to the notice of the Hindus in India, whether that provision is necessary or wanted by them or not. Sir, it is an accepted policy of Government that, so far as the personal laws are concerned of Hindus, Muhammadans, Buddhists, and others, those would not be modified by the ordinary law. If the word "Hindu" is omitted from this section, then it will be open to the Legislature to indirectly modify the provisions of Hindu law which is not a desirable state of things.

Then again, Sir, Chapter II of the Transfer of Property Act, section 10, is limited in its application to all persons other than Hindus, Muhammadans or Buddhists. Here is one section in the second Chapter which is specifically made inapplicable to Hindus, Muhammadans and Buddhists. The Special Committee has not recommended the deletion of these words here, because in the opinion of the Committee, and rightly so, the provisions of this section ought not to be made applicable in the case of people other than the Christians.

There is one other aspect of the thing which I want to draw the attention of the House to before I sit down. Sir, in the report of the Special Committee at page 3, the 10th paragraph, the Committee there enunciates the general principles which have guided them in proposing the different amendments. The principles are these. A reference was made to this principle by my Honourable friend, Sir Maneckji Dadabhoy:

"In the Bill submitted to us the policy which appears to have been followed was that no amendment should be admitted which would merely effect an improvement in the wording but that new principles of importance which had been judicially recognised since the passing of the Act should be incorporated."

Sir, if we take this principle into account and even if we take the view point of the Honourable the Law Member that the word "Hindu" is redundant here, is it not a verbal alteration which is being attempted by the proposal that is now before the Council?

When there is a definite section of the public or even of this House who hold that the word is not redundant, then what harm would be done by leaving the word "Hindu" there? It would not in any way affect the meaning of the section, at least the meaning which the Special Committee wants to read into that section. Sir, this is so far as my first amendment is concerned, unless it is your wish that the second amendment should also be discussed now. I shall move it later on.

THE HONOURABLE THE PRESIDENT: Amendment moved:

"That in clause 3 the word 'Hindu' be omitted and consequential changes be made."

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY (East Bengal: Non-Muhammadan): Sir, as I am not likely to have an opportunity of saying anything with regard to the amendment that I have tabled, I think I should say a few words in support of the amendment moved by my Honourable friend. My Honourable friend has already referred to the fact that it was contended on behalf of the supporters of this clause that there is no difference between Hindu Law and the Transfer of Property Act now, and I would like at this stage to draw the notice of this House to another point in which there is a difference. If reference is made to page 46 of this book dealing with clause 49, section 100, the Special Committee observes as follows:

"As a charge does not involve a transfer of interest in the property subject thereto it has been held that it cannot be enforced without notice",

and they cite, in support of this observation, several rulings reported in 9 Allahabad, 13 Allahabad.....

THE HONOURABLE THE PRESIDENT: I do not think the Honourable Member need read the list of rulings. Every Member in the House has it.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: I am only citing it.

THE HONOURABLE THE PRESIDENT: It is not necessary to cite the ruling. It is in the body of the report.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: And there is the ruling in 33 Calcutta, but there is another ruling reported in 27 Calcutta at page 194, which says:

"Where maintenance has been a charge upon the property and the property is subsequently sold, the purchaser must hold it subject to the charge."

So that as regards the charge for maintenance created by a Hindu, if that charge is given effect to by a decree and it stands as a charge by virtue of that decree, a subsequent purchaser cannot avoid it according to that ruling. What the new proposed amendment of section 100 is going to do now is to take away this privilege in favour of charges created for maintenance according to Hindu law, for clause 50 of the Bill says that:

"after the words 'in the execution of his trust' the following words shall be added, namely:

'and, save as otherwise expressly provided by any law for the time being in force, no charge shall be enforced against any property in the hands of a person to whom such property has been transferred for consideration and without notice of the charge'."

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[Mr. Kumar Sankar Ray Chaudhury.]

So that if a person has no notice of the charge he is not bound by that. My submission, therefore, is that here is a provision which is going to affect the Hindu Law as laid down in 27 Calcutta at page 194. Therefore, it is necessary that clause 3 should be deleted.

THE HONOURABLE SIR BROJENDRA MITTER (Law Member): Sir, this question whether the word "Hindu" should be retained or not was very carefully considered both by the Special Committee as well as by the Select Committee in the lower House. Sir, before I deal with the specific points which the Honourable Mr. Mookerjee has raised—and they are weighty points and every one of them has been carefully considered—I should like to draw the attention of the House to the fact that on this point of retention of the word "Hindu", we received opinions from 35 persons and bodies. Out of these, 28 approved of the action the Committee had taken, and 7 disapproved but adduced no reason. Anyhow, I am glad that the Honourable Member has adduced some reasons and I shall deal with them presently. I am only drawing the attention of the House to this fact to show that the consensus of opinion is in favour of the action we have taken in deleting the word "Hindu". But that is neither here nor there: if there are good reasons it does not matter whether 28 out of 35 choose the wrong course and 7 the right. Now, have we chosen the wrong course? One of the arguments adduced by the Honourable Mr. Mookerjee is that there is no harm in retaining the word. (I am not taking the points in order but I shall take them all).

Sir, my submission is this that, in drafting Bills, the question is not whether there is any harm in retaining a word, but whether it is necessary to retain the word. It is one of the canons of legislative drafting that everything unnecessary or superfluous or redundant should be avoided. If I can convince the House that this word is superfluous or redundant, then I do not think that the Honourable Mr. Mookerjee would press his point that because there is no harm in keeping a redundant word, let it be left there. I shall endeavour to show that this word is absolutely redundant. Sir, the existing section runs thus:

"Nothing in the second Chapter of this Act shall be deemed to affect any rule of Hindu law".

I am leaving out Muhammadan and Buddhist laws for the present. Sir, no one up to now has suggested that there is anything in the second Chapter which is against any rule of Hindu law. That being so, this provision is absolutely unnecessary. If Honourable Members ask me why it was inserted in the Act of 1882, I say that it was for the simple reason that at that time, in 1882, there was a rule of Hindu law, which did militate against the provisions of Chapter II. That rule was that gifts could not be made in favour of unborn persons. Prior to 1916, no Hindu could make a gift to an unborn person. In that year came what is known as the Setalvad Act by which gifts to an unborn person were permitted, and that was followed, as the lawyer Members of this House know, in Madras by two Acts in 1920 and 1921; so that, after 1921, throughout India, a Hindu could make a gift to an unborn person. That was the one rule of Hindu law which militated against Chapter II, and in order to save that rule this clause was necessary in 1882. After 1921, this provision became redun-

dant, and even the Honourable Mr. Mookerjee, who has studied this question, could not point to any single section in Chapter II which was repugnant to any rule of Hindu law. That being so, it is redundant. I shall come to the Honourable Mr. Kumar Sankar Ray Chaudhury's contention on section 100. Sir, section 100 does not come in Chapter II. Therefore, we have got nothing to do with it. There is an amendment in regard to section 100. When that amendment is moved, I shall deal with the right of maintenance more fully. For my present purpose it is enough to say that section 100 does not come in Chapter II. The first argument of the Honourable Mr. Mookerjee is this, that there is no harm in retaining it. My answer is, that that is looking at the matter from the wrong end of the telescope. It is not that there is no harm in retaining it, but is it necessary? That is the test and I have shown that it is unnecessary.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: Is there anybody who can claim that he knows every conceivable point of Hindu law?

THE HONOURABLE SIR BROJENDRA MITTER: I am coming to that, Sir. The Honourable Member referred to section 8. Section 8 of the Transfer of Property Act runs thus:

"Unless a different intention is expressed or necessarily implied, a transfer of property passes forthwith to the transferee all the interest which the transferor is then capable of passing in the property, and in the legal incidents thereof."

The Honourable Mr. Mookerjee's argument is this. Supposing in one document there is a gift to a widow and a gift to a nephew. According to the rule of Hindu law, the widow gets a limited interest and the nephew gets an absolute interest. Well, Sir, I contest that proposition. It is not according to any rule of Hindu law that the widow gets a limited interest. It is because of the prevailing feelings and sentiments in the Hindu community, the intention gathered by the court is that it was to give a limited interest to the widow and to give an absolute interest to the nephew. The section says:

"Unless a different intention is expressed or necessarily implied"

The courts have said this, that having regard to the prevailing feelings and sentiments among the Hindus, the necessary implication is that the intention was to give a limited interest to the widow and an absolute interest to the nephew. There is no question of Hindu law; no question of any rule of Hindu law there. The whole question is a question of intention to be gathered from the document itself having regard to the probable ideas of the donor and his relationship to the donee. So, that is a question of intention, and not any rule of Hindu law. Section 8 is not in any way concerned with any rule of Hindu law.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: Will it be permissible to imply the intention from the conduct of the parties later on? Because up to the present moment the necessary implication that was drawn was drawn not only from the document but also from the conduct of the parties. According to section 8 the implication would be from the document only.

THE HONOURABLE SIR BROJENDRA MITTER: What I was saying is this. It is the duty of the court to gather the intention. The document has to be construed. The court sets about to find what really the intention was, and in gathering the real intention, the court has to take into account who the

[Sir Brojendra Mitter.]

donor was, who the donee was, and what was the relationship between them. When all this is found, the court determines to what community they belong. If such a document were executed by an Englishman in favour of his wife, the court would immediately say that an absolute interest was intended, because when a husband makes a gift of a property to a wife, and the donor and the donee are both English people, the intention generally is that an absolute interest should pass. The courts have held in a series of decisions that, if both the donor and the donee are Hindus, the intention must have been what a Hindu woman ordinarily takes, that is, a limited interest. The whole question is a question of intention, which the court determines. It is not a question of any rule of Hindu law, because there is no rule of Hindu law by reason of which the woman must always hold a limited interest. Although when a woman inherits property, she takes a limited interest, there is no rule of Hindu law whereby a woman can never hold an absolute interest in property. That being so, we are not troubled with any rule of Hindu law in so far as section 8 is concerned. All that section 8 says, is that the true intention is to be gathered. Now the true intention is to be gathered not from any rule of Hindu law, but from what was probably in the mind of the donor when he made the gift. This the court determines from various circumstances. It is always a question of fact. It is not a question of law. It is a question of fact to be gathered from circumstances. That is my answer to the argument based on section 8.

Then, the Honourable Mr. Mookerjee says that section 10 specifically excludes Hindus, Muhammadans and Buddhists. Well, that supports my argument instead of supporting his argument, because, where it was necessary to save the position of Hindus or Muhammadans or Buddhists, the Act has made specific provision. There is no necessity to have a general saving clause, and therefore we propose to exclude the word "Hindu" from this section.

The next point which the Honourable Mr. Mookerjee urged was that, who can say that there is no rule of Hindu law which may militate against the sections of Chapter II. But the question is this, is there anything in Chapter II which militates against any rule of Hindu law? We in the special Committee went through every section and traced the history of every section, and it was found that the provisions of every single section in Chapter II were applied in cases of Hindu law, mostly by the Privy Council. If Honourable Members be interested in the matter, let them take up any annotated edition of the Transfer of Property Act, and they will find that in the notes to every section the authorities given are cases of Hindu law decided in the Privy Council. If it be said, well, there may be some hidden rule of Hindu law which is not known to us at the present moment, that some unknown manuscript may be found in a Buddhist monastery in Nepal or Tibet in which some new rule of Hindu law may be discovered, my answer to that is this. If that be a fundamental rule of Hindu law, then it will be for the Hindu community to approach the Legislature to incorporate it in the Transfer of Property Act; because the only way in which we can now amend our laws is through the Legislature. If any such brilliant discovery be made at any time the Legislature would not shut its doors. Sir, my contention further is this, that to prevent the setting up of unknown and mysterious doctrines of Hindu law, it is necessary to delete those words. It is well known to my friend Mr. Mookerjee that in a certain celebrated case in

Calcutta years ago, a Sanskrit manuscript on adoption was produced in which there was a certain rule as to how property should be divided between the adopted son and subsequent born sons. According to that manuscript a decision was come to, and, subsequently it was discovered that that manuscript was a forgery. The matter came before the Privy Council a few years ago, and the Privy Council said that they were satisfied that the book was not authentic, but the decision had been followed for the last hundred years and they were not going to unsettle decisions.

Now, Sir, I come to my last point that, in law, when you are dealing with title to immoveable property, it is much safer to be certain, it is much more desirable to be certain than even to be accurate. Certainty is of greater importance than even the substance of the law, because people should know where they stand. The law may be defective, but if people know that this is the law, well, that gives certainty to title. If you leave something vague which may militate against Chapter II, when the whole law is being thoroughly revised, you leave open a door for uncertainty to title which I hope this House will deprecate. All we are intending to do is to ensure certainty of title, to ensure certainty in the law, so that people dealing with immoveable property may know where they stand.

For these reasons, Sir, this amendment is not acceptable.

THE HONOURABLE MR. G. S. KHAPARDE (Berar Representative): I wish to submit one point which is my difficulty. How is the intention to be derived from a document? The learned Law Member said that it is on the caste of the man who has made the will, the ideas that were prevalent at the time and the ordinary manner in which things were done. If those are the criteria on which the intention of a document is to be gathered, I submit that our whole system of Hindu law is now in process of dissolution. The whole thing is so to say in a condition of flux. Last year we passed a law here regulating inheritance among women, and each time such a question arises interpretation on those lines will be impossible. I have taken part in such legal discussions in my time and I do to this day, and I humbly submit that when you come to interpret a will, are you going to turn to the date of the will, ascertain what the caste of the man was and what the opinions of the people were at that time? I submit that that will be an impossible way of interpreting things...

THE HONOURABLE SIR MANECKJI DADABHOY: You have been doing that for the last 50 years.

THE HONOURABLE MR. G. S. KHAPARDE: Not in that way; at least so far as my experience goes and I have appeared before the Privy Council in a number of cases. That is not the way it is done. So if the word "Hindu" is omitted here, what will happen in regard to other matters? Sir, the meaning of a document is to be derived within the four corners of that document. I therefore feel a difficulty and am disposed to support the amendment.

THE HONOURABLE MR. V. RAMADAS PANTULU (Madras: Non-Muhamadan): Sir, I entirely agree with the Law Member in this matter. I would only say to the Honourable Mr. Khaparde that with regard to what Hindu law means nobody is certain. One of the erudite Honourable Judges of the Madras High Court, the late Sir T. Sadasiva Aiyar, used to say that old Hindu

[Mr. V. Ramadas Pantulu.]

law never gave a limited right to a woman but an absolute right. Therefore, he generally refused to gather any intention in a document which purported to make a gift to a lady of a gift of only a limited interest in the absence of clear words. To leave these vague words in the clause would therefore leave the door open to numerous speculations on Hindu and Buddhist laws. I think the arguments advanced by the Law Member are absolutely convincing.

THE HONOURABLE THE PRESIDENT: The original question was:

"That clause 3 do stand part of the Bill."

Since which an amendment has been moved:

"To omit the words 'the word "Hindu" and 'and to make consequential changes.'"

The question is that that amendment be made.

The motion was negatived.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: With regard to my next amendment I think I am on stronger ground than the last one. The amendment is:

"That in clause 3 of the Bill the words 'and the words "or Buddhist"' be omitted and consequential changes be made."

Sir, although the Transfer of Property Act was passed in 1882 that Act was not made applicable to Burma till very recently. Therefore, the most important argument advanced by the Honourable the Law Member that with regard to Hindu law since 1882 we have had all these points inquired into—whether there was any point of difference between the provisions of Hindu law and the second Chapter of the Transfer of Property Act—would not be applicable to Burma. I do not claim to know the Buddhist law and the only opinion on the strength of which this proposal is now before the Council is the opinion expressed by the Government of Burma and by the High Court of Burma. That opinion had been given when the Bill was originally circulated, and we have not been given the actual opinion which was given by those two authorities. Sir, my submission to this House would be that so far as the Government of Burma is concerned, they are not expected to know what the provisions of Burmese law are, and so far as the Judges are concerned, with due respect to them, they were not required to compare the provisions of the Transfer of Property Act and Burmese law for more than a year or so when their opinion was given. Sir, I feel that this matter ought to be inquired into more fully before an amendment is made in an Act which has been in force since 1882. The force of the argument that the word is redundant, I submit is not applicable in this case with the same force as in the case of Hindus. It is rather the absence of adequate information about this point that prompts me to propose this amendment.

THE HONOURABLE SIR BROJENDRA MITTER: In this case, Sir, the only two authorities who know anything about the Buddhist law favour the deletion.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: What does the Government of Burma know about Buddhist law?

THE HONOURABLE SIR BROJENDRA MITTER: My friend Mr. Mookerjee knows that when a Local Government is asked to express an opinion on any

particular measure, it always consults persons who are likely to give an authoritative opinion on that point. I can say from personal experience that when the Bengal Government was asked to give any opinion on any measure, I used to be invariably consulted when I might give an informed opinion. Mr. Mookerjee knows very well that a Local Government never returns an opinion without ascertaining the views of persons who are likely to express an authoritative opinion on the subject. The only two bodies which gave opinion on this matter are the Government of Burma and the High Court of Rangoon, and both of them favour the deletion. In the face of that, I think it would not be wise on our part to retain the words.

THE HONOURABLE THE PRESIDENT: The question is:

"That in clause 3 of the Bill the words 'and the words "or Buddhist"' be omitted and consequential changes be made."

The motion was negatived.

Clause 3 was added to the Bill.

THE HONOURABLE THE PRESIDENT: Clause 4.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: Sir, I beg to move:

"That in *Explanation 1* of clause 4 of the Bill, after the words 'any person acquiring' the following words be inserted, namely, 'subsequent to such registration'."

In the *Explanation* in clause 4 the definition of "notice" is being modified and the first *Explanation* is about the notice about registered documents. The Bill as originally drafted has been modified to a certain extent by the other House, but I think it ought to be made clear that it is only in the case of such documents as are registered before the transaction that a person is imputed with notice. Probably that is the intention of the framers of the Bill, but I think that that is not clear from the wording of the *Explanation*, and I would adopt the words of the Honourable the Law Member in saying that we (in the Legislature) ought to make the law as clear and unambiguous as possible. Let it not be left for future decision by the judiciary and for the litigant public to pay lawyers before that question is decided. Sir, if my amendment is accepted, the position will be that only of such documents as might have been registered before I take a property I would be imputed with notice; but the words as put down here are susceptible of the other meaning; even though I may search the Registration Office before my purchase and take a property and if other persons deal with the property and have documents registered in the Registration Office, I would be imputed with notice of those subsequently registered documents as well. I am sure that is never the intention either of the Committee or of the Honourable the Law Member. It is only for that purpose that I propose the addition of these words.

THE HONOURABLE MR. L. GRAHAM: Sir, after hearing the Honourable Member move his amendment, and since I received notice of it, I have read this *Explanation* with the utmost care to see whether two possible meanings could possibly be attached to it, and I am convinced—and any body who has read

[Mr. L. Graham.]

the Explanation with care must be convinced—that only one possible meaning can attach to these words :

“Where any transaction relating to immoveable property is required by law to be and has been effected by a registered instrument, any person acquiring such property..... shall be deemed”

That surely means, Sir, that acquisition must be after the registration. I would therefore say to the Honourable Member that the words which he is proposing to introduce will be redundant, and therefore offend against another canon of drafting to which the Honourable the Law Member referred in dealing with an earlier amendment: the words are entirely superfluous; and a provision made in the Bill in this revising House which merely inserts superfluous words appears to me to be a bad practice.

THE HONOURABLE THE PRESIDENT: The question is:

“That in Explanation I of clause 4 of the Bill, after the words ‘any person acquiring’ the following words be inserted, namely, ‘subsequent to such registration’.”

The motion was negatived.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: The next amendment that I have to move is:

“That Explanation II of clause 4 of the Bill be omitted and Explanation III be re-numbered as Explanation II of clause 4 of the Bill.”

This Explanation deals with the notice of the title of persons who may be in possession of the property. At page 4 of the notes, the Special Committee deals with this clause. The Special Committee says that it is not clear how far possession is to be regarded as notice and then after considering that point suggest that this Explanation be added. In this connection I would draw the attention of the House to the opinion expressed by the Bengal Chamber of Commerce with regard to this clause. At page 18 of Paper No. I of the Opinions, this is what the Bengal Chamber of Commerce says:

“Explanation II provides that a person dealing with immoveable property”.

—and then the clause as drafted is quoted—

“and when the matter was previously before them, the Committee did not take exception to the proposal because it appeared that the proposal embodied in the Explanation followed as a natural corollary to the definition of notice. In principle there is nothing objectionable in the view that a person dealing with immoveable property should be assumed to have notice of the title of the person in ‘actual possession’ thereof. But on reconsideration the Committee are disposed to think that the proposal should not be acted on. The expression ‘actual possession’ is extremely difficult to define”

I would draw the special attention of the Law Member to this:

“the expression actual possession is extremely difficult to define and instances are not inconceivable in which a tenant, although not in physical occupation, may yet be said to be in actual possession—as for example, when trees belonging to him are on the property.”

THE HONOURABLE SIR MANECKJI DADABHOY: That is a travesty of law.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: This is not at all a travesty of law, but you have to deal with these things in the court of law every day of your profession. Sir, here another thing is not alluded to.

The proposed Explanation deals with persons who are in actual possession thereof. The clause is silent whether he is in possession of the whole or in possession of a part only. If I am going to purchase a property, say, of 500 bigahs, if any person be in possession of one bigah of that 500 bigahs and if that person claims the title to the whole of that property, I am under this Explanation imputed with this notice of the claim of the person who is in possession of one bigah only. There is the further difficulty that there is no law which compels the person in possession to explain what kind of title he has got or what claims he has got with regard to the whole property. When I cannot compel a person to give all the information concerning the property, how can I be imputed with a notice with regard to the title which he might have secretly claimed? No distinction is here made between a part possessor and a possessor of the whole, and no provision is also made for making it possible for the purchaser to get information from the person in possession. Sir, I would further submit that the definition of “notice” as now drafted under the first part of clause 4 makes ample provision for bringing any such cases as might be regarded as reasonable. Under the first part of clause 4, a person is said to have notice of a fact when he actually knows that fact or when, but for wilful abstention from an inquiry or search which he ought to have made, or gross negligence, he would have known it. The present section with regard to the definition of “notice” is somewhat on these terms, that has been of sufficient force and courts have been able to impute notice on careless purchasers of titles which other persons in possession might have got. My objection is that the Explanation does not take note of any exception whatsoever but imputes the notice not only in a reasonable case, but indeed in all cases which might be regarded as unreasonable even. A person who has to take a property must be careful, he must be diligent, but you cannot impute the notice of anything and everything that may be on the land and which may be secretly thought of by any person in possession. Sir, the purpose for which the Explanation is sought to be introduced would, I think, be amply provided by the definition of “notice” itself, and the Explanation is not necessary and ought not to be put in.

THE HONOURABLE MR. L. GRAHAM: Sir, I understand from the Mover that he considers this Explanation to be superfluous.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: Not wholly superfluous.

THE HONOURABLE MR. L. GRAHAM: Partly superfluous. But I would, in the first place, point out that in the Notes on Clauses on this subject it is stated with reference to the existing state of the law that it is not clear how far possession is to be regarded as notice. That is not a statement as regards what is desirable but as to what is the position under the existing law. The Committee themselves go on in no uncertain voice to explain what they think should be the position with regard to the occupation of a property. They go on to say:

“Possession which operates as notice, however, must be actual possession. It does not seem reasonable that a person entering into a transaction regarding immoveable property should be in the position to ignore the question of possession or should neglect to inquire into the nature of the possession or the title of the person who is in actual possession of such property, if he is not the person with whom he is dealing.”

[Mr. L. Graham.]

I submit, Sir, that the objections raised by my Honourable friend are purely fanciful, and that the recommendation made by the Committee and embodied in the Act is an extremely sound recommendation and is necessary as an Explanation to the more general terms in which the definition of "notice" has been framed in the Bill. I therefore oppose the motion.

THE HONOURABLE THE PRESIDENT: The question is:

"That Explanation II of clause 4 of the Bill be omitted, and Explanation III be re-numbered as Explanation II of clause 4 of the Bill."

The motion was negatived.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: Sir I beg to submit that this clause is rather premature. There was a long discussion about this clause in the Legislative Assembly, and the Honourable the Law Member himself admitted that the law of registration is not quite perfect and he would try his best to get it perfected. I therefore submit that before that is done this clause ought not to be introduced, specially because this is perhaps one of the very few cases in which an attempt is now being made to go against the latest decision of the Privy Council. That decision has been that a question of notice is a question of fact and has to be decided on the merits of each particular case. We ought not to change that law so hastily, especially when the law of registration is not quite perfect. I therefore oppose this motion.

THE HONOURABLE SIR BROJENDRA MITTER: Sir, this clause was inserted in the Bill solely for the purpose of setting at rest the conflict of judicial decisions in different High Courts, as to when registration has to be considered to be notice or not.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: But the Privy Council have said there is no difference.

THE HONOURABLE SIR BROJENDRA MITTER: I am coming to the Privy Council decision. There is a considerable conflict of judicial decisions on this point. Now, what the Privy Council has said is this: that whether registration should be considered as notice or not should be treated as a question of fact. That is the law as settled now. What is the effect of it? In every case, when the issue of notice or no notice is raised, you have a mass of evidence on either side to show that in the particular circumstances of that case it did not amount to notice or that it did amount to notice. It is to avoid that volume of litigation, which is the direct result of the Privy Council decision, that we have introduced this.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: I was not opposing it on the merits but said that it was premature. It is proper first to amend the registration law and then have this amendment made.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: Sir, one fact has not been referred to by the Honourable the Law Member—the procedure for registration in the different provinces will have to be modified in the near future, and that has to be done before this Act is given effect to. And I find from the proceedings of the Legislative Assembly that the Honourable the Law Member gave the assurance that he would get all the provinces to have

provision made so as to make it possible that this clause is given effect to from the 1st April 1930. I would certainly accept the statement made by the Honourable the Law Member, but I am very doubtful whether in the different provinces it will be possible to introduce those changes immediately, and if it is not so done, I would like to know what is the suggestion. Would it not have been much better not to have clause 4 passed now but to have it passed in the Delhi Session of the Council so that, in the meantime, if the modification of the registration rules are completed in the provinces, we would certainly accept the proposal in clause 4 as very salutary? I do not in the least oppose the principle enunciated here. I do not think my Honourable friend Mr. Ray Chaudhury does. He was referring to the Privy Council decision. The Honourable the Law Member is perfectly correct in saying that it would lead to much more litigation if clause 4 is not included. But I am only apprehensive whether it is practicable to have the registration rules modified immediately in the different provinces.

THE HONOURABLE SIR BROJENDRA MITTER: Sir, the point was raised that if you make registration notice, having regard to defective registers kept in the provinces the provision might work hardly. That was the point. To that, I gave an assurance in the other House that the Government of India would take immediate steps to draw the attention of the Provincial Governments to effect improvements in the matter of keeping their registers. That is a matter which need not take very long. This Bill, if it is passed by this House, will come into operation in April next. There are six months in the meantime, and in six months the registration rules may certainly be expected to be revised in the provinces. I hope Honourable Members will accept that assurance from me that, as soon as this Bill is passed, the Government of India will draw the attention of the Provincial Governments to effect improvements....

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: Supposing legislation becomes necessary?

THE HONOURABLE SIR BROJENDRA MITTER: It is only in the rules that an improvement is required. All that was said was that the registers kept were not easily available, that the registers kept were not always properly indexed. Certain defects like these were pointed out which made it difficult to make a search, because, if you have not got a proper index, necessarily you have got to run through the whole book before you can get to the matter which you want investigated. Proper indexing and proper registers are matters for rules, not matters of legislation. Under the Registration Act, Local Governments have got the power to make rules. Under the rule-making power, they can easily make the improvements to which we shall draw their specific attention.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: Will an index of all the past years be taken up and re-done properly?

THE HONOURABLE THE PRESIDENT: The matter has been sufficiently discussed. There is at the moment no amendment before the House. I would suggest that the Honourable Member should discuss it with the Honourable the Law Member afterwards outside the House.

[The President.]

The question is:

"That clause 4 do stand part of the Bill."

The motion was adopted.

Clause 4 was added to the Bill.

Clauses 5 and 6 were added to the Bill.

THE HONOURABLE THE PRESIDENT: The question

"That clause 7 do stand part of the Bill."

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: Sir, my amendment is:

"That clause 7 of the Bill be omitted."

I do not think I need move it. I think I have to oppose the clause itself.

THE HONOURABLE THE PRESIDENT: Yes. The Honourable Member should not move it as an amendment.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: I have said that. The reason why I object to this clause is this, that it is not clear what is meant by the words used here "secured or determined". The clause runs:

"A right to future maintenance, in whatsoever manner arising, secured or determined cannot be transferred".

The principle is that future maintenance cannot be transferred. Supposing a widow is given Rs. 50 a month as maintenance, that ought not to be allowed to be transferred. I agree there. But when property is given to a widow in lieu of maintenance—and that is what I take it is meant by "secured or determined"—what would be the position? She cannot transfer the property in any way, and here transference means that she cannot even lease out the property during her lifetime. I would draw the attention of the House to page 5 of the notes. Clause 7 is referred to as section 6 there. This is the pertinent portion to which I want to refer:

"Although an agreement or a decree would make such right definite, it is nevertheless a right created for the personal benefit of the qualified owner and should not be alienable".

Now, when any maintenance is secured by a decree, it is not always the actual amount of money but a property which is given to the widow for maintenance or for the matter of that, to any other person. There was the same objection which was raised by the Bengal Chamber of Commerce. They also said that, if the rule was enforced, a property which is given to a life tenant or limited interest, if she has no right to alienate the property in whatsoever way, then there will be other difficulties. This is at page 18 of the Opinions, Paper No. 1. This is what the Bengal Chamber of Commerce say:

"This clause seeks to prohibit transfers of 'right to future maintenance' and places such rights in the same category as the chance of an heir-apparent. Rights of maintenance often arise in Hindu families in the case of females who are not entitled to participate in the joint estate. The Committee understand that transfers of such rights are permitted by Hindu law, and that instances are not uncommon where maintenance claims are surrendered to enable the male members of a family to dispose of joint property. It is now intended to take away this liberty with a view to place these rights beyond the reach of improvident managers or trustees of joint property. The restriction thus sought to be imposed is likely to introduce a check on the free transfer of property and serious difficulties



might arise in cases where lands or immoveable property affected by rights of maintenance are required for industrial purposes. The Chamber is accordingly of opinion that the clause should be deleted."

There is another type of cases which I was thinking of. In the impartible estate, the maintenance is given to the junior members of the family, whether it is called *babuana* grant or by some other term, by which property is sometimes given absolutely to the junior member and at other times it is a limited interest which is given to the junior member for maintenance. Would these kinds of cases come in under this clause also? That is the difficulty under which I am labouring, and if the Honourable the Law Member will assure me that all these cases do not come within this clause, then I will not press my objection. To my mind, whether the Honourable the Law Member and I agree or not, I am sure this will have later on to be taken up to the law courts and decided by them as to what this means.

THE HONOURABLE SIR BROJENDRA MITTER: Sir, I think the Honourable Mr. Mookerjee is under a misapprehension. All that is sought to be made inalienable is a right to future maintenance. We are not seeking to make inalienable any immoveable property upon which maintenance is charged. The clause is designed to protect that right—however that right may arise, however that right may be secured, or however that right may be determined.

We are dealing with the right to future maintenance, not dealing with any tangible property. It is an intangible right. This clause is intended to protect persons who have got the personal right to maintenance. That right may arise by agreement. Suppose a widow and the husband's brothers come to an agreement that she should be given a certain maintenance. All we are seeking to do is that that right to get future maintenance should not be alienated. Then, it may be secured or unsecured. The brothers, for instance, may set apart a certain property; that is not the widow's property and she has no right to alienate that. Of course, if there is a charge on it, then the owners of the property, that is the husband's brothers, may not transfer that property free from that charge. The maintenance may also be secured on property by decree. That is the meaning of the word "secured". And "determined" is important—determined by decree, for instance. It is by reason of the cases mentioned in the Notes on Clauses that the word "determine" was used. So that, all that is sought to be done is this. If a widow has got a right to future maintenance, she cannot alienate that right; of course if any arrears of maintenance be accumulated in her hands she can deal with it; it may be attachable or alienable. That is not interfered with. We are only dealing with the right to future maintenance. The widow cannot alienate that right. It has nothing whatever to do with tangible property. This disposes of Mr. Mookerjee's point in regard to property known as *babuana* grant in the case of impartible estates. There, property is given for maintenance; but we are not dealing with tangible property at all. We are dealing with the right to get future maintenance whether that right arises by agreement, or whether that right is determined by a court in a decree, and howsoever that right may be secured, whether by agreement or otherwise. It is only that right to get future maintenance which we desire to make inalienable, for the benefit of the widows concerned, who are entitled to protection at the hands of the Legislature.

THE HONOURABLE THE PRESIDENT : The question is :

"That clause 7 do stand part of the Bill."

The motion was adopted.

Clause 7 was added to the Bill.

Clauses 8, 9, 10, 11, 12, 13, 14 and 15 were added to the Bill.

THE HONOURABLE THE PRESIDENT : The question is :

"That clause 16 do stand part of the Bill."

THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY : May I know if I would be in order in moving all these amendments together? They are all connected.

THE HONOURABLE THE PRESIDENT : If the Honourable Member feels that the defeat of his first amendment would involve the fate of the rest, then I think he had better move them all together.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : Sir, I beg to move :

"That in the new section 53A, proposed to be inserted by clause 16 of the Bill,—

- (a) after the words 'contracts to transfer' the words 'or transfers' be inserted;
- (b) in the second paragraph of the section after the words 'and the' the words 'person contracted with or the' be inserted;
- (c) in the same paragraph the words 'the transferee' be omitted;
- (d) in the third paragraph of the section after the words 'and the' the words 'person contracted with or the' be inserted;
- (e) in the fourth paragraph of the section after the words 'being in force' the words 'contractor or the' be inserted."

With regard to the next amendment I think there is some mistake in the printing. It should be :

"(f) in the fourth paragraph of the section after the words 'enforcing against the' the words 'person contracted with or the' be inserted."

I seek your permission, Sir, to make that change in that amendment. Then (g) is :

"(g) in the Proviso to the section after the words 'rights of a' the word 'subsequent' be inserted."

I beg to submit that these are all drafting amendments. The section contemplates two cases. One is the case of an agreement to transfer and the other is a case of an ineffectual transfer, both followed by subsequent acts of part performance. But in the different paragraphs only one or the other case is dealt with. Take, for instance, the first paragraph :

"Where any person contracts to transfer for consideration any immoveable property."

That does not contemplate the case of an in-effectual transfer. Therefore, I want to add the words "or transfers" after the words "contracts to transfer" so that it will run :

"Where any person contracts to transfer or transfers any immoveable property, etc."

Then take the next paragraph,

"and the transferee has, in part performance".

—that contemplates the case of a transfer only and not an agreement to transfer. Therefore I want to add the words "person contracted with or the" before the word "transferee" in the first line. Then I want to omit the words "the transferee" in the same paragraph because I want both the cases to be comprehended and the word "transferee" therefore becomes unnecessary. Then the next paragraph contemplates the case of a transferee only and not of a contract to transfer—

"and the transferee has performed or is willing to perform his part of the contract".

So I want to add the words "person contracted with or the" before "transferee". Then in the next paragraph—

"has not been completed in the manner prescribed therefor by the law for the time being in force"—

—this is a case of an executed contract and I want to bring it into line with the previous contracts mentioned in the section. Therefore after the words "for the time being in force" I want to insert the words "contractor or the", and after the words "enforcing against the" lower down in the same paragraph I want to add the words "person contracted with or the". Then my last amendment is in the proviso :

"Provided that nothing in this section shall affect the rights of a transferee....."

I want to add the word "subsequent" before "transferee" because we do not contemplate that a prior transferee will be bound by this transaction. Those are the objects of my amendments.

THE HONOURABLE SIR BROJENDRA MITTER : Sir, I think the Honourable Member is under a misapprehension. Before

I P. M. I deal with the amendments, may I just explain what the intention of the new section 53A is? Clause 53A gives statutory recognition to the equitable doctrine of part performance. As Honourable Members are aware, there may be a contract to transfer a property. When there is a mere contract to transfer a property, the property is not transferred. The property would be transferred when there is a conveyance. Thus, there are two stages, the stage of contract and the stage of conveyance. When the transfer is completed by a conveyance, the ownership of the property passes on to the transferee. Sir, we are dealing not with the stage of conveyance, but with the prior stage of contract. When there has been a contract for a transfer, but the transfer has not been effected by conveyance, it is at that stage that the doctrine of part performance comes into play. If there is an ineffectual transfer, there is no conveyance. We are still in the stage of contract, and that is covered by the words in this clause. The existing clause in the Bill, as drawn up, will cover cases of ineffectual transfers. That being so, there is no room for introducing the words "or transfers". If you introduce the word "transfers", if a transfer has been completely effected, then where does the doctrine of part performance come in? There the whole transaction is complete. Although the transfer has not been effected according to law, that is by a document registered, in such cases if one party to the contract takes possession or partly performs his part of the contract, then

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the well known maxim of equity, that equity regards that as done which ought to be done, comes into operation; and, therefore, we say if one party to the contract—we are not in the stage of conveyance at all—has done his part, then the other party to the contract would be estopped from denying that the first party has got a valid transfer. The whole of this section deals with the stage of contract. It has got nothing whatsoever to do with a completed transfer, and I think the Honourable Member's amendments were drafted on the misapprehension that an ineffectual transfer was a transfer; but an ineffectual transfer is *not* a transfer. All the subsequent amendments are consequential. Then, he wants to add the word "subsequent" in the Proviso. It is not necessary. If the Honourable Mr. Ray Chaudhury looks at section 48 of the Transfer of Property Act, he will find that it deals with priorities, that is, priorities according to date. Therefore the word "subsequent" is not necessary.

THE HONOURABLE THE PRESIDENT: The question is:

"That this amendment* be made."

The motion was negatived.

Clause 16 was added to the Bill.

Clauses 17 and 18 were added to the Bill.

THE HONOURABLE THE PRESIDENT: The question is:

"That clause 19 do stand part of the Bill."

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: Sir, my amendment to clause 19 is in these terms:

"That in the new clause (f) proposed to be inserted by sub-clause (c) of clause 19 of the Bill for the word 'in' where it first occurs the words 'within the municipal jurisdiction of' be substituted, and for the word 'in' where it occurs for the second time the word 'of' be substituted."

The purpose for which I have brought this amendment is this. The Honourable the Law Member knows very well that in Calcutta mortgage by deposit of title deeds is allowed, but whether it is within the original jurisdiction of the High Court or within the municipal jurisdiction of the town, there was a difference of opinion, and the present view, at least in Calcutta, is that it is within the original jurisdiction of the High Court of Calcutta. That is due to the wording of the section and another piece of legislation. This section is brought in here in the same form as it was originally. No change has been made, but because of the difficulty that has been raised, I want to make it clear that it is not within the original jurisdiction of the High Court of Calcutta, but within the municipal jurisdiction of Calcutta. Whenever the word "town" is used in any Act, the commonsense point of view is that the town is the municipal town which we know; but when there is that possibility and when that difficulty has arisen, I want to make it clear that mortgage by deposit of title deeds would be allowed within the municipal limits of the town of Calcutta. I do not know exactly what is the position in Madras, Bombay, Karachi, Rangoon, Moulmein, Bassein and Akyab. At least in some places where there are no High Courts, it must be the municipal limits of those towns. For example, in the case of Karachi, Moulmein,

* Vide page 276 of these proceedings.

Bassein or Akyab, there is no original civil jurisdiction of the High Court for those towns. Therefore we have one interpretation to be put with regard to towns where there is original civil jurisdiction of the High Courts and there is another interpretation with regard to towns where there is no original civil jurisdiction of the High Court. That is the purpose for which I have proposed this amendment.

THE HONOURABLE SIR BROJENDRA MITTER: Sir, I think the Honourable Member, after I have explained the matter, will not press his amendment. Honourable Members know that the principle underlying the provision for mortgage by deposit of title deeds is that in commercial ports it is not possible always to effect a regular mortgage within a short time. Such a mortgage would involve investigation of title which may take days, and, in order that commercial people may be able to raise money on mortgage of their properties quickly, this provision was made. So, it is intended that the provision for mortgage by deposit of title deeds should be limited to commercial towns and should not be extended in any way. Therefore, these towns, Calcutta, Madras, Bombay, Karachi, Rangoon, Moulmein, Bassein and Akyab are specifically mentioned. The provision may be extended to other towns which the Governor General in Council may, by notification in the Gazette of India, specify in this behalf. It is left to the Governor General in Council to specify the limits within which this particular form of mortgage should be allowed. Sir, it has been held, as the Honourable Mr. Mookerjee has pointed out, that the town of Calcutta means the limits of the ordinary original civil jurisdiction of the High Court which is the commercial port of Calcutta.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: Not now.

THE HONOURABLE SIR BROJENDRA MITTER: If my friend wants to extend it to municipal Calcutta, he would be extending it northward, southward and eastward which would double the area of the town of Calcutta. It was never the intention, when this provision was enacted, that it should be extended to places other than commercial ports. Probably the Honourable Mr. Mookerjee knows that there is a Statute by which the limits of the town of Calcutta have been defined, subject to the power of the Local Government to change the limits from time to time. So that, if it be found necessary at any time that the limits of the town should be extended, it would be for the Local Government by notification to amend the boundaries.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: But the Local Government can extend the boundaries not for any definite purpose like this but generally.

THE HONOURABLE SIR BROJENDRA MITTER: Supposing the limits of the town of Calcutta are extended by the Local Government by a notification under their statutory power, then that extended area would come under the operation of this section, because the extended area would then be included in the town of Calcutta. That is one reason why I say that we should not here attempt to extend the limits within which these mortgages by deposit of title deeds may be permitted. We should not do it as a matter of policy. There is a further objection which affects the revenues of the Provincial Governments. When there is a mortgage by deposit of title deeds, no stamp fee is required. That

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being so, if you extend the area, you affect the revenue of the province concerned. We must not do anything here by which provincial revenue may be affected.

THE HONOURABLE THE PRESIDENT: The question is:

"That these amendments* be made in clause 19".

The motion was negatived.

Clause 19 was added to the Bill.

Clauses 20, 21, 22, 23 and 24 were added to the Bill.

Clauses 25, 26, 27, 28, and 29 were added to the Bill.

THE HONOURABLE THE PRESIDENT: The question is:

"That clause 30 do stand part of the Bill".

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: Sir I beg to move:

"That in sub-section (2)(a) of the new section 65-A proposed to be inserted by clause 30 of the Bill, after the words 'every such lease' the words 'shall not be permanent and' be inserted."

My object in making this amendment is that there ought to be at least a provision expressly stating that such lease should not be made a permanent one. Sub-clause (2) (a) would then run as follows:

"Every such lease shall not be permanent and shall be served as if made in the ordinary course of management."

I want it to be specifically and clearly laid down that permanent leases should be allowed to be granted by the mortgagor.

THE HONOURABLE SIR BROJENDRA MITTER: Sir, I must oppose this amendment. What we have provided is the present law—we have done nothing new here. It is the law but there was no specific provision in our Act, that is why we have framed this clause. What we say is that a mortgagor, after he has mortgaged his property, should have the power to grant a lease of his property, but we have placed restrictions upon his powers, so that he may not exercise his powers capriciously. He may only grant the lease in the ordinary course of management and in accordance with the local law, custom or usage. Now, if it be the local law, custom or usage in any particular locality that none but a permanent lease is taken by anybody, then, if you deny the mortgagor the right to grant a permanent lease in these circumstances, you deny him the right to grant a lease at all. Mr. Ray Chaudhury knows very well that in many parts of Bengal no tenant would take land except on a permanent lease. They will not take it on a shorter lease. Now, if you say to a man who has mortgaged his property that he must not grant a permanent lease, then you deny him the right to grant a lease at all. Is that to the interest either of the mortgagor or the mortgagee? The mortgagor cannot till the land himself. He has got to grant a lease. But if you deny him the power to grant a permanent lease, when the local usage and custom demand it, the result will be that the land will remain uncultivated to the prejudice both of the mortgagor and mortgagee.

* Vide page 278 of these proceedings.

Therefore, I submit my Honourable friend should not press his amendment. Sufficient safeguards have been provided. If the local usage permits only shorter leases, then the mortgagor will certainly not be allowed to grant a permanent lease. The restrictions being there, the further restriction which may amount to total denial should not be adopted.

THE HONOURABLE MR. V. RAMADAS PANTULU: I wish to say one word in support of what the Law Member has said. The Tenancy Acts in some provinces recognise mortgagees as landholders. In Madras, no landholder can give a lease of *ryoti* land for any short period which does not carry with it the incidence of a permanent lease. If this enactment says he shall not give a permanent lease, there will be a conflict of laws between the provincial enactments and the Imperial enactment, and it will be very disastrous. Therefore, I think the words would have a very mischievous legal effect in some ways.

THE HONOURABLE MR. G. S. KHAPARDE: In my country, Sir, there is no local custom. In the absence of local custom what will be the practice?

THE HONOURABLE SIR BROJENDRA MITTER: The words are "in the ordinary course of management", whatever may be the ordinary course of management.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: I only want to add one word. A permanent lease may have to be granted in certain cases. But when a permanent lease is given and a large *salami* is taken and only a small rent is reserved, what becomes of the security? The security is gone.

THE HONOURABLE SIR BROJENDRA MITTER: Clause (b) provides for that.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: The proviso is there that no premium shall be paid. Even if it be so under the law, no premium will be paid openly, but a large premium would be taken secretly and a small rent would be reserved. That cannot be avoided by the Act or by the Legislature. Therefore, there ought to have been some step taken by which the interest of the creditor would be safeguarded. With regard to local custom and usage, that is again a very vague term. It is very difficult to know what are the local usages or customs with regard to the granting of leases. That would create further litigation.

THE HONOURABLE THE PRESIDENT: The question is:

"That in sub-section (2)(a) of the new section 65-A, proposed to be inserted by clause 30 of the Bill, after the words 'every such lease' the words 'shall not be permanent and' be inserted."

The motion was negatived.

THE HONOURABLE THE PRESIDENT: The question is:

"That clause 30 do stand part of the Bill."

The motion was adopted.

Clause 30 was added to the Bill.

THE HONOURABLE THE PRESIDENT: The question is:

"That clause 31 do stand part of the Bill."

(Honourable Members did not respond when the President put the question.)

THE HONOURABLE THE PRESIDENT: If Honourable Members say neither "Aye" nor "No" they put the Chair in a difficulty. I shall put the question again:

The question is:

"That clause 31 do stand part of the Bill."

The motion was adopted.

Clause 31 was added to the Bill.

THE HONOURABLE THE PRESIDENT: The question is:

"That clause 32 do stand part of the Bill."

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: Sir I move:

"That in the new section 67A proposed to be inserted by clause 32 of the Bill after the words 'two or more mortgages' the words 'in respect of the same property' be inserted."

Sir, I am in very good company so far as this amendment is concerned, because Mr. Lal Gopal Mukherjee, now Mr. Justice Lal Gopal Mukherjee of the Allahabad High Court, who was deputed by the Government of India to work on the amendments to be made in the Transfer of Property Act, proposed the very same thing. His opinion is on page 38 of the opinions. This opinion was given by him subsequently when the Bill was drafted by the Legislative Department and sent to the High Court of Allahabad for the opinion of the Honourable Judges. This is his opinion:

"This amendment as proposed (he refers to the clause) is indefinite. The case reported in XXV C. W. N. 129 refers to several mortgages over the same property. The amendment will be clear if the words 'in respect of the same property' is added after the words 'two or more mortgages.' It will entail hardships on the mortgagor as well as on the mortgagee if two or more mortgages over different properties are combined in one suit, as it would compel the mortgagor to redeem them all which he might not be prepared to do. Moreover, in certain cases, it will be difficult too for courts to prepare decrees if the mortgages and properties are different. I will therefore suggest that the above amendment be confined to mortgages over the same property only."

If you refer to page 32 of the Notes on Clauses, you will find there described the steps taken by the Calcutta High Court to safeguard the interests of the mortgagee and the mortgagor in the case there referred to, namely, the case in 25 C. W. N., 129. I need not repeat them here. Those are accepted by the Special Committee as the most equitable one, and it is to give effect to those provisions or rather those steps, that this provision is made in the amending Bill. Sir, it may be said, and I think that is what is going to be said by the Honourable the Law Member, that it is absolutely clear from the section itself that it is only with regard to mortgage in respect of the same property that this section applies. Both the Honourable the Law Member and I have experience of the Bar. But when we have the definite recommendation of one of His Majesty's Judges, we have to take note of that, because it would not do for the Legislature here to say or for the Honourable the Law Member to say that that is the interpretation that I put on the clause.

The interpretation will be put by the High Courts, and the mentality of the Judges can very well be ascertained from the opinion that has been given by the Honourable Mr. Justice Lal Gopal Mukherjee. In view of this, I think this amendment ought to be accepted by the Honourable the Law Member.

THE HONOURABLE SIR BROJENDRA MITTER: Sir, this point was considered with great care by the Special Committee. The first objection to the addition of these words is this. If you say "two or more mortgages in respect of the same property", strictly speaking, it would be meaningless, because the same property cannot be mortgaged twice. I will tell you how. After the property is mortgaged, the mortgagor has not got that property in him. He has got only the equity of redemption.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: There is difference of opinion in the different courts on that point.

THE HONOURABLE SIR BROJENDRA MITTER: We considered it very carefully. The same property cannot be mortgaged twice. Once the property is mortgaged, all that is left in the mortgagor is the equity of redemption. That being so, when he mortgages the second time, he does not mortgage the original property but mortgages only the equity of redemption. Therefore, strictly speaking, it is not the same property. That is the technical legal objection. If you refer to section 61 of the Act, as amended, there also we were faced with this difficulty, and we omitted the word "property." We simply say:

"A mortgagor who has executed two or more mortgages in favour of the same mortgagee."

Once you introduce the word "property" you will be creating difficulties, and it may be contended that the two mortgages are not of the same property but of different properties. It is for that reason that we deliberately omitted any mention of property. If you say that by "property" is meant a physical entity and not the bundle of rights constituting property, that would conflict with the whole tenour of the Transfer of Property Act.

THE HONOURABLE MR. NARAYAN PRASAD ASTHANA (United Provinces Northern: Non-Muhammadan): Sir, I must confess that I am not satisfied with the explanation which has been given by the Honourable the Law Member, because, on page 32 of the Notes on Clauses we find it stated:

"When, however, a mortgagee holds several mortgages in respect of the same or different properties, it will be prejudicial to the mortgagor if the mortgagee is allowed to enforce one mortgage and keep the other mortgages alive."

Where a mortgagee holds one mortgage over property A and another mortgage over property B of the same mortgagor, then it means that he must bring one suit to enforce both the mortgages. The Honourable the Law Member has said that the different properties in this clause would mean perhaps in one case the equity of redemption and in the other case the property itself. But I think it is susceptible of the interpretation that it may mean two quite distinct properties, A and B, and in a case like this where a mortgagor has two houses and he mortgages one at one time to one person and the other at another time to the same person, then the mortgagee would be obliged to bring in one suit for the two mortgages, namely, one mortgage upon the house A and another upon the house B. That would be a hardship upon the mortgagor, because in that case the mortgagor would be compelled to redeem both the properties A and B, though he may be willing to have one property sold and the other redeemed. Therefore, I think this clause should be made clear to show that the mortgages must be on the same property.

THE HONOURABLE THE PRESIDENT: The original question was:

"That clause 32 do stand part of the Bill."

Since which an amendment has been moved:

"To insert after the words 'two or more mortgages' in the new section 67A, proposed to be inserted by clause 30 of the Bill, the words 'in respect of the same property'."

The question is that that amendment be made.

The motion was negatived.

Clause 32 was added to the Bill.

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.

THE HONOURABLE THE PRESIDENT: The question is.

"That clause 33 do stand part of the Bill."

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: Sir, I beg to move:

"That in sub-section (1) of the new section 68 proposed to be substituted by clause 33 of the Bill—

(a) for the word 'a' where it first occurs the word 'the' be substituted; and

(b) for the word 'sue' the words 'bring a money suit' be substituted."

My object in moving this amendment is simply to clearly explain the nature of the suit here. The other sections which precede it relate to a suit for redemption and sale and this is a suit simply to recover the money, and the words "right to sue for the mortgage money" are not clear enough for that purpose. I therefore propose that this amendment should be made.

THE HONOURABLE MR. L. GRAHAM: Sir, I am still at a loss to understand why the Honourable Member has moved this amendment. We have only reproduced the words of the existing Act in this clause. Our Bill makes no change at all. Section 66 of the existing Act starts off with the words:

"The mortgagee has a right to sue the mortgagor."

We have taken out the word "mortgagor" and say:

"The mortgagee has a right to sue for the mortgage-money."

The Bill makes no change at all in this respect, and I am entirely at a loss to understand why this amendment has been moved.

Sir, I oppose the amendment.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: I wanted to make it more clear.

The motion was negatived.

THE HONOURABLE THE PRESIDENT: The question then is:

"That clause 33 do stand part of the Bill."

The motion was adopted.

Clause 33 was added to the Bill.

Clause 34 was added to the Bill.

THE HONOURABLE THE PRESIDENT: The question is:

"That clause 35 do stand part of the Bill."

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: Sir, I beg to move:

"That in sub-section (1) of the new section 69A, proposed to be inserted by clause 35 of the Bill, after the words and figures 'under section 69 shall' the words 'after giving notice to the mortgagor in writing' be inserted."

My object in moving this amendment is simply to give notice to the mortgagor, so that he and his tenants might know that a receiver is going to be appointed and there might be no difficulty about the receiver recovering the rents from the tenants thereafter. That is the simple object of my amendment, and I propose that it be accepted.

THE HONOURABLE MR. L. GRAHAM: Sir, I suggest that this amendment is entirely superfluous. No notice to the mortgagor of the appointment of a receiver can be necessary, and it is not necessary to be provided in the Bill. The appointment is to be of a person who is named in the mortgage-deed. If no such person is named in the mortgage-deed, it is to be made by the court, in which case the mortgagor will necessarily get notice. I therefore oppose the amendment, which is superfluous.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: Will the amendment that stands next in my name be moved separately?

THE HONOURABLE THE PRESIDENT: That will be a separate amendment.

The motion was negatived.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: Sir, I beg to move the amendment that stands in my name:

"That to sub-section (1) of the new section 69A, proposed to be inserted by clause 35 of the Bill, the following proviso be added, namely:

'Provided always that the mortgagee on exercising his right to appoint a receiver, mentioned in the mortgage-deed, under this section, shall forthwith intimate the fact and the name of the receiver to the mortgagor by registered post'."

I have mentioned by registered post, because under the General Clauses Act all notices are to be sent by post. Sir, the principle underlying this amendment is somewhat similar to the principle of the amendment which has just been lost. But I would draw the attention of the House to two facts. Under the new section, a receiver may be mentioned in the mortgage-deed. It may be that the mortgage-deed itself may mention that X, Y or Z will be appointed receiver; the mortgagee and the mortgagor may agree to the names. What my amendment provides for is that if the receiver is appointed by the mortgagee from among the names suggested in the mortgage-deed, then notice of that fact should be sent to the debtor. The reason is this. Although the person is accepted by both the parties, the fact that the mortgagee is exercising his right should be brought to the notice of the mortgagor. Unless and until that is done—it must be done at some stage or other—there will be various complications. When the receiver appointed under this section wants to take possession of the property, the tenant on the premises would like to know what

[Srijut Rama Prasad Mookerjee.]

authority he has got and he will have to correspond with the mortgagor to find out what the real situation is. Not only that. It may be that the mortgagor, before he is put to that indignity—it might be taken to be an indignity by some to have a receiver appointed for his property—might very well like to redeem the mortgage. He will have no opportunity to redeem the property before the receiver actually attempts to take possession. There is the third factor to be considered in this connection, that if the mortgagee transfers the mortgage to a third party, who may be acting not *bonâ fide* but simply to harass the mortgagor, he would be appointing the receiver, taking possession of the property; and there is no provision in this section which forbids him from doing that without any reference to the mortgagor. These are the considerations which prompted me to table this amendment. I know that this section has been introduced here from the English Act almost *verbatim*, though not absolutely *verbatim*. I do not, however, know the conditions in England, but, so far as we in India are concerned, I think such a contingency ought to be provided for, especially where the mortgagor is not always a literate person in the sense that he knows all the effects of the appointment of a receiver—what are the rights and duties of the receiver. If a clause like this is added, I think that would be to the interest of the mortgagor, much more than to the interest of the mortgagee; various other provisions in the Bill have been drawn up keeping in view the interest of the mortgagor much more than the interest of the mortgagee, and I would appeal to the Honourable the Law Member to approach this question from that point of view.

THE HONOURABLE SIR BROJENDRA MITTER: Sir, I quite appreciate

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that my Honourable friend, Mr. Mookerjee, is prompted by the feeling that the mortgagor ought to be safeguarded and that is the purpose of the amendment. But he is safeguarded as I will presently show. Mr. Mookerjee says that the transferee of the mortgagee can harass a mortgagor. Well, it makes no difference whether the harassment comes from the mortgagee or the transferee. Therefore, the question of the transfer of the mortgage does not come in at all.

Then, my Honourable friend says, there may be indignity in the appointment of a receiver of mortgaged property. Sir, all I say is this. A mortgagor who owes money to the mortgagee and is not in a position to redeem the property ought not to be allowed to complain of indignity if the mortgagee takes such action to enforce his mortgage and to get his money as the law permits. Therefore, the question of indignity or sentiment does not come in here at all.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: This is a small proposal—not a receiver appointed by the court.

THE HONOURABLE SIR BROJENDRA MITTER: I know. Then my friend says the mortgagor may be an illiterate person and he ought to know what is being done to the property. Well, my answer to that is this. This is confined to English mortgages, and English mortgages are usually executed in big towns and not in the villages. Those who execute English mortgages usually go to a solicitor or to a lawyer to draw up a proper document. The question of illiteracy does not come in here at all. It is not like a deed-writer sitting under a banyan tree and drawing up a deed.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: But it is possible to be done in the mofussil as well.

THE HONOURABLE SIR BROJENDRA MITTER: It is possible. Everything is possible. But I am taking a practical view of the matter. Practically, there will not be any hardship, as the mortgagor will know if there be any interference with his property. And then my Honourable friend says, which is certainly a point worth consideration, that a tenant ought to know that the receiver who claims to collect rent from him is properly authorised. The tenant surely will not pay rent to an outsider unless the outsider satisfies the tenant by the production of a document or otherwise that he has been properly authorised. Therefore, the tenant will not be prejudiced in any way because he will not pay his rent until he is satisfied. The onus is upon the mortgagee who appoints a receiver to clothe the receiver with such authority as will satisfy the tenant.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: But, if the receiver sues him for rent, will he not be liable?

THE HONOURABLE SIR BROJENDRA MITTER: He will be liable. But what is his liability? To pay rent. Whether he pays it to A, B or C is immaterial so long as he gets a good discharge and is not made to pay over again.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: But if without knowing about the receiver being appointed he enters on his defence, he will have to pay the cost of the suit.

THE HONOURABLE SIR BROJENDRA MITTER: A defaulter cannot complain if on account of his default the receiver brings a suit for rent which he is liable to pay.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: But before that, the tenant will have the rent.

THE HONOURABLE THE PRESIDENT: The Honourable Member has not exercised his right to make a speech; he is making numerous interjections. If he has any remarks to make on the Honourable the Law Member's statement, I suggest that he rise and make a speech himself afterwards; that he is perfectly entitled to do.

THE HONOURABLE SIR BROJENDRA MITTER: Sir, I fail to appreciate the point that a suit on default is harassment. All that my Honourable friend Mr. Mookerjee's amendment asks is that the mortgagor should get notice of the appointment of the receiver. Very well. He gets notice when the person rightfully entitled to collect rent from him has made a demand or has brought a suit against him upon his default. The only point to which Mr. Mookerjee draws the attention of the House is this. Supposing there are 3 persons named in the document alternatively, X, Y and Z, as receiver. How is the mortgagor to know that Y has been appointed? The mortgagor will not be prejudiced by the appointment. But if Y takes any steps to the prejudice of the mortgagor, he will have to satisfy the mortgagor that he has been properly appointed by the mortgagee. The mortgagor gets notice. Want of previous notice cannot conceivably operate to the prejudice of the mortgagor. Therefore I submit this amendment is entirely unnecessary. The mortgagor is amply protected.

THE HONOURABLE THE PRESIDENT: The question is :

"That to sub-section (1) of the new section 69A, proposed to be inserted by clause 35 of the Bill, the following proviso be added, namely :

'Provided always that the mortgagee on exercising his right to appoint a receiver, mentioned in the mortgage-deed, under this section, shall forthwith intimate the fact and the name of the receiver to the mortgagor by registered post.'

The motion was negatived.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: Sir, here is another amendment which, at least to my mind, is necessary in the interest of the mortgagor :

"That in sub-section (8) of section 69A, proposed to be inserted by clause 35 of the Bill, after the words 'and shall' the words 'at least once every twelfth month' be inserted."

Sir, various provisions have been put down under section 69A as to what the duties of the receiver appointed under this section will be and how he is to act. Under sub-clause (8) of the proposed section 69A the way in which the funds collected in the hands of the receiver are to be distributed are mentioned. When all the purposes for which the funds may be utilised in the first portion of sub-clause (8) are exhausted, then comes the last portion. That is, if there be any balance left in the hands of the receiver, then that would be paid to the mortgagor or whoever is otherwise entitled to the mortgaged property. No time limit is put in the section within which this accounting is to be made. It may be that after meeting all the charges enumerated in the first portion of sub-clause (8) from 1 to 5 there may not be sufficient funds in his hands, but if there be any, then within what time is he compelled to pay the balance to the mortgagor? Sir, I think a time limit ought to be put within which he is to render accounts. If he had been a receiver appointed by a court of law then he would have been compelled to render accounts to the court of law once every 12 months; if not, sometime monthly or once every six months in special cases. Because it may be that the receiver appointed may not be rendering accounts for two or three years, and it is not open to the mortgagor to know whether any sum is due to him or not. It is not until and unless the accounts are rendered that he can know whether the mortgagor is entitled to any sum, and if so, what. It is to safeguard the interest of the mortgagor from that point of view that I have submitted this amendment for the consideration of this House. Such a clause would be in consonance with the spirit of the whole section which has been put in here in the Transfer of Property Act by this amendment.

THE HONOURABLE MR. L. GRAHAM: Sir, I think the Honourable Mover has very largely provided the answer in his own arguments. There is no certainty at all that in every twelve months there will be money available to be paid over to the mortgagor, and he will therefore be providing, it seems to me, by his amendment that the receiver has to pay over something every twelve months where there may be nothing to pay.

As regards the mortgagor being kept in doubt or ignorance about the position, it seems to me that he has a remedy by application to the court under sub-section (10). The receiver is already so carefully tied down by the provisions of this section that I see no advantage in tying him down to do a thing which it may be impossible for him to do. I therefore oppose the amendment.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: I fail to see why, even if there is no money to pay over to the mortgagor, accounts should not be rendered from time to time.

THE HONOURABLE MR. L. GRAHAM: That is not the amendment, I beg to say, Sir.

THE HONOURABLE THE PRESIDENT: The question is :

"That in sub-section (8) of section 69A, proposed to be inserted by clause 35 of the Bill, after the words 'and shall' the words 'at least once every twelfth month' be inserted."

The motion was negatived.

THE HONOURABLE THE PRESIDENT: The question then is :

"That clause 35 do stand part of the Bill."

The motion was adopted.

Clause 35 was added to the Bill.

Clauses 36, 37, 38, 39, 40 and 41 were added to the Bill.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: I do not propose to move the amendment* which stands in my name to Clause 42, Sir.

Clauses 42, 43, 44 and 45 were added to the Bill.

THE HONOURABLE THE PRESIDENT: The question is :

"That clause 46 do stand part of the Bill."

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: In this case, again, I am fortified by the opinion of one of His Majesty's Judges. I move :

"That after clause (c) of the new section 91, proposed to be substituted by clause 46 of the Bill, the following clauses be added, namely :

'(d) the guardian of the property of a minor mortgagor on behalf of such minor ;

(e) the committee or other legal curator of a lunatic or idiot mortgagor on behalf of such lunatic or idiot'."

Sir, the notes on this particular clause appear on page 43. There it is mentioned that :

"Section 91 specifies persons who, in addition to a mortgagor, are entitled to redeem. Clauses (a) and (b) can be suitably combined in one clause. Clauses (d) and (e) are superfluous, and, in our opinion, should be omitted."

But no explanation has been given in the Report of the Special Committee as to how these two clauses of the existing Bill are regarded as superfluous. As I said in the beginning, the opinion that I am now placing before the Council is fortified by the expression of opinion again by Mr. Justice Lal

* That in the new section 81 proposed to be substituted by clause 42 of the Bill :

(a) after the words "then mortgages" the words "or transfers for full value" be inserted ;

(b) after the words "the subsequent mortgagee" the words "or transferee for full value" be inserted ; and

(c) after the words "properties not mortgaged" the words "or transferred" be inserted.

[Srijut Rama Prasad Mookerjee.]

Gopal Mukherjee, whose opinion appears on page 40 of the Opinions. He says :

"The amendment proposes to delete clauses (d) and (e), but I think that in order to make the rights of the guardian of a minor or the committee or other legal curator of a lunatic or an idiot the above clauses should be retained."

If reference is made to the Act itself, you will find that the clauses, as I have given them here, appear in the existing Act. The only thing that can be said is this. Under the new section 91, any of the following persons may redeem, or institute a suit for redemption of the mortgaged property. Clause (a) deals with any person who has any interest in, or charge upon, the property mortgaged. No mention is made here of any other person acting on behalf of the person who has the interest in the property. In clauses (b) and (c) also there is no reference to any person who claims the right to redeem, who is not the person himself but a representative of the person who has the interest. Clauses (d) and (e), as I have put them down, and as they appear in the present Act, were put down to bring in the representatives of the persons so mentioned. Clause (d) here deals with the guardian of the property of a minor mortgagor on behalf of such minor and clause (e) deals similarly with idiots or lunatics for whose estate a committee or a legal curator might have been appointed. Sir, I do not know under which sub-clause the Honourable the Law Member thought that my clauses (d) and (e) were provided for already. At least there is the opinion that it is not included within the proposed clauses (a), (b) and (c). When there is this difference of opinion, there is at least this chance of those people not being allowed to come in to redeem the property. I think these clauses should be added, because it should not be left to a Judge to say, later on, that, because you are the representative of the minor's property, or a representative of the lunatic's property, and as your case is not specifically dealt with in section 91, you are not allowed to redeem the property. Certainly that is not the intention either of the framers of the Bill or of the Special Committee. On these grounds, Sir, I think, in order to make the position absolutely clear, these clauses should be added, and they are not redundant as stated by the Committee.

THE HONOURABLE SIR BROJENDRA MITTER: Sir, I am surprised that my Honourable friend Mr. Mookerjee should have moved this amendment. Sir, my Honourable friend knows very well, as any one acquainted with law in this House knows it, that suits on mortgages are now not regulated by the Transfer of Property Act but by the Civil Procedure Code, Order XXXIV. The Civil Procedure Code makes specific provision for suits by or on behalf of persons under an incapacity, which include a minor, a lunatic, an idiot, and so on. We are considering under clause 46 who can redeem. If the mortgagee does not take the money the mortgagor can bring a suit for redemption. If a minor or any other person under incapacity be the mortgagor and if such mortgagor wants to redeem, who can bring the suit? Under the Civil Procedure Code it is the mortgagor who can bring the suit, by his guardian or committee, as the case may be. The suit is brought in the name of and on behalf of the person under incapacity, because it is the mortgagor who is redeeming. That being so, it is no longer necessary to

retain in section 91 clauses (d) and (e). All the other clauses relate to persons who can redeem on their own account; (d) and (e) are the only two clauses where a person can redeem on behalf of the person under incapacity. When a guardian or a committee redeems, he does not redeem on his own account. He redeems on behalf of the minor or the lunatic—on somebody else's behalf. We propose, in this Bill, to limit section 91 to persons who can redeem on their own account. And there is no harm done, because if a minor wants to redeem, sub-clause (a) provides for it. A minor mortgagor who has got an interest in the property can redeem, but a minor cannot redeem by himself. He can redeem only through his guardian. A lunatic cannot redeem by himself, he can only redeem through his committee. Therefore it is not necessary to retain clauses (d) and (e), since the Civil Procedure Code provides for redemption suits.

THE HONOURABLE THE PRESIDENT: The question is :

"That after clause (c) of the new section 91, proposed to be substituted by clause 46 of the Bill, the following clauses be added, namely :

- '(d) the guardian of the property of a minor mortgagor on behalf of such minor ;
- (e) the committee or other legal curator of a lunatic or idiot mortgagor on behalf of such lunatic or idiot'."

The motion was negatived.

THE HONOURABLE THE PRESIDENT: The question then is :

"That clause 46 do stand part of the Bill."

The motion was adopted.

Clause 46 was added to the Bill.

THE HONOURABLE THE PRESIDENT: The question is :

"That clauses 47, 48, 49, 50, 51, 52 and 53 be added to the Bill."

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: Sir, I would ask your opinion on my amendment which is the last one on the list. It relates to clause 50 but it is an independent amendment. I do not know whether I am in order in moving it now.

THE HONOURABLE THE PRESIDENT: The Honourable Member is proposing an amendment to section 100 of the Act.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: It is clause 50 of the present Bill which deals with section 100.

THE HONOURABLE THE PRESIDENT: There seems to be further amendments to section 100 which are already provided for by clause 50 of the Bill. I will put therefore clauses 47, 48 and 49.

Clauses 47, 48 and 49 were added to the Bill.

THE HONOURABLE THE PRESIDENT: Clause 50. The Honourable Member might make his amendment sub-clause (c) of clause 50.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: Sir, the law relating to charges is very unsatisfactory. I shall first of all explain my motion, then I will formally move the amendment. Charges arise in various ways, by acts of parties and by operation of law, and are sometimes the result of

[Mr. Kumar Sankar Ray Chaudhury.]

decrees. So far as the Transfer of Property Act is concerned, it is an Act, as the Preamble will show, to regulate the transfer of property by act of parties. The Preamble runs thus :

"Whereas it is expedient to define and amend certain parts of the law relating to the transfer of property by act of parties ; It is hereby enacted as follows "

So it cannot properly be the scope of this Act to deal with charges created by the operation of law or by decrees, and as a matter of fact there is no provision in the Act as to how charges are to be created by act of parties. There is no provision in the Transfer of Property Act to regulate the creation of charges. All that section 100 says is as to how charges are to be enforced, and then they bring in charges by operation of law. I therefore submit that charges should receive careful consideration independently of this Act and we should not take away some of the benefits which charges receive by the provision of the last paragraph of clause 50. I have already stated that charges created by decrees for the maintenance of Hindu widows cannot be defeated by subsequent purchasers. That was the decision reported in 27 Calcutta at page 194 and it follows an earlier decision in a Weekly Reporter case. That benefit is now being taken away by the last paragraph of clause 50 where it is stated :

"And save as otherwise expressly provided by any law for the time being in force no charge shall be enforced against any property in the hands of a person to whom such property has been transferred for consideration and without notice of the charge "

So that charges will be defeated by a mere transfer of the property if the transferee has no notice. Charges are an important subject, because most of the private and public benevolent purposes are created by way of charges. So also is the maintenance of widows and other dependents of the family, and, if such charges are not to prevail against any subsequent transferee, the whole object of public benevolence will be frustrated. There is another thing. The second paragraph of section 100 says :

"Nothing in this section applies to the charge of a trustee and the trust's property for expenses properly incurred in the execution of his trust "

So that a trustee's lien remains. It is valid against a purchaser for value without notice. So is the case of a seller's lien, that is also a charge on the property, but that prevails against a subsequent transferee. I do not understand why other charges, especially charges which have already been held to be operative and binding upon subsequent purchasers should be deprived of the benefit given to them by law. As regards charges created by the operation of law I do not think, so far as I am aware, there is anywhere any provision laid down as to how the charges are to be enforced. Sometimes they are declared only as first charges ; that is the case under section 65 of the Bengal Tenancy Act. I do not know how it is in the other provinces in case of the rent charge. There is no provision as to what effect it would have as a charge upon subsequent transferees. In the absence of such provision this last paragraph of the proposed amendment embodied in clause 50 will, I think, operate against them, because there is no such provision in the law as to how this charge is to take effect. All that is laid down is that rent is to be the first charge. As

a mere charge, if it cannot prevail against a subsequent transferee, where then would be the landholder's safeguard for the realisation of the rent ? I therefore propose in my amendment that the words " or by operation of law " should be omitted from section 100 and an independent provision should be made in respect of charges created by the operation of law and the whole subject of charge should be carefully considered and gone into and proper amendments put in proper places.

With these words, Sir, I beg to move :

"That in section 100 of the said Act the words ' or by operation of law ' be omitted : and that the following words be inserted at the end of the section, namely : ' or to a charge created by the operation of law ' ."

The section would then run thus :

"Where immovable property of one person is by act of parties made security for the payment of money to another,"

That is the first part of the amendment, and the other part of my amendment will come in at the end of the section :

"Nothing in this section applies to the charge of a trustee on the trust property for expenses properly incurred in the execution of his trust or to a charge created by the operation of law."

That is my object in moving this amendment.

THE HONOURABLE THE PRESIDENT : Amendment moved :

"That the following be inserted as sub-clause (c) of clause 50 :

'(c) The words ' or by operation of law ' be omitted, and the following words be inserted at the end of the section, namely, ' or to a charge created by the operation of law ' ."

THE HONOURABLE SIR BROJENDRA MITTER : Sir, I am sorry that the Honourable Mr. Ray Chaudhury did not pay us the compliment of reading the Bill which we have prepared and I will show presently how. He says that the Bill does not provide for the enforcement of charges. If the Honourable Member will look at . . .

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : I said that the Bill did not provide how charges were to be created.

THE HONOURABLE SIR BROJENDRA MITTER : Sir, the Transfer of Property Act shows how charges are created by operation of law. It is of course well known that provision need not be made for all conceivable cases. Parties can by agreement always create a charge for which no provision need be made. If my Honourable friend will look at section 55 (4) (b), he will see provision is made for vendor's lien ; section 55 (6) (b) makes provision for purchaser's lien and section 95 refers to charge in favour of a co-mortgagor. These are all charges created by the operation of law. Then, section 39 specifically deals with maintenance.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : No charge is created.

THE HONOURABLE SIR BROJENDRA MITTER : Widows' maintenance is not by itself a charge. Section 39 deals with widows' maintenance. That maintenance is a floating charge, not crystallised till by decree of court

[Sir Brojendra Mitter.]

or by agreement it is made a charge. I will draw the Honourable Member's attention to a passage from Sir Rash Behari Ghose's book on Mortgage :

"It would seem that under the Hindu law, although a widow has, in a certain sense, a lien on the estate of her deceased husband for maintenance, the charge cannot be enforced against a *bonâ fide* purchaser for value; for it is only a floating charge, which does not crystallise till some specific property is set apart either by agreement or by a decree of court. The law which was previously in a somewhat nebulous condition has now been settled by the Transfer of Property Act."

What we are doing here is not changing that law at all. What was nebulous was already crystallised by the Transfer of Property Act of 1882. What we are doing is to further elucidate the manner in which the charge can be enforced and the change we propose is this, that it should be enforced as in the case of a simple mortgage. That is the only change we propose in section 100. Further we provide—

"Save as otherwise expressly provided by any law for the time being in force"

—which obviously refers to sections like 55, 95 and 39 of the Transfer of Property Act—

"no charge shall be enforced against any property in the hands of a person to whom such property has been transferred for consideration and without notice of the charge."

If the widow's maintenance has not crystallised, then that maintenance cannot be enforced against a *bonâ fide* purchaser for value without notice. We are not making any change in the law.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : When it matures into a charge, what happens ?

THE HONOURABLE SIR BROJENDRA MITTER : Then a subsequent purchaser would be postponed either on the ground of priority or on the ground of notice. If he has no notice, the law of priority comes in.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : It is not a question of encumbrance but of a subsequent purchaser.

THE HONOURABLE SIR BROJENDRA MITTER : The purchaser stands in the same position as the encumbrancer. If there is a charge upon a property, that charge will prevail against a subsequent purchaser as against any other subsequent transferee, be he a purchaser or a mortgagee or a lessee. In any case, by the law of priority the prior charge will prevail against a subsequent transferee. We are not changing the law in any way. In the case of charges, we are recognising statutory charges. Government revenue and public dues have always priority over mortgages and encumbrances created by the act of parties and we are also saving charges by operation of law, to which I have already referred. Sir, we are not making any new law; we are only clearing up the old law and we are only providing a machinery for the enforcement of charges as in the case of simple mortgagees.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE : I would like to have one point explained by the Honourable the Law Member. Take the case of a widowed daughter-in-law. The father-in-law has the moral liability

for the maintenance of the widowed daughter-in-law; but as soon as the property comes into the hands of the heirs of the father-in-law, it ripens into a legal liability. Now, in that case, it is something different from the widow's right of maintenance on the property. I do not know any case where the point has been decided, but by the modification that is now being made, the charge which that widowed daughter-in-law has on the property will be defeated by the transfer.

THE HONOURABLE SIR BROJENDRA MITTER : It is not a charge, Sir. It is only a right. A moral right against a father-in-law ripens into a legal right against the heirs of the father-in-law. Very well. But it is a mere right and that right can be enforced in a court of law, and the court of law can create a charge or that right can be secured by a charge by agreement of parties. Till that is done it is not a charge at all and certainly that right is not on a higher basis than the right of a widow to maintenance out of her husband's property. It is not a charge till it is crystallised either by agreement or by decree of court.

The motion was negatived.

Clause 50 was added to the Bill.

Clauses 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62 and 63 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. L. GRAHAM : Sir, I move that the Bill, as passed by the Legislative Assembly, be passed.

The motion was adopted.

TRANSFER OF PROPERTY (AMENDMENT) SUPPLEMENTARY BILL.

THE HONOURABLE MR. L. GRAHAM (Secretary, Legislative Department) : Sir, I move that the Bill to supplement the Transfer of Property (Amendment) Act, 1929, as passed by the Legislative Assembly, be taken into consideration.

I think, Sir, in connection with this Bill there is no need for me to make any definite speech. If Honourable Members will only listen to the Preamble of the Bill they will realise the reason. That Preamble runs as follows :

"Whereas by reason of the passing of the Transfer of Property (Amendment) Act, 1929, it is expedient that certain amendments should be made in certain other enactments; It is hereby enacted as follows :—"

In fact, Sir, this Bill is really of a consequential nature. I think therefore it is enough for me to move it.

The motion was adopted.

Clauses 2, 3, 4, 5, 6, 7 and 8 were added to the Bill.

THE HONOURABLE MR. NARAYAN PRASAD ASTHANA (United Provinces Northern : Non-Muhammadan) : Sir, as the amendment which I have put before the House relates to the insertion of a new clause altogether in this Bill and not to the amendment of any of the clauses of this Bill, and considering the mood of the House at this time, I think I will not move my

[Mr. Narayan Prasad Asthana.]

amendment but bring it as a separate amending Bill to the Code of Civil Procedure.

Clauses 9, 10, 11, 12 and 13 were added to the Bill.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE (West Bengal : Non-Muhammadan) : Sir, with regard to clause 14, may I ask if the Schedule comes under clause 14 or is to be taken up separately, because it is with regard to forms in the Schedule that I wish to speak.

THE HONOURABLE THE PRESIDENT : The Schedule is actually attached to clause 8 of the Bill, but I shall put the Schedule separately to the Council. There seems to be no connection between the Schedule and clause 14.

Clause 14 was added to the Bill.

THE HONOURABLE THE PRESIDENT : The question is :

"That this be the Schedule to the Bill."

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE : Sir, I am drawing the attention of the House to Form No. 3A and Form No. 4. According to the old Civil Procedure Code, the form of the decree either for the preliminary decree for foreclosure or the final decree was such that the interpretation had been put by the different High Courts that when a decree for foreclosure was got and the person got the property, he was even then entitled to the costs of the suit from the debtor. That is, if there is a decree, say, for Rs. 40,000 for principal and interest, and Rs. 4,000 for costs, by the final execution of the decree for foreclosure, only the mortgage dues are satisfied—the costs might be realised separately; the Honourable the Law Member will remember the passage in Dr. Ghosh's Law of Mortgages where he criticises this point. According to Dr. Rash Behari Ghosh the decision was wrong and that on a foreclosure decree being obtained and the property coming to the creditor, the mortgaged debt is cleared up and the mortgage debt there, in Dr. Ghosh's opinion, would include not only the principal and interest but also the costs. But the decision of the High Court, Calcutta, at least was that it did not include the costs and therefore there could be a separate execution of the decree for costs. After the amendment of the Civil Procedure Code, or rather when the new Code came into existence in 1908, the forms were changed. In the preliminary decree some changes have been made. I would point out here that in paragraph 2 of Form 3A occurs the words :

"It is hereby ordered and decreed as follows :—

(i) that the defendant do pay into Court on or before the day of.... or any later date up to which time for payment may be extended by the Court of the said sum of Rs.;

(ii) that, on such payment and on payment thereafter before such date as the Court may fix of such amount as the Court may adjudge due in respect of such costs of the suit and such costs, charges and expenses as may be payable under rule 10, together with such subsequent interest as may be payable under rule 11, of Order XXXIV of the First Schedule to the Code of Civil Procedure, 1908, the plaintiff shall bring into Court all documents in his possession, etc."

What I want to clear up is this. Is it the intention that the costs would be paid separately or are costs included within the foreclosure? If reference is

made to the final decree form—that is Form No. 4 (at the top of page 16, about the third line) it is stated :

"that the payment directed by the said decree and orders has not been made by the defendant or any person on his behalf or any other person entitled to redeem the said mortgage :

It is hereby ordered and decreed that the defendant and all persons claiming through or under him be and they are hereby absolutely debarred and foreclosed of and from all right of redemption of and in the property in the aforesaid preliminary decree mentioned ; and (if the defendant be in possession of the said mortgaged property) that the defendant shall deliver to the plaintiff quiet and peaceable possession of the said mortgaged property."

This final decree is absolutely silent about the costs. There was a case before the Calcutta High Court the other day,—it has not yet been reported,—where this question came up as to whether the costs which had been decreed under the preliminary decree for foreclosure are satisfied by the final decree and possession being given or whether a separate execution of the decree for costs would lie. That is the question, Sir, which I want to be cleared up here.

There is one other point. A distinction was made between a decree for foreclosure and a decree for sale. If there was a decree for sale, unless there was a personal decree against the defendant, there could not be a separate enforcement of the decree for costs against the defendant. But that was not so in the case of a decree for foreclosure. It is not the whole amount, the principal, interest and costs, that is satisfied by the final decree by the property being given possession of to the mortgagee but it is otherwise. I think that question ought to be cleared up.

THE HONOURABLE MR. V. RAMADAS PANTULU (Madras : Non-Muhammadan) : Clause 3 on page 15 says :

"And it is hereby further ordered and decreed that, in default of payment as aforesaid".

"As aforesaid" means as stated in paragraphs 1 and 2. Paragraph 2 (ii) speaks of the costs as well. Unless both are paid there is default. The matter seems clear to my mind.

THE HONOURABLE MR. RAMA PRASAD MOOKERJEE : In spite of all that, in default of payment as aforesaid, he would be entitled to a final decree for foreclosure. Will he be entitled to foreclosure and to costs? Before the final decree is passed, the money is paid into court; and then the person gets the principal, the interest and the costs. But no mention is made here about the costs separately as it was made in the old Act. That has created the difficulty in the court.

THE HONOURABLE SIR BROJENDRA MITTER (Law Member) : Sir, may I explain? The Honourable Member will see that in the preliminary decree paragraph 2, sub-clause (2), provides that :

"on such payment and on payment thereafter before such date as the Court may fix of such amount as the Court may adjudge due in respect of such costs of the suit and such costs, charges and expenses as may be payable under rule 10".

Therefore, in the preliminary decree all costs are included. Rule 10, provides :

"In finally adjusting the amount to be paid to a mortgagee in case of a foreclosure or sale or redemption, the Court shall, unless the conduct of the mortgagee has been such as to disentitle him to costs, add to the mortgage-money such costs of suit as have been properly incurred by him since the decree for foreclosure or sale or redemption up to the time of actual payment."

[Sir Brojendra Mitter.]

All costs are therefore included in the preliminary decree. When we come to the final decree for foreclosure, it is provided as follows :

"And it appearing that the payment directed by the said decree (i.e., the preliminary decree) and orders has not been made by the defendant (which includes payment of the costs)."

In such a case, there is a final decree for foreclosure. And paragraph 2 says this :

"And it is hereby further declared that the whole of the liability whatsoever of the defendant up to this day arising from the said mortgage mentioned in the plaint or from this suit is hereby discharged and extinguished."

Once the final decree is made, that discharges the mortgagor from all liability whatsoever including the costs of the suit and subsequent to the suit up to the date of the final decree for foreclosure. There is no further outstanding liability. Everything is wiped out by the final decree. It is clear that that is the intention of this form.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: That is what I wanted to know.

THE HONOURABLE MR. NARAYAN PRASAD ASTHANA: May I point out an omission here? The savings clause should be clause 15. It is not covered by clause 14. It ought to be clause 15.

THE HONOURABLE MR. L. GRAHAM. Does the Honourable Member mean that the Schedule should be numbered as a clause of the Bill?

THE HONOURABLE THE PRESIDENT: He is referring to the savings on page 12. As far as I can see, it is really not a question of an amendment. It is merely a printing error. I will put the Schedule first.

The question is :

"That this be the Schedule to the Bill."

The motion was adopted.

The Schedule was added to the Bill.

THE HONOURABLE THE PRESIDENT: With regard to the point raised by the Honourable Mr. Asthana, for which I am obliged to him, I must put clause 15.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: I may point out that, as far as my memory goes, it was a separate clause previously, but probably because of an amendment in the Assembly, it is put down here as a sub-clause.

THE HONOURABLE SIR BROJENDRA MITTER: There was no amendment in the Assembly.

THE HONOURABLE MR. L. GRAHAM: I am assured, Sir, that this is a mere omission of the printer.

THE HONOURABLE THE PRESIDENT: The question is :

"That clause 15 do stand part of the Bill."

The motion was adopted.

Clause 15 was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. L. GRAHAM: Sir, I move that the Bill, as passed by the Legislative Assembly, be passed.

The motion was adopted.

INDIAN INCOME-TAX (PROVIDENT FUNDS RELIEF) BILL.

THE HONOURABLE MR. E. BURDON (Finance Secretary): Sir, I move that the Bill further to amend the Indian Income-tax Act, 1922, for certain purposes, as passed by the Legislative Assembly, be taken into consideration.

Sir, I am very glad to see that there are no amendments on the paper and that even the critical eye of my Honourable friend Mr. Rama Prasad Mookerjee has found no imperfection in the Bill.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: Except a query about one clause.

THE HONOURABLE MR. E. BURDON: For, while I believe the Bill to be a benevolent and non-controversial measure and in its principle to be perfectly simple, it is in its details very complicated and I should find it difficult to discuss points of detail in a meeting of the full Council. I think we may congratulate ourselves that we have been saved a very great deal of trouble in that way by the Select Committee of the Legislative Assembly who are responsible for the final form of the Bill as it comes before us.

The Bill, Sir, seeks to give relief in respect of income-tax to certain private provident funds. At present Government, Railway and other similar provident funds receive certain concessions which include very valuable benefits by way of relief from income-tax. The commercial community have

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been urging for some time past that these concessions should be extended to provident funds maintained by business firms and companies for their employees. Now, these concessions are susceptible of considerable abuse and the administrative problems that arise out of this possibility are very complicated, much more complicated than any that arise in the case of Government provident funds. It is the difficulty of these problems that was responsible to some extent for the apparent want of sympathy displayed by Government in the earlier stages of the discussions which they had with the commercial community, Chambers of Commerce and others. But continued study has helped to smooth the difficulties and Government definitely decided last year to grant the concession of relief from income-tax subject to certain safeguards. The main outlines of the decision were communicated to Chambers of Commerce in October last and were also announced by the Honourable the Finance Member in the meeting of the Associated Chambers of Commerce at Calcutta in December. Since then the Government of India have devoted a great deal of time and trouble to working out a detailed scheme. I must not however forget to acknowledge the very valuable assistance we have received from the commercial community, both European and Indian, in coming to a final conclusion, and I am glad to say that the scheme embodied in the Bill is an agreed scheme to which representatives of both the Federation of Indian Chambers of Commerce and all the Associated Chambers have given their blessing.

[Mr. E. Burdon.]

The next point which I must make clear is that it is not the intention of Government to place these private provident funds on precisely the same footing as Government provident funds in all respects. I mentioned this matter to the Council the other day in dealing with the Bill relating to quasi-Government provident funds and I gave in some detail the reasons for the differentiation. I explained also that the commercial community had accepted the Government's view on this point. What Government actually promised was to place contributions to private provident funds on the same footing as insurance premia, and as a matter of fact this Bill goes rather further and exempts from income-tax not only the contributions made to the provident funds but also the income from the investments of those funds. This, I feel sure, will be acknowledged as a generous interpretation of the undertaking which Government gave originally last year. As I have already stated, the details of the Bill are complicated and do not lend themselves easily to clear exposition in full Council. Broadly speaking, what is aimed at is that up to a limit of 1/6th of the employee's salary contributions made by him and those made by his employer should be exempt from income-tax. In addition, the employee can obtain rebate of income-tax on insurance premia subject to a limit of exemption of 1/6th of his total income, including his contributions to the provident fund. We do not of course propose to confine the concession only to those funds in which the contributions actually made are themselves subject to the above limits. Both the employee and the employer, if that is the arrangement between them, may deposit additional sums in the provident fund. It is therefore necessary to arrange for some method of taxing the excess contribution and the interest thereon. Two methods were possible, namely, (1) either to let off the excess contributions from year to year and levy tax when the accumulated excess contributions are made over finally to the employee, or (2) to deem by a legal fiction that such excess contributions are part of the employee's income from year to year and tax him from year to year on those excess contributions. Government were inclined to favour the former, and the Bill as introduced in the Legislative Assembly contained that proposal. The Select Committee on the other hand have preferred the latter and Government have accepted it. In order to minimise the risk of abuse, the concession will be confined to recognised provident funds. The Bill lays down certain fundamental conditions which the funds will have to satisfy before they can be recognised. These conditions are set out in clause 58C, and the most important of the conditions are (1) that the funds shall be vested in two or more trustees under an irrevocable trust; (2) that the employer shall not be entitled to recover any sum whatsoever from the fund except where the employee is dismissed for misconduct or voluntarily leaves employment without adequate reasons; (3) that in any case recoveries shall be limited to the contributions made by the employer himself; (4) that subscriptions of the employee and contributions by the employer shall be regular and not casual; and (5) that the employee shall be employed in India or the principal place of business shall be in British India. Recognition will be given by the Commissioner of income-tax of the province, and if the Commissioner refuses recognition, an appeal will lie to the Central Board of Revenue. Because of the possibility of abuse the Government of India reserve the power to withhold or withdraw recognition—even if the conditions of the Statute are satisfied—

in those cases in which there is clear evidence of abuse or risk of abuse. We hope that occasions for the exercise of this power will never arise. Government will also take power to prescribe a maximum rate of interest beyond which all interest paid to the employee will be taxable. This provision is an obviously necessary precaution. Government are also taking power to provide for inspection of accounts by Income-tax Officers, for laying down the form in which accounts shall be kept and for the settlement of certain transitional problems. It will be realised that by this measure Government are embarking on a difficult administrative experiment. They have therefore attempted in the main to lay down broad principles in the Bill and had left much detail to be evolved by experience. For this reason Government wish to take sufficient rule-making power both for the Governor General in Council and for the Central Board of Revenue to make changes from time to time which may be found necessary in regard to details.

I do not think, Sir, that there is anything further that I need say by way of general explanation of the principles of the Bill, and I will end as I began by saying that I trust the absence of amendments means that the Council are satisfied as to the details.

Sir, I move.

The motion was adopted.

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

THE HONOURABLE THE PRESIDENT: The question is—

"That clause 5 do stand part of the Bill."

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE (West Bengal: Non-Muhammadan): Sir, I congratulate the Government on the provisions of this Bill, because, as has been explained by the Honourable Member in charge, it goes into a matter which has been agitating the different private employers and their employees throughout the country. The only point I want to clear up is, that in the special Chapter which is being added, under section 58A, sub-clause (b), an employer is defined in these terms:

"(b) an 'employer' means—

(i) a Hindu undivided family, company, firm or other association of individuals or persons, or

(ii) an individual engaged in a business, profession or vocation whereof the profits and gains are assessable to income-tax under section 10 or section 11,

maintaining a provident fund for the benefit of his or its employees;"

Sir, I want to know whether this definition is taken by Government to include institutions as are registered under Act XXI of 1860. That is the Act under which most of the public institutions in the country, educational institutions, public libraries, etc., are registered. Employees in those institutions should, in my opinion, come under clause 5, because the principle which has been accepted by Government, which we find enunciated in the first paragraph of the Statement of Objects and Reasons, should include these people.

THE HONOURABLE MR. E. BURDON: Sir, with reference to the request of the Honourable Member, I consulted my technical advisers on this point yesterday and I am assured that the answer to the Honourable Member's question is in the affirmative.

M9CPB(CS)

Clause 5 was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. E. BURDON : Before making my final motion, I wish to express my gratitude to the Council for the courtesy they have displayed in permitting the time to be shortened, as a result of which it has been possible to bring this Bill to its final stage in the course of this Session. By doing so, they have enabled the Honourable the Finance Member to implement a promise which he gave to the representatives of the commercial community with whom he has been in treaty for some time past in regard to this measure. As my Honourable friend Mr. Rama Prasad Mookerjee has said, private employers have been agitating for some measure of this kind for a considerable time. I have endeavoured to explain the reasons for the delay which has taken place, and I think it will be evident to anybody who studies the intricacies of the Bill itself that there was some cause for delay. Consequently, as there has been so much delay, the commercial community has been particularly anxious that the delay in the final stages should be minimised as far as possible, and the Honourable the Finance Member undertook to do his very best towards this end. Once more I wish to thank the Council for the co-operation that they have given to the Finance Department in this matter.

Sir, I move that the Bill further to amend the Indian Income-tax Act, 1922, for certain purposes, as passed by the Legislative Assembly, be passed.

The motion was adopted.

RESOLUTION RE FIXATION OF MINIMUM WAGES IN CERTAIN TRADES.

THE HONOURABLE THE PRESIDENT : The Council will now resume discussion on the Resolution* moved two days ago by the Honourable Mr. Ryan.

THE HONOURABLE MR. T. RYAN (Industries and Labour Secretary): Sir, when I moved this Resolution last Tuesday, with reference to the draft Convention and Recommendation regarding the machinery for fixing minimum wages in certain trades, my Honourable friend Mr. Ramadas Pantulu raised three points : first, that papers were not sent in advance ; secondly, I understood him to say he did not see why the Council should deal with this question now ; and thirdly, he suggested, or he was apprehensive, that a definite vote in favour of the Resolution would be tantamount to registering a definite disagreement with the Convention. As regards the first point, as I have already explained, the papers were in fact sent out some months ago, but apparently did not reach or were overlooked by Honourable Members. Anyhow, they

*“ That this Council, having considered the draft Convention and Recommendation regarding the machinery for fixing minimum wages in certain trades adopted at the Eleventh International Labour Conference, recommends to the Governor General in Council that he shall not ratify the draft Convention nor accept the Recommendation.”

have since been recirculated, and I think all Honourable Members have now had an opportunity of reading them. The reason why the Council is asked to deal with the question now is simply because of the provisions of Article 405 of the Treaty of Versailles. I shall, with your permission, read a short extract from that Article. This Article occurs in the portion of the Treaty relating to the International Labour Organisation and it provides that :

“ Each of the Members undertakes that it will, within the period of one year at most from the closing of the session of the Conference, or if it is impossible owing to exceptional circumstances to do so within the period of one year, then at the earliest practicable moment and in no case later than eighteen months from the closing of the session of the Conference, bring the Recommendation or draft Convention before the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action.”

In this case, Sir, in the ordinary course, the draft Convention and Recommendation with which we are now concerned would have been brought before the Legislature during the last winter Session ; but at that time an announcement was made with regard to the appointment of a Labour Commission and the Government thought it best to await the publication of the terms of reference to that Commission and to take advantage of the special '18 months' limit provided by the Article that I have just read. As regards the third point, the Honourable Member was apprehensive that a definite vote in favour of this Resolution would be tantamount to registering a definite disagreement with the Convention. It is certainly not the desire of the Government that the Resolution should bear that interpretation. It is perhaps arguable that it might be a possible interpretation ; but I wish to say definitely that it is not the interpretation which Government place upon it ; and perhaps with that definite statement recorded in the record of this debate the Honourable Member may be satisfied. The view of the Government of India is simply that whatever final decision may be taken at the proper time with regard to this draft Convention and Recommendation, a final decision to ratify them cannot properly be taken at present, and it is therefore proposed that the Governor General should be advised not to ratify the draft Convention or to accept the Recommendation. Honourable Members have seen the papers and they will no doubt have read in full the speech of Dr. Paranjpye made before the Conference in which he made it quite clear that the Government of India have every desire to give a full and sympathetic consideration to the subject, and that if they observed for the time a neutral attitude it was simply because they had not then got the necessary material to justify them in coming to the conclusion that the establishment of wages boards in India was at present practical or, if established, that they would be certain to be beneficial. And, Sir, as I mentioned on Tuesday, the subject is clearly within the scope of the terms of the reference to the Royal Commission which will start working within a few weeks ; it has been specifically included in the list of subjects upon which the Royal Commission have invited evidence. I hope, Sir, that in view of this explanation, the Council will have no difficulty in accepting the Resolution, which, as I have said, is purely a temporizing one and purely non-committal as to what may be the decision on the subject of the draft Convention and Recommendation when the time comes for a final decision.

THE HONOURABLE MR. V. RAMADAS PANTULU (Madras : Non-Muhammadian) : Sir, I thank the Honourable Mr. Ryan and the Honourable the Leader of the House for the courtesy they have shown us by re-circulating

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the papers. Of course I take my Honourable friend's assurance that they were circulated some months ago; they might have been sent to us and we might have mislaid them. All the same, I thank them for furnishing the necessary papers. But, Sir, I regret that after reading the papers, I find it extremely impossible for me to assent to this Resolution. The situation seems to be extremely intriguing. Not till I read the bulletin circulated to me and also the proceedings of the Eleventh International Conference did I fully appreciate the implications or the significance of my Honourable friend Sir Maneckji Dadabhoi springing up to his feet the other day and launching an anticipatory denunciation of what I was supposed to have said or what I was going to say. Sir, the attitude of the Government of India seems to me, on reading the entire literature on the subject, to be utterly indefensible. The Convention of 1928, where this question of fixing the machinery for a minimum wage was decided, was attended by as many as five representatives of the Government of India and 12 representatives on behalf of Indian employees and the employers—and the Convention itself was a very largely attended one. Of the 55 member-countries so many as 46 countries were represented; 338 delegates and advisers took part. The representatives of employers and employees who went from India took a very active part in the discussion during the debate, both in the discussion on the Convention draft and the Recommendation, and their amendments were fully considered by the international Assembly and negatived. The employers' delegates wanted to limit the scope of the Convention to the fixation of the minimum rate appropriate to the lowest grades of ordinary workers and the employees' delegates, on the other hand, wanted to enhance the scope of it to all cases where there was no adequate machinery to fix minimum wages and a living wage was not assured. Both these amendments were turned down though the principle of the second is given effect to in the Recommendation and a *via media* was found which seems to be an eminently satisfactory one. Notwithstanding these facts, we are told in the short report of the three representatives of the Government of India, which I find is very inadequate if not actually misleading, that the Government of India had instructed them not to participate as they had not requisite information. They are good enough to inform us that:

"The chief constructive work of the Conference was the adoption of the draft Convention and the Recommendation on Minimum Wage-Fixing Machinery. We were obliged to abstain from voting on these, in view of the need of further enquiry before it can be decided whether or not such machinery is practicable and desirable in India."

The plea put forward by Dr. Paranjpye that the Government of India had not adequate time to consider this was very strongly and forcibly controverted by the employees' delegates who attended the Convention. I will read one passage from the speech of Diwan Chaman Lal, the employees' delegate, with regard to the attitude taken up by Dr. Paranjpye on behalf of the Government of India. I am reading from the official Report of that speech at page 441:

"In this connection, Mr. President, I would ask your leave to make a remark or two about the statement made by the Delegate representing the Government of India, Dr. Paranjpye. The only interesting thing about the statement that Dr. Paranjpye made was that he made it in a very sweet voice: otherwise, I am sorry to find that the statement he placed before you was hopelessly pessimistic and inadequate."

The first complaint that Dr. Paranjpye had to make with regard to the Government of India was that they were not in a position to take up a definite attitude on this matter,

merely because they had not had sufficient time. May I ask Dr. Paranjpye whether it is not a fact that, for at least fifteen months, this subject has been before the Government of India, and whether they have not had ample opportunity to consult Local Governments and public bodies, workers' organisations and employers' organisations? Yet fifteen months is apparently too short a period for the Government of India to come to any sort of conclusion. They have come here with blank minds."

And, then, Sir, he goes on to say that in those 15 months they had hardly consulted any recognised labour organisations or trade unions but consulted only one gentleman in the Central Provinces, a nominated Member of the Central Provinces Council.

Mr. Chaman Lal, Sir, when he said the Government of India had 15 months, was speaking, so far as I can see, on the 15th of June 1928. The Government of India has since then had another 15 months, from the 15th of June 1928 up to the end of September 1929; and this question was not taken up for the first time in the Convention of 1928. It was really taken up in 1927. A questionnaire was framed, it was sent up to the Government of India, they collected a lot of opinions, and after 30 months they have still not got adequate material before them to make up their mind.

THE HONOURABLE SIR MANECKJI DADABHOY: When was the appointment of the Whitley Commission announced?

THE HONOURABLE MR. V. RAMADAS PANTULU: I will come to the Whitley Commission. The draft Convention was passed in May 1928, the Whitley Commission announcement was certainly made some months after that date. Then, Sir, the attitude of the Government representatives at the Convention was somewhat perplexing. Dr. Paranjpye, whose speech is reproduced in this book circulated to us, has made it very clear in two or three places that the Government of India intended to place this matter before the Central Legislature for a full and ample opportunity to discuss the whole question connected with the fixing of a minimum wage. But I find that nothing of the sort has been done, though the draft Convention was made so early as May 1928 and more than 15 months have elapsed. They have not taken the very steps they promised to take before the Convention. I will read only one perplexing sentence from the speech of Dr. Paranjpye:

"Moreover, apart from the desirability of acting in concert with Provincial Governments in such a matter, the Government of India could not, of course, in any case ratify the Convention without the concurrence of their own Legislature, and they are unable in every case to commit the latter in advance, as they differ from most of the Governments represented here in that they do not command a majority in their Legislature."

This reads as if the Government were in favour of it but, as they could not commit their Legislature to it, they were not willing to commit themselves before the Convention. But Dr. Paranjpye did not inform the Convention correctly as to what was going to happen in India. There was at least one Chamber in India in which Government commanded a majority. They could take the matter on the last day of the Session to that House and get any decision it wanted. But he did not disclose these facts. Therefore, Sir, I say that the whole position here is intriguing.

The Honourable Mr. Ryan states that he is only asking for negative action and he has not asked the Government of India to take any definite or positive step. I quite appreciate that. But what is the action we are asked to take? We have a Convention, adopted by an international organisation in

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which 46 nations have taken part and that too after due deliberation and discussions from the employees' and employers' points of view put before them; we are asked not to ratify it. I know, Sir, whatever meaning Mr. Ryan may place on such action, that the action taken by this House will be construed as one of playing into the hands of the Government of India. Why should this House be asked to do this? As a matter of fact, we have been told that a Resolution is not binding on the Government and when we pass a Resolution they do not generally accept it. This is only a Resolution and Government may or may not accept it. But if the Government of India do not wish to ratify it, why, I ask in all humility, should they get the sanction from this House of all Houses to support their conduct? Why should they compromise the dignity of this House and the reputation of the Government of India by taking a vote from us on the last day of the Session and going before the International Convention and telling them: "Here is our second Chamber which has asked us not to ratify it"? By all means do not ratify it, if you do not want to. But why do you want it to be said by us, I cannot understand. I think, Sir, it is a very intriguing situation and I do not think the Government of India have acted fairly towards us by seeking to commit this House to a course of action which will be strongly resented elsewhere and lead international organisations to attach no value to the opinions of this House in future. Why did the Government not face the Legislative Assembly with a similar Resolution? There was a definite undertaking given to the International Conference that the whole matter will be placed before the Central Legislature with a view to having a thorough investigation. Here is a part of the Report:

"We seek to announce to the Conference that the Government of India have every desire to give full and sympathetic consideration to the subject and that a proposal to have a thorough investigation of it will be placed before the Indian Legislature."

I ask in all humility, is this way to satisfy the undertaking given in such clear words to the Conference? I submit it is not, and I ask my Honourable friend not to press this motion in such a way as to absolutely compromise the dignity of this House. The Government of India's action is neither *bonâ fide* nor fair in this matter.

I have only a short time left to me and I shall say one or two words on the merits. The principles involved in the Convention are mainly two, namely, that in fixing the wage, the standard of living should be taken into consideration, and that a man should get a living wage. The amount of it is fixed by a machinery to be set up in which employers and employees will be equally represented and in which the Government will have a determining voice. The second principle is that if there is a dispute, both the employers and the employees can go to the national Government and ask for a machinery to be set up in which the matter will be decided. These are the two principal points. The draft Convention is made so elastic, is made so easy of acceptance by the Government, that there is really no reason why any Government should not adopt it. The First Article says:

"Every Member of the International Labour Organisation which ratifies this Convention undertakes to create a machinery whereby minimum rates of wages can be fixed for workers employed in certain of the trades or parts of trades (and, in particular, in home

working trades) in which no arrangements exist for the effective regulation of wages by collective agreement or otherwise and wages are exceptionally low."

And, then, the other clause relating to the machinery itself provides ample safeguards so that the Government of India can have its own way practically in the matter. When all that has been done, I really do not see why in a matter like this, the Government of India should flout international opinion.

One word more, Sir, about the Whitley Commission. I do not see why a matter which affects labour from the international standpoint, and to which so many civilised countries of the world have agreed, should be re-opened and why the Whitley Commission should be at liberty to go into the matter afresh. The Whitley Commission ought to accept this. If it is honest, it ought to accept the Recommendation and the Convention arrived at at the International Conference, at which India was fully represented both by the Government and by the employers and employees. Therefore, to say that they are going to re-open the question before the Whitley Commission is in itself intriguing. That a Convention adopted by so many nations, which has an international force, and which is worded in such a way as to suit the conditions of every country, should be asked to be re-opened by the Whitley Commission is itself proof positive that the Government of India is against it. Even the employers' delegates who went to Geneva have not taken the attitude which the Government of India have taken. Mr. Narottam Morarjee, Mr. R. K. Shanmukham Chetty and others who were there did not at all go to the extent that the Government of India have done now. The vote of this House will certainly be misconstrued as merely enabling the Government of India to save its face before the International Labour Conference. I will appeal to my elected colleagues not to be parties to this transaction. This is not the way of consulting the Legislature. This is not the way of fulfilling the undertaking given to the International Conference. This is not the way of doing the thing. If the Government of India do not wish to ratify, by all means let them not do so. Our Resolutions are only recommendatory. When it suits them, it is taken as binding on them, and when it does not suit them, it is not taken as binding. I appeal to my Honourable friend, in view of what I have said, to withdraw his Resolution.

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces: Nominated Non-Official): Sir, at this late hour, I do not desire to inflict a long speech on this House, but I must point out that after having heard my Honourable friend Mr. Ramadas Pantulu

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: On a point of order, Sir. When consideration of a Resolution which has already been moved is taken up again, is it open to Honourable Members to speak again and again day after day?

THE HONOURABLE THE PRESIDENT: I take it that the point raised by the Honourable Member is that everybody who has spoken to-day or attempted to speak spoke also the other day. But I treated the speeches the other day, particularly from the time when the Honourable Mr. Ramadas Pantulu rose, as speeches to the point as to whether the discussion should then be adjourned or should proceed. I think to the best of my recollection the Honourable Sir Maneckji Dadabhoy spoke to that point only, namely, the adjournment of the discussion. The merits of the Resolution are still open to him.

THE HONOURABLE SIR MANECKJI DADABHOY: Sir, I beg to state that even after having given my best attention to the Honourable Mr. Ramadas Pantulu I feel bound to state that I have not been able to follow his line of argument. He is under the impression that by passing a Resolution of this character we shall be going against the ordinary Convention, and we shall not be adopting the attitude which has been adopted by the other nations which attended the International Labour Conference. I am afraid he is labouring evidently under some grave misapprehension. He thinks that because India's delegates have attended the Labour Conference in Geneva, they are bound by the decision arrived at by the Conference. Nothing of the sort. It is open to any nation either to ratify or to oppose any such Convention passed at any Conference, and I should be very sorry if on any occasion the privilege of this House was taken away or trampled under foot. My Honourable friend also thinks that Government has some sinister object in bringing forward this Resolution at this stage. He has not been able to tell us what object Government could have in bringing forward this Resolution except to comply with the ordinary practice which has been followed in this House on various other occasions when the decisions of other International Conferences were either ratified or disapproved.

THE HONOURABLE MR. V. RAMADAS PANTULU: Why has this not been brought in the Assembly yet?

THE HONOURABLE SIR MANECKJI DADABHOY: I cannot tell you why it has not been brought before the Assembly. Mr. Ryan will probably be able to say. But I think that this House should feel very proud that a Resolution of such momentous importance has been placed before this House for consideration and not taken to the Assembly in the first instance.

THE HONOURABLE MR. T. RYAN: May I say that this Resolution has also been brought forward in the Assembly?

THE HONOURABLE MR. V. RAMADAS PANTULU: So far as I know, it has not been so brought.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: When was it brought forward?

THE HONOURABLE MR. T. RYAN: It is on the list for to-day. I have not seen the record of the debate.

THE HONOURABLE SIR MANECKJI DADABHOY: The Government in bringing forward this Resolution is acting strictly in conformity with previous precedents. On previous occasions similar Resolutions have been brought forward for consideration, and to my knowledge, on two or three occasions we have not ratified the decisions of the Conference at Geneva.

The next point which my Honourable friend has urged is, why should Government, at this late hour, have thought it right to bring forward this Resolution and what was the necessity at all to bring forward such a Resolution? I think my Honourable friend Mr. Ryan has made that point clear both on last Tuesday and to-day, that it is obligatory that this sort of Resolution must be brought before the Legislature and either ratified or rejected. That is required by the Treaty of Versailles; after that clear fact stated before this Council, I am surprised that my Honourable friend Mr. Ramadas Pantulu

should charge Government with some sinister motive in bringing forward this Resolution.

Then my Honourable friend has dealt with the merits of the Resolution. I am just informed that this very day the discussion of this Resolution is taking place in the other House.

THE HONOURABLE MR. V. RAMADAS PANTULU: It is only on the agenda in a safe place. It has not taken place yet and will not take place.

THE HONOURABLE SIR MANECKJI DADABHOY: As regards the merits of the Resolution he stated that if so many other nations who are in a majority have accepted this, why should India stay its hand and not adopt the measure? Dr. Paranjpye made it perfectly clear that it was not only a question of time, but materials were not available to the Government of India who wanted to be fair and just in this matter and wished to collect all the materials, consult Local Governments, weigh the whole situation from all points of view before bringing it forward. Mr. Ryan assured this House on Tuesday last that at some later date, after the report of the Whitley Commission is published and if this Recommendation is supported by it, he would bring it before this Council again. Another matter I might bring to the notice of my friend Mr. Ramadas Pantulu is the fact that only last cold weather we have passed an industrial measure known as the Trade Disputes Bill that gives to both the employer and the employee the machinery for adjusting matters in dispute, in regard to wages or anything else. If the employees in any trade are dissatisfied with the wages they receive, they can ask for the appointment of a tribunal under that Act. So after all the argument that there was no such great necessity as my Honourable friend Mr. Ramadas Pantulu suggests for taking this Resolution immediately into consideration is untenable. Further, the Whitley Commission has already started for India and one of the questions they have been asked to solve is this very matter. It is only right and proper that all the evidence should be placed both by the Government and by private individuals before the Commission, which will then come to a decision and be able to throw a flood of light on this very question. I am sorry therefore that my friend Mr. Ramadas Pantulu should have made an unreasonable appeal to the Members of this House to reject it. I have greater faith in the sagacity and judgment of this House that they will not countenance any such appeal and that they will vote for Government in support of this Resolution.

THE HONOURABLE MR. P. C. DESIKA CHARI (Burma: General): Sir, I do not propose to detain the House at this very late hour except for a few minutes. The question on its merits has been very fully put forward from the point of view which I think ought to weigh with the non-official Members of this House by my friend Mr. Ramadas Pantulu. I do not think it is necessary for me to go into details. After going through the literature supplied to me and perusing the Recommendations and Conventions, I think those Recommendations and Conventions would supply a great want in India, seeing that labour in most parts of the country is not organised. Nearly 90 per cent of labour is not organised. It is very desirable that there should be some machinery set up as early as possible, so that the ugly manifestations of labour unrest that we find in various parts now may not spread to

[Mr. P. C. Desika Chari.]

other places as well. The Recommendations and Conventions are quite reasonable and they give a very great latitude to the Governments concerned. They can fix the machinery when they choose in such a place or in such an industry as they think fit. They are given a very wide discretion and there is no time limit, and they are only asked to create a machinery as early as possible. That is perfectly harmless. I strongly protest against the reasons which have been put into the mouth of Dr. Paranjpye. He was merely the Government's spokesman and spoke in view of the special difficulties which the Government found itself in here. That has been exploited to a considerable extent and the impression is created that the Legislatures are always obstructing whenever the Government wants to do something in the interests of labour.

THE HONOURABLE MR. G. A. NATESAN (Madras : Nominated Non-Official) : How do you know Dr. Paranjpye's mind ?

THE HONOURABLE MR. P. C. DESIKA CHARI : I can find out from the speech itself. I mean he was merely giving out something as the spokesman of the Government of India. I can read between the lines and read the speech as a whole.

THE HONOURABLE SIR MANECKJI DADABHOY : You are a prophet.

THE HONOURABLE MR. P. C. DESIKA CHARI : We can find the mind of a particular person from his spoken words, and from his spoken words I find that he has been labouring under a very great disadvantage in giving expression to the views of the Government of India, and it seems as though he has been speaking under very great restraint. The wording of the report leads me to think that under instructions Dr. Paranjpye and the other Government delegate were obliged to take the attitude they did.

THE HONOURABLE MR. V. RAMADAS PANTULU : Only Dr. Paranjpye attended. The other two did not attend.

THE HONOURABLE MR. P. C. DESIKA CHARI : I find that Dr. Paranjpye only had a watching brief. He was asked if necessary to explain matters. Perhaps the Government of India were not anxious even that Dr. Paranjpye should explain matters, because he was asked to do so only if necessary. And the explanation given there for the attitude of Government is very unsatisfactory. I find from the speeches of the employees' and workmen's delegate that these Conventions and Recommendations were considered as in the right direction and were necessary in the interests of both labour and capital in India. I thought that the Recommendations and Conventions would be welcomed not only by labour but by capital, with a view to seeing that labour is not exploited by persons in other movements and that the establishment of machinery as recommended in these Conventions would act as a very great check to the way in which labour is being exploited in India. We were told that the Whitley Commission had been appointed and would go into this very question of creating machinery for fixing minimum wages. I find from the tour programme of the Whitley Commission that Burma has been excluded.

THE HONOURABLE SIR MANECKJI DADABHOY : Burma is an agricultural country.

THE HONOURABLE MR. P. C. DESIKA CHARI : It is also a very important industrial country. If you do not know the conditions you may read the report about that country before contradicting me who has first-hand knowledge. It may be an agricultural country like India but it is really a very important industrial province, more so than many other provinces of India.

THE HONOURABLE SIR MANECKJI DADABHOY : What have you got besides oil-fields ?

THE HONOURABLE MR. P. C. DESIKA CHARI : We have got every thing. I do not want to take notice of any interruptions. My point is this. I do not know whether it is the work of the Whitley Commission or of the Government of India or of the Burma Government and I do not know which has been responsible in taking care to see that the conditions in Burma are not brought to the public notice by this enquiry which is to be started very shortly, and I may say for the information of the Members of this House that there are about a million Indians in Burma and the vast majority of them are labourers drawn from almost every province of India. It is not really a purely provincial question ; it is an all-India question ; and so far as I am aware, there has been no organisation of labour in that province and it is very difficult, in view of distances and the difficulties of travel, to organise labour in that province. In these circumstances, I am not very much concerned about the recommendations of the Whitley Commission and I think it is my duty to vote against this Resolution, because the Whitley Commission or no Commission, it is not going to affect the conditions of my province.

With these words, I oppose this Resolution with all the emphasis at my command.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE (West Bengal : Non-Muhammadan) : The first point that I want to bring to the notice of the Honourable Mr. Ryan is that he has just now stated that a similar Resolution is before the Legislative Assembly to-day. We know this is the last day of the Session of the other House. If this Resolution is not reached to-day, as in all probability it will not be, then what will be the attitude of the Government ? Even if they have a majority in this House, and the question is not considered by the Assembly to-day, will the Government of India still write back to the authority concerned and say that the proposals have not been ratified by the Government of India ? If this is considered to be such an important matter—and it is certainly a very important matter, even Sir Maneckji Dadabhoy has agreed that it is a very important matter, and there is the responsibility and dignity of this House concerned—why was not such a Resolution brought at an earlier stage ? There were other earlier official days in both Houses when this Resolution might have been brought up and this question might have been thoroughly discussed on the floor of this House as also in the other place.

THE HONOURABLE SIR MANECKJI DADABHOY : But how are you to do it ?

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE : The time left to-day is too short to take note of interruptions even from Sir Maneckji Dadabhoy ; we shall then be sitting beyond the usual time.

[Srijut Rama Prasad Mookerjee.]

The other point that I would like to bring to the notice of this House is that Articles 1, 2 and 3 as they appear in Part III of this Report are by themselves wholly innocuous. The whole question is whether the Government of India are ready to accept the principle of having an authority to determine the wages in different parts of India—they ought to do it—whether the Government of India would look to the interests of the capitalists only or to the interests of the labourers as well. Let this House, on this occasion at least, look to the interests of the labourers more than the rich and the capitalist and, to quote the language of my Honourable friend Sir Maneckji Dadabhoy, the sagacity and prudence of this House would be heightened before the public eye if this House rises to the occasion and rejects this Resolution.

THE HONOURABLE MR. T. RYAN : Sir, I feel that my Honourable friend Sir Maneckji Dadabhoy has dealt with the matter so fully that really very little is left for me to say. There are, however, a few remarks suggested by the observations of Honourable Members. With regard to the discredit attached by my Honourable friend opposite to the statement of the Government Delegates that there had not been adequate time for the discussion of this matter, I would explain that if one takes the initial date on which such a matter as this is mooted and the date by which a final reply is due to reach Geneva, and attach very little importance to the delays which inevitably occur in the various stages throughout the investigation and discussion, the time may seem long ; but in actual practice there was very little time for the Government of India to formulate their views on this matter. I find that the Government of India were addressed on the 15th July 1927 ; the letter reached the Government of India only in August 1927. We then received the questionnaire on the minimum wage fixing machinery and it was stated with some emphasis that our reply must reach the Labour Office in Geneva on the 15th November 1927. That is to say, the time we had was from fairly early in August until the middle of November 1927 ; the time was manifestly inadequate to consult Local Governments, to consult the representatives of employers and employees, to collate their views and to formulate the views of the Government of India. So much for the time.

I am afraid I cannot follow my Honourable friend on the right who prefers to read what the Government Delegates did not say *between* the lines, to what they did say *on* the lines ; and who believes that what they did say was dictated by the Government of India. I can find no support in the documents at my disposal for the latter suggestion. I am asked again why the matter has been put before this House. I can only repeat—I regret to have to say it for the third time—that it was done under a compelling requirement of the Versailles Treaty. It is under the provisions of that enactment that measures of this kind or proposals of this kind have to be placed before the Legislature, which in the case of India means both Houses of the Legislature. Again, I think I have been charged with disregarding the dignity of this House in bringing this forward on the last day of the Session. The gentleman who makes this charge is himself responsible for the item being put down on the agenda for the last day of the Session, because he did not read the papers sent to him several months ago.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE : They did not reach us.

THE HONOURABLE MR. T. RYAN : Even if the papers did not reach him, they were available in the Library.

THE HONOURABLE SIR MANECKJI DADABHOY : We have only a ten days' Session.

THE HONOURABLE MR. T. RYAN : He does not see why the Whitley Commission should be given an opportunity to re-open the question of an international Convention which has already been agreed to. That of course is very far from the fact. We are not proposing to re-open a question that has already been settled : we are considering only the draft of a Convention. He appeared to understand from what had been stated on the subject that the Government of India are against the Convention, I can only say that in the reply to the questionnaire, which was sent to Geneva, the Government of India gave a very distinct indication of their inclination to sympathise with provisions of the kind contemplated at that time, which have since been embodied in the draft Convention ; but they could not, for the reasons which have been repeatedly explained, commit themselves finally, nor can they do so at present.

Finally, Sir, we heard much about the omission of Burma from the tour programme of the Whitley Commission. I have not seen the final tour programme which in any case covers only the portions of the country to be visited when the Whitley Commission will be in India for the first time. I believe it is not proposed to visit Burma during the first visit of the Commission to India, but I have every reason to believe that the Commission will visit India twice and, so far as I know, they intend to visit Burma on the second occasion.

THE HONOURABLE MR. P. C. DESIKA CHARI : Is the Honourable Member in a position to assure us that the Commission will visit Burma ?

THE HONOURABLE MR. T. RYAN : I am unable to say absolutely what will happen in the future, but so far as I know—and I believe my information is reliable—the Commission will visit Burma ; in this connection the point was raised a day or two ago with me personally by the Honourable Member on my right who promised to look in at my office where I could put him in touch with an absolutely reliable source of information ; but the Honourable Member, who does not care to believe what is written but prefers to read between the lines, is equally unable to adopt the obvious course of obtaining information.

THE HONOURABLE MR. P. C. DESIKA CHARI : The information is even now not obtainable.

THE HONOURABLE THE PRESIDENT : The question is :

“That the following Resolution be adopted :

‘That this Council, having considered the draft Convention and Recommendation regarding the machinery for fixing minimum wages in certain trades adopted at the Eleventh International Labour Conference, recommends to the Governor General in Council that he should not ratify the draft Convention nor accept the Recommendation.’”

The Council divided :

AYES—20.

Ashraf-ud-Din Ahmed, The Honourable Khan Bahadur Nawabzada Saiyid.
Basu, The Honourable Rai Bahadur Suresh Chandra.
Burdon, The Honourable Mr. E.
Charanjit Singh, The Honourable Sardar.
Clayton, The Honourable Mr. H. B.
Dadabhoy, The Honourable Sir Maneckji.
Dutt, The Honourable Mr. P. C.
Graham, The Honourable Mr. L.
Gwynne, The Honourable Mr. C. W.
Latifi, The Honourable Mr. Alma.

Maqbul Hussain, The Honourable Khan Bahadur Sheikh.
Muhammad Hussain, The Honourable Mian Ali Baksh.
Natesan, The Honourable Mr. G. A.
Ram Saran Das, The Honourable Rai Bahadur Lala.
Ryan, The Honourable Mr. T.
Suhrawardy, The Honourable Mr. Mahmood.
Symons, The Honourable Major-General Sir Henry.
Thompson, The Honourable Sir John.
Weston, The Honourable Mr. D.
Woodhead, The Honourable Mr. J. A.

NOES—10.

Asthana, The Honourable Mr. Narayan Prasad.
Desika Chari, The Honourable Mr. P. C.
Khaparde, The Honourable Mr. G. S.
Mookerjee, The Honourable Srijut Rama Prasad.
Padshah Sahib Bahadur, The Honourable Saiyed Mohamed.

Ramadas Pantulu, The Honourable Mr. V.
Rama Rau, The Honourable Rao Sahib Dr. U.
Ray Chaudhury, The Honourable Mr. Kumar Sankar.
Sinha, The Honourable Mr. Anugraha Narayan.
Surput Sing, The Honourable Mr.

The motion was adopted.

ELECTION OF A MEMBER TO THE GOVERNING BODY OF THE INDIAN RESEARCH FUND ASSOCIATION.

THE HONOURABLE THE PRESIDENT : The Council will proceed to elect a Member to the Governing Body of the Indian Research Fund Association. The voting papers will be distributed to the Honourable Members. I may say that, as there are three candidates, if at the first ballot any Honourable Member does not obtain a clear majority of the votes cast, that ballot will be treated as an eliminating ballot, and the Member at the bottom of the ballot will be excluded and there will be a fresh ballot between the two Members at the top. In the event of an equality of votes between the two Members at the bottom I shall cast lots as to which should be excluded.

(The ballot was then taken.)

THE HONOURABLE THE PRESIDENT : There have been cast for the Honourable Dr. Rama Rau 21 votes, for the Honourable Mr. Mahmood Suhrawardy 5 and for the Honourable Mr. P. C. Desika Chari 3. There was one spoilt vote. I, therefore, declare the Honourable Dr. Rama Rau duly elected.

THE HONOURABLE MR. L. GRAHAM (Secretary, Legislative Department) : Sir, in the unavoidable absence of the Honourable Sir Fazl-i-Hussain who is detained elsewhere, I would like to seek your direction as to the time when the Council should sit to-morrow. It has been agreed that the Council should sit tomorrow for the consideration of the Child Marriage Bill. The Council has also to remember that tomorrow is Friday, and it is customary, when we sit on Friday, to give extra time in the middle of the day for the Muhammadan Members to fulfil their religious obligations. It has been suggested—and I understand that the Muhammadan Members who are present are in agreement—that you should make a direction that tomorrow we should sit at 10 o'clock in the morning, that we should sit from 10 to 12, and then adjourn from 12 to 2-30 in the afternoon.

THE HONOURABLE MR. V. RAMADAS PANTULU (Madras : Non-Muhammadan) : I have no objection, Sir. 10 o'clock would suit us if you have no objection.

THE HONOURABLE MR. ANUGRAHA NARAYAN SINHA (Bihar and Orissa : Non-Muhammadan) : Would it not be possible to sit at 9-30 A.M. ?

THE HONOURABLE MR. G. S. KHAPARDE (Berar Representative) : Why not at the usual time ?

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE (West Bengal : Non-Muhammadan) : As has been stated by some, it is not very convenient for us to come at 10 A.M., and then go back at 12, and come back again at 2-30 P.M.

THE HONOURABLE MR. L. GRAHAM : That is the suggestion, Sir.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE : If there is no other time suitable, we have to agree to it.

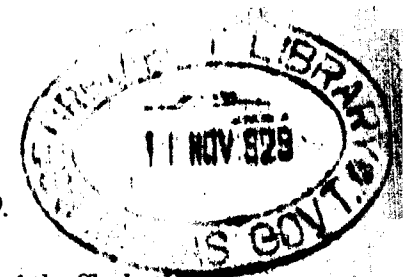
THE HONOURABLE MR. V. RAMADAS PANTULU : I think we had better agree.

THE HONOURABLE THE PRESIDENT : I realise that Honourable Members will be put to a certain amount of inconvenience. I need hardly say that I am prepared to sit at any hour which is convenient to the majority of the Honourable Members. I therefore think that I should adopt the suggestion put forward by the Honourable Mr. Graham that we should sit from 10 to 12 and then have an extra long adjournment. The Council will now adjourn till 10 o'clock tomorrow morning.

The Council then adjourned till Ten of the Clock on Friday, the 27th September, 1929.

COUNCIL OF STATE.

Friday, 27th September, 1929.



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

QUESTIONS AND ANSWERS.

THE TECHNICAL SCHOOL AT JAMALPUR.

85. THE HONOURABLE MR. SHAH MUHAMMAD ZUBAIR : Will Government be pleased to state :

- (a) the date from which the Technical School at Jamalpur was started,
- (b) the number of teaching staff in the school with the salary attached to each post and the date of the appointment of each teacher,
- (c) the daily average number of boys attending the school,
- (d) the actual amount spent in the said school during the year 1928-29 and the amount budgeted for the current year.

THE HONOURABLE MR. J. A. WOODHEAD : Information has been called for from the Agent and will be communicated to the Honourable Member in due course.

METHOD OF SELECTION OF APPRENTICES FOR THE TECHNICAL SCHOOL AT JAMALPUR.

86. THE HONOURABLE MR. SHAH MUHAMMAD ZUBAIR : Will Government be pleased to state :

- (a) The method of selecting the first, third and special class apprentices for the Jamalpur Technical School.
- (b) Do the Government propose to appoint a committee consisting of officials and non-officials for the selection of these apprentices?
- (c) Whether there is any committee to manage the affairs of the said school?
 - (1) If so, how many members are there in the committee and who are the members?
 - (2) Is there any non-official in that committee, if so, who and how many?
 - (3) Are the Government contemplating the inclusion of non-officials in the committee if there is none at present?
 - (4) What is the function of that committee and how many times during the year does this committee meet?

THE HONOURABLE MR. J. A. WOODHEAD : Information has been called for from the Agent, East Indian Railway, and the Honourable Member will be communicated with on receipt.

TOWN INSPECTORS OF POST OFFICES.

87. THE HONOURABLE MR. MAHMOOD SUHRAWARDY : Will Government be pleased to state :

- (a) whether the postal Town Inspectors were omitted in the general revision of 1920 when the pay of all classes of postal employees was revised ?
- (b) whether a time scale of pay was introduced in September, 1920 ?
- (c) whether, with the introduction of the time scale of pay, the officials who were appointed in the Town Inspectors' posts were removed from their permanent posts and a fresh batch of clerks replaced the Town Inspectors ?
- (d) if the reply to the foregoing be in the affirmative, will Government be pleased to state whether the officials who were appointed to the posts of Town Inspectors continued to perform the higher duties prescribed during the graded scale, i.e., prior to September, 1926 ?
- (e) whether various other important duties, such as those connected with franking machines and inspection of selection grade offices in many Head Offices were imposed on these selected and permanent Town Inspectors as also the duties imposed on them by the Presidency Postmasters or the Postmaster General under the authority vested in them (*vide* "N. B." above Rule 345 of P. O. Manual, Volume 2, Chapter 4) ?

THE HONOURABLE MR. T. RYAN : (a) No.

(b) Yes.

(c), (d) and (e). Government have no information, nor do they propose to collect it as they fail to see its public utility.

DUTIES OF CLERKS AND TOWN INSPECTORS OF POST OFFICES.

88. THE HONOURABLE MR. MAHMOOD SUHRAWARDY : Will Government be pleased to state :

- (a) whether in accordance with the Fundamental Rule any two posts are said to be equal if the duties attached to them are equal or approximately of the same character or degree of responsibility ?
- (b) are the duties attached to the posts of clerks of the same responsible nature as those of postal Town Inspectors of the first class Head Offices ?

If the reply to (b) is in the negative, will Government be pleased to state how seniority in the clerical line can be compared with seniority in a different line ?

THE HONOURABLE MR. T. RYAN : (a) No.

(b) Generally speaking the duties of the Town Inspectors referred to are of a more responsible nature than of clerks on ordinary time scale rates of pay.

In regard to the last part of the question, so long as the Town Inspectors were for purposes of pay graded with clerks on ordinary time scale rates of pay, there was no difficulty in comparing their relative seniority.

LIEN IN RESPECT OF GOVERNMENT QUARTERS AT DELHI.

89. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY :
(a) Are some officers of Government granted a lien in respect of Government quarters at Delhi and some not ?

(b) If so, who are so entitled and who are not, and what are the reasons for such distinction ?

(c) Do Government contemplate providing quarters for all officers, or removing the distinction between them as regards lien on quarters ?

(d) If such distinctions are going to be removed, what will be the principle according to which allotments of quarters will be made ?

THE HONOURABLE MR. T. RYAN : (a) Yes.

(b) The officer who having been allotted the quarter for the previous winter season was in occupation thereof prior to 1st January and who remains or becomes eligible for it has a lien on the quarter, provided he did not surrender it in the preceding winter season. An officer who does not satisfy these criteria is not entitled to hold a lien. The reason for the distinction is that an officer should be in occupation of a quarter for the major portion of the season before he can establish a lien.

(c) and (d). The position generally is under review.

SHORT NOTICE QUESTION AND ANSWER.

GRANT OF CONVEYANCE ALLOWANCE TO CLERKS NOT PROVIDED WITH GOVERNMENT QUARTERS IN NEW DELHI.

THE HONOURABLE MR. NARAYAN PRASAD ASTHANA : (1) With reference to the Honourable Mr. Mahendra Prasad's questions Nos. 138 and 139 in the Council of State on the 21st September, 1928, will Government please state :

(a) whether they have re-examined the question regarding the grant of conveyance allowance to those clerks of the Government of India who have not been provided with Government quarters in New Delhi and who are compelled to live far off from the Secretariat buildings for want of sufficient accommodation in New Delhi. If so, at what conclusions have the Government arrived ?

(b) the reason why conveyance allowance is allowed only to such clerks who live in the Notified Area and not to those who live far off from the Secretariat buildings ?

2. Will Government consider the desirability of fixing any limit of mileage for the purpose of granting conveyance allowance ? If not, why not ?

THE HONOURABLE MR. C. W. GWYNNE: 1. (a) Yes. It has been decided not to entertain any proposals which have the effect of extending the allowance, but to abolish it as soon as it is possible to do so.

(b) No conveyance allowance is ordinarily admissible to Government servants for attending office. The reason that an allowance is allowed to clerks living in Old Delhi is, as was explained on the 21st September, 1928, historical, and arises from the time when the Government of India offices were in Old Delhi and certain clerks were living out in Raisina.

2. No, for the reasons already stated.

STATEMENT LAID ON THE TABLE.

PROPOSED AIR SERVICE FROM KARACHI TO DELHI.

THE HONOURABLE MR. T. RYAN (Industries and Labour Secretary): Sir, as promised on the 16th September, 1929, in reply to a question of my Honourable friend Kumar Sankar Ray Chaudhury, I lay on the table a statement regarding the proposed air service from Karachi to Delhi with future extensions.

Statement placed on the Table of the Council of State on the 27th September, 1929, regarding the proposed Trans-India Air Service.

I place the following statement on the table to fulfil the promise which I made on the 16th of this month in reply to a question asked by my Honourable friend Mr. Kumar Sankar Ray Chaudhury on the subject of the proposed air service from Karachi to Delhi with future extensions.

The revised proposals of the Government of India in regard to the air service between Karachi and Delhi and their present ideas in regard to the extension of the service from Delhi to Calcutta and ultimately to Rangoon were placed before, and explained fully to, the Standing Finance Committee of the Legislative Assembly at its meeting on the 20th September, 1929; and full details on the subject will be found in the published proceedings of that Committee for that date. That being the position, it is not necessary for me to record a lengthy statement on the subject repeating for this purpose the information placed before the Standing Finance Committee and summarised in their proceedings. Government will now proceed with the particular proposal which has been approved by the Standing Finance Committee for the establishment of a Karachi-Delhi service.

MESSAGE FROM THE LEGISLATIVE ASSEMBLY.

SECRETARY OF THE COUNCIL: Sir, the following Message has been received from the Legislative Assembly:

"I am directed to inform you that the Legislative Assembly have, at their meeting held on the 26th September, 1929, agreed, without any amendments, to the following Bills which were passed by the Council of State at their meeting held on the 18th September, 1929:

- A Bill further to amend the Indian Territorial Force Act, 1920, for a certain purpose.
- A Bill further to amend the Indian Cotton Cess Act, 1923, for certain purposes.
- A Bill further to amend the Indian Registration Act, 1908, for a certain purpose.
- A Bill further to amend the Burma Salt Act, 1917, for certain purposes.
- A Bill further to amend the Guardians and Wards Act, 1890, for a certain purpose.
- A Bill further to amend the Indian Succession Act, 1925, for certain purposes."

CHILD MARRIAGE RESTRAINT BILL.

THE HONOURABLE THE PRESIDENT: The Honourable Mr. Ramadas Pantulu.

THE HONOURABLE MR. P. C. DESIKA CHARI (Burma: General): I rise to a point of order, Sir, and it is this. The Bill, as originally introduced, was a purely Hindu Bill, concerning Hindus only, and it was a civil Bill. During the Select Committee stage it was amended into a criminal Bill embracing Muhammadans and other classes of non-Hindus. Under section 67(2) (b) of the Government of India Act it is provided:

"It shall not be lawful without the previous sanction of the Governor General to introduce at any meeting of either chamber of the Indian Legislature any measure affecting the religion or the religious rites and usages of any class of British subjects in India."

There was previous sanction given when the Bill was originally introduced and it affected Hindus only. After it was amended, and drastically amended, to include Muhammadans and other classes no previous sanction was given to re-introduce, and I submit this Bill affects the religious rites of Muhammadans. For some reason or another it is considered that marriage is not a religious rite among Mussalmans, but it certainly is so. I submit that since there was no previous sanction of the Governor General as contemplated by section 67 (2) (d). I think this Bill cannot be proceeded with.

THE HONOURABLE MR. L. GRAHAM (Secretary, Legislative Department): Sir, I think the Honourable Member who has taken this objection has very kindly furnished me with the answer to it when he said that no previous sanction was taken to re-introduce the Bill, because there has been no re-introduction of the Bill. One Bill was introduced, Sir, with the sanction of the Governor General. That Bill I hold in my hands with the endorsement printed on the back. The provisions of the section are that "it shall not be lawful without the previous sanction of the Governor General to introduce at any meeting....."

THE HONOURABLE MR. P. C. DESIKA CHARI: Of either Chamber of the Legislature.

THE HONOURABLE MR. L. GRAHAM: Are we introducing the Bill here? We are not introducing the Bill. A motion is going to be made to take the Bill into consideration. My point is that the Bill has been introduced with the sanction of the Governor General. The Bill has grown in exercise of the powers vested in the lower House; they have examined the Bill; they have extended the provisions. But there is only one Bill, and the Bill now before us is the Bill that was introduced in the lower House with the previous sanction of the Governor General. The point which my Honourable friend has taken was, as a matter of fact, taken in the other House. I am sorry, Sir, I have not had the proceedings marked, but had my Honourable friend given notice of the point, I should have done so. But I am assured by persons who were present in the other House when the point was taken that the ruling which was given is the ruling which I would ask you too, Sir, to give, and that is, that there is only one Bill and that Bill was introduced with due sanction and the sanction carries on.

THE HONOURABLE THE PRESIDENT : It appears to be common ground that the Bill which is now before the House—I understand that the Bill did not lapse at any time, it has continued alive since its introduction—that that Bill received the sanction of the Governor General under section 67(2) of the Government of India Act. I cannot conceive that the intention of section 67(2) was that once a Bill had been sanctioned, every further amendment of it should require a fresh sanction of the Governor General. It is equally clear that, when a Bill has been introduced in one House with sanction, no further sanction is required for further stages of the Bill in the other House. I am not inclined to hold that there is any force in the point of order raised by the Honourable Member. It appears to me that, though the scope of the Bill has been enlarged, as he says, the sanction originally given covers the Bill. If indeed sanction is required for the Bill at this stage, it is covered by the sanction originally given.

The Honourable Mr. Ramadas Pantulu.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE (West Bengal : Non-Muhammadan) : Before the Honourable Member proceeds with the Bill, may I point out the other provision in the Government of India Act where it is provided that, if any question arises whether a Bill is or is not a Bill which requires sanction under the Act, the question shall be referred to the Governor General and his decision on the question shall be final.

THE HONOURABLE THE PRESIDENT : I do not think the question which the Honourable Member raises does actually arise at this stage. It is not a question whether this Bill requires sanction for its introduction. There is no case of introduction of a Bill now in this House ; there is no question as to whether the Bill requires sanction or not ; for its introduction in another place sanction was given and that sanction is still, I think, covering the Bill, which has already been introduced.

The Honourable Mr. Ramadas Pantulu.

THE HONOURABLE MR. V. RAMADAS PANTULU (Madras : Non-Muhammadan) : Sir, I beg to move that the Bill to restrain the solemnisation of child marriages, as passed by the Legislative Assembly, be taken into consideration.

In speaking on this motion, I shall adhere to the promise I gave to this House the other day not to be long, because Honourable Members are full of the subject. The history of this legislation is a very old one. The problem of the infant wife and the child mother is indeed a very old one in India. The custom or the Shastras whatever it is, has been in force for very many centuries. I find that, during the enquiry of the Age of Consent Committee, an attempt was made by some witnesses to prove that child marriages had their origin in the supposed aggression of Mussalmans on Hindu homes. I repudiate this charge as utterly unfounded. Child marriages had been in existence in India for a very long time before the Mussalmans came to this country. Therefore, its history is an ancient one. Similarly, Sir, the attempt to undo the mischief of this custom is also an old one. Even before the Mussalmans came to this country, attempts were made by various law-givers to explain away the ancient texts and to reduce the rigour of the old law, so as to free the people from the tyranny of this custom. Therefore, neither the custom nor the attempt to get rid of it is a recent one. So long ago as 1891,

when the question of the age of consent was raised in connection with the Indian Penal Code, the question of the marriage law was incidentally raised ; and at that time, Lord Lansdowne laid down the principles on which the British Government would deal with such problems. I think His Lordship's statement was a wise and statesmanlike one, and I think that that principle has not now been departed from, though the Government of India has been a little over-cautious in recent times in lending their support to legislation of a social character. In the year 1914, Mr. Srinivasa Sastri (now the Right Honourable V. S. Srinivasa Sastri) introduced into the Madras Legislative Council a measure to validate post-puberty marriages. That Bill was abandoned, not so much because there was opposition to post-puberty marriages, but because the enlightened section of the community felt that it was an insult to them that a Bill of that sort should ever be introduced. They had been celebrating post-puberty marriages for some years, and they considered that a Bill of that sort would throw some doubt on their validity and lead to the inference that the Shastras prohibited it. They held the view that the Shastras did not prohibit them, that the custom was not transcendent, and consequently the measure was unnecessary ; therefore he dropped it. Since then, the Indian Penal Code was amended to raise the age of consent, and the question of marriage was again incidentally raised. This Bill, which was introduced by Mr. Harbilas Sarda in 1927, has at last passed through the Legislative Assembly after being before the Select Committee twice and after being before the public for over two years and undergoing drastic modifications. In this connection, Sir, I shall be wanting in gratitude and propriety if I do not tender my heartfelt thanks to the Government of India for the very handsome support they have given to this Bill. I am glad to find my esteemed friend, Sir James Crerar, with whom I crossed swords many a time in this House, when he was a Member of this House, is here again to give his support to-day. I read his speech in the Legislative Assembly, and he made it very clear that the Government of India did not stand in the way of progressive social legislation and that the Government of India considered that the evil to be remedied in the case was a serious one and that public opinion reasonably favoured it. Therefore, Sir, with the help of the progressive section of the community and with the help of the Government of India, the Bill is now on its way to the Statute-book—not exactly on the Statute-book yet.

In commending this measure for the consideration of this House, I shall at once concede that the Bill is a very drastic one, because it curtails the freedom which the people of this country—large communities like Hindus and Mussalmans—enjoyed for centuries. I am quite alive to that fact. I also concede that it trenches on matters social and domestic which also involve socio-religious customs followed by large communities. I also concede, Sir, that it touches very delicate chords of personal and intimate human relations. I also concede that it offends against the cherished sentiments of important sections of both the Hindu and Muhammadan communities. And I also concede that it involves very difficult and intricate questions on which much may be said by either side, both from the academic point of view and from the practical point of view. Having said all this, however, the justification for my standing up here to support a measure of this nature rests on the question of balance of advantages over disadvantages. If child marriages are a corroding evil, if infant wifehood and child motherhood are detrimental to the best

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interests of the nation and national progress requires that we should arrest the evils of this custom, then we must undo the mischief of it. Having given my most serious consideration to this question and having come to the conclusion that the advantages far outweigh the disadvantages, I have made bold to support this measure.

It is usual for the Mover of a motion like this to answer some of the objections to the consideration of the measure. The opponents of the Bill may be classed under two heads. First, there are those who believe that child marriages are not an evil at all, and therefore no steps are necessary in any direction to remedy any evil. With them I certainly cannot have any argument. With those who honestly believe that it is not an evil and India does not suffer by the custom or practice of child marriage, it is not possible to argue. Therefore, I shall leave them alone. But I am convinced that a large majority of people in this country, who are able to think and who are able to judge, undoubtedly feel that the evil is a corroding one, one of great magnitude which requires remedy. To them I can address a few arguments.

One of the most serious objections raised against this Bill is that, while the evil exists, the way to deal with it is by propaganda and other means available to the community and not by legislative interference. That, I find, seems to be the chief standpoint of those who are inclined to agree that the evil exists and should be remedied. They say that in matters, religious and social, legislative interference is not only undesirable but is to be deprecated. On this matter, Sir, I may at once point out that the answer is furnished by the provision of law which has already been quoted in deciding the point of order raised by my friend, the Honourable Mr. Chari and which existed from the earliest Acts regulating the governance of India. Section 67 (2) and its counterparts in the old Acts stood identically the same. Not only did the Government of India Act not prohibit but in express terms contemplated the introduction of measures affecting religion or religious rites with the previous sanction of the Governor General. That clearly indicates that in some instances at any rate, where discrimination may be beneficially exercised by the Governor General, matters affecting religion and religious rites, where the objections are not really insuperable, can be legislated upon if the measure receives popular assent and legislative support. Therefore, that the measure is clearly *intra vires* there could be no possible doubt, under the provisions of the Government of India Act. If the discrimination and discretion allowed by section 67 (2) are not to be exercised in cases of corroding social evils like the one under question, I do not know when that section can be put into operation and for what beneficial purpose. I feel that this is a purpose for which the section has been rightly used.

Then, Sir, it is said that the Legislatures, assuming that they have the power, as at present constituted, are not the proper bodies to deal with such questions. I must demur to this allegation. The elected Members of the Central Legislature have always claimed in matters affecting political and other questions that they are voicing the feelings and the sentiments of the people of this country, and for every success of the popular vote in the other House and this House we have been claiming the credit of vindicating the

popular view. If that claim to voice the popular sentiments in all other matters is justified, I cannot understand why, in a matter like this, it should be said that the elected representatives of the Central Legislature do not represent the people and do not voice the feelings of the people. I do not see why such an attitude should be taken up now and what justification there is for it. If we represent the people for the national good in the Legislature, we do so in all matters. The other objection is that the Legislatures are bodies composed of various communities, and that legislation affecting certain communities should be undertaken only with the concurrence of the particular community affected by it and not by mixed Legislatures. So far, Sir, as I can see, the Legislature in India is bound to be a mixed Legislature, because India is inhabited by many communities who have come to settle here for good, and it is not possible to have a Legislature composed of Hindus only or Muhammadans only or Christians only or Buddhists only, and to say that on every measure that comes before them relating to social or religious rights, we must have only a Hindu or Muhammadan or Christian or Buddhist vote is the very negation of popular government in this country. If, therefore, there is no chance at any future time of having Legislatures so constituted in which a communal vote can be taken on communal measures, and the Legislatures will continue to be constituted as they are at present on a mixed basis, I find that the objection to the proposed legislation by the Central Legislature is not a *bona fide* objection. Then, Sir, this is not the first time that the Indian Legislature has exercised a power of this sort. On previous occasions it has intervened in matters involving socio-religious customs and had recourse to very drastic legislation. The prevention of *Sati* is one such instance. It was distinctly a religious custom. That legislation was undertaken in the interests of Hindus on humane considerations....

THE HONOURABLE MR. MAHMOOD SUHRAWARDY (West Bengal : Muhammadan) : *Sati* was not religious : it was social.

THE HONOURABLE MR. V. RAMADAS PANTULU : It was socio-religious. At any rate the woman who committed *Sati* was considered to go to heaven and get religious merit. Heaven is certainly not an irreligious institution ; therefore *Sati* was a religious custom.

THE HONOURABLE MR. P. DESIKA CHARI : Question ?

THE HONOURABLE MR. V. RAMADAS PANTULU : And you are aware that other legislation was similarly undertaken in the interests of social justice. When it was enacted that widows could remarry and under certain conditions retain their properties and other rights under the Hindu law except in particular cases, we certainly made a very serious inroad into Hindu law. And in 1860, when you enacted a law that a member of a joint Hindu family could become a convert to Christianity or any other religion and still retain the rights of inheritance, you made a serious inroad into Hindu law.

Everybody knows that the right to inherit property is based, whether under the Dayabhaga or Mitakshara system, upon the ability of the heir to offer *pindas* and oblations of water to the ancestors, and his rights are inextricably mixed up with his religious propinquities. You have in the past made such legislative inroads as to say that a Hindu who becomes a Christian or a

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Muhammadan will nevertheless retain his properties and inherit the properties just as if he continued to be a member of his Hindu family. Then, Sir, in 1872, the Legislature said that a Hindu can give up his religion for a minute, marry a woman of another religion under the Civil Marriage Act and then come back to Hinduism if he likes to do so afterwards. That is a very serious inroad, I submit, into the Hindu socio-religious customs. Again, Sir, it was only last year that the Legislature passed two measures affecting the Hindu law with regard to inheritance. These, I claim, are measures which make very serious inroads into the Hindu religion. For the first time you have given to females like the daughter's daughter, sister and others, who never conferred religious benefit to the deceased and who were purposely excluded by texts on the ground that they conferred no religious benefit, from the right of inheritance; and you have brought them into the line of heirs. You have thus made a very serious inroad into the Hindu law. I can multiply instances if I am asked to give an exhaustive catalogue, but I think, Sir, I have said enough to show that this cry of "religion in danger" and of the incapacity of the Legislature to interfere in social or socio-religious matters is a cry which is raised on all those occasions, without substance and with no effect. The Legislature has interfered either in the interests of humanity, that is on humane considerations, or to promote social justice. This measure is one of that kind.

My Mussalman friends who are objecting to this measure on religious ground will, I hope, kindly turn to the provisions of the marriage laws recently enacted by the Governments of Egypt and Turkey which are printed as Appendices to the Age of Consent Committee's Report.

THE HONOURABLE MR. MAHMOOD SUHRAWARDY: They have got a national Government.

THE HONOURABLE MR. V. RAMADAS PANTULU: So, the objection that the Koran prohibits the passing of such a measure cannot be upheld in the face of the fact that two Mussalman Governments have enacted laws which are more serious and more drastic than the Bill under consideration. For the first time, my Mussalman friends object to a foreign Government intervening in their affairs. But they have had so many benefits from the foreign Government and they want so many hereafter, that I do not see why that foreign Government to whom they look for various things should be discarded when it comes to the rescue of the people to remove a great social evil of a nation of wide magnitude.

THE HONOURABLE MR. MAHMOOD SUHRAWARDY: The analogy does not hold good in the case of the two countries which are altogether different, considering the fact that Turkey is a united nation and Egypt an independent country, while in India there is a diversity of peoples.

THE HONOURABLE MAJOR NAWAB MAHOMED AKBAR KHAN (North-West Frontier Province: Nominated Non-Official): The Muhammadan votes should count, not yours.

THE HONOURABLE MR. V. RAMADAS PANTULU: The objection to the foreign Government forcing this legislation disappears in this case, if you look at the votes recorded in the other place. I know that the votes of the Government cast on this Bill are so few compared with the large majority of votes cast by the non-officials.....

THE HONOURABLE MR. G. A. NATESAN (Madras: Nominated Non-Official): Elected Members.

THE HONOURABLE MR. V. RAMADAS PANTULU: Yes, by the elected Members, even eliminating the nominated Members; the Government have not turned the scale in actual voting in the matter, though I agree that the moral support given by them went a long way in making the Bill a success.

THE HONOURABLE MR. P. C. DESIKA CHARI: You will not be able to say so in this House.

THE HONOURABLE MR. V. RAMADAS PANTULU: Then, Sir, with regard to the Legislatures not being the proper bodies, may I ask my friends who oppose the Bill what other agency they can point out? The members of the orthodox deputation who came here, for whom I have the highest respect,—I myself am an orthodox man—they all came as representatives of the various Matadhipathies and religious heads. It is so far the proper thing to do for Matadhipathies. They are the people who ought to take an interest in such matters. But may I ask in all humility whether these religious heads have ever before shown any concern in eradicating social evils, in tackling problems affecting social good? They have never taken any care to set right any evil in the social life of India. When a measure of this sort is on the legislative anvil, it is only then that we hear of these religious heads. Therefore, it is useless to look to these religious heads to set right social evils in these days. Therefore, that agency clearly fails, and I do not see what other agency there is to come to our rescue. Therefore, Sir, I think that the objection that the matter is not one for legislative interference has no substance in it.

The only other objection—of course many objections are raised, but I am only dealing mainly with two—the only other chief objection urged is that the measure is likely to destroy the moral instincts of the girls of this country and that it introduces into Hindu homes an evil which is a new danger, and the measure therefore is fraught with serious consequences on that ground. I have not the slightest hesitation in saying that those who make this charge are speaking without facts and figures. They forget that even now, in India, a little over 50 per cent. of the girls are married above the age of 15. If these 50 per cent. of the girls in India can be chaste, if their morals are not corrupted, and if they can be true Hindu wives and true Mussalman wives, I fail to see how the other 50 per cent., who are now married at a lower age, could be said to be in peril of their chastity being endangered. It is an argument which has no basis for it. In my province, Sir, the position is very favourable to me. You may be surprised to hear that in my province from which most of the trouble comes.....

THE HONOURABLE MR. G. A. NATESAN: You mean the opposition?

THE HONOURABLE MR. V. RAMADAS PANTULU: Yes. The orthodox opposition is more vociferous there. And it is the province in which the child marriage custom is the least rampant in India, except perhaps in the Punjab and the North West Frontier Province. I take pride in that fact. If you take the girls between the ages of 10 and 15, out of every 100 such girls, only 24 are married below 15 in my province. The other 76 girls between the ages of 10 and 15 are married after they are 15. If the 76 girls out of every 100 in the

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Madras Presidency who are married after 15 are not in danger of their morals being corrupted, I do not see why the 24 girls whom we want to rescue from the custom should be in danger of their morals being endangered. The argument would, to my mind, be nothing less than a libel upon the Hindu homes and upon the chastity of the large class of women who have lived in India for ages under the custom of post-puberty marriages. Sir, the position with regard to the various provinces stands thus. According to the Census of 1921, 24½ per cent. of Hindu girls between 10 and 15 were married in Madras the proportion here is very favourable—64 per cent. in Bombay, 62·4 per cent. in Bengal, 59·6 per cent. in the Central Provinces and Berar, 53½ per cent. in the United Provinces, 52½ per cent. in Bihar and Orissa, 35·5 per cent. in the Punjab. Assam shows a percentage of 27, and the North West Frontier Province is the only province which shows a lower percentage of 19. Therefore, taking the average, we find that little more than 50 per cent. are married between the ages of 10 and 15. Therefore, the argument that morality is in danger is without any foundation. Those who seek to make much of this argument forget that the economic, social and educational conditions of the country have so vastly changed since the Shastras were written, that the considerations which weighed with the people at that time no longer have weight. If our girls are to be brought up to the standard of women in all civilized countries, if they are to take advantage of the new currents of life which India offers to them, their marriage age should be raised; it is absurd to argue that, unless they are married before 14, the heavens will fall or that the whole fabric of Hindu society will fall to pieces. It is not a fact. I know as a matter of fact that many orthodox Brahmins in Madras who are ranged on the opposition side are, as a matter of fact, resorting to post-puberty marriages without publicly owning it. And, when this Bill is passed, it will be welcomed as a protective measure by which many people desire to benefit; and they constitute large sections who are now suffering under the tyranny of a social custom which they are unable to overcome. They will consider this to be the new legislation binding on them like the Shastras. In the old days, Sir, it is wrong to say that the Hindu law was wooden and inelastic. Anybody who reads the Shastras or their translations will find that the various stages of Hindu civilization were merely treated as periods of evolution, and from time to time the Dharma was revised and definite machinery was devised of Dharmagnas to revise the laws when they became antiquated or unsuitable and new laws were required. Nowadays we have no Dharmagnas who can do this work. Not one of the gentlemen who came from Madras or Bengal ever assumed the functions of a Social law-giver or ever tried to lay down a new Dharma for the remedy of social evils. The only agency we have to revise antiquated laws and to make new the Dharma are the modern Legislatures, and we are all Dharmagnas. When the Maharaja of Darbhanga last year—alas he is no more and we miss him badly—raised the same objection to the Hindu Inheritance Bills of 1928, I said that we, the representatives of the people, claim to be Dharma revisers. We have the same right as the ancient law-givers and Dharmagnas had to change the laws from time to time, and I claim that there is no other agency for doing that work. And in the other place, Sir, my friend Mr. Jayakar gave a crushing reply to those who said that ancient

law was absolutely unchangeable and that the Hindu Shastras could not be touched. He quoted a very authoritative text which runs in these words:

“Only that text of the Vedas is to be accepted as of greater authority than the evidence of our senses and experience, which accords with our notions of logic and rationality; not every text of the Vedas.”

And with regard to the Shastras he quoted the authority of one of the greatest of Commentators, Bhamati, who is one of the greatest annotators of the Vedanta Sutras. Bhamati says:

“The Shastras are like jackals and their howls are silenced when the lion of the Vedanta roars.”

Reason and rationality were the guiding principles of the *Uttera Mimamsa* or Vedanta and that was the view taken by that great ancient lawyer of this country. Therefore, I claim that this House has every right to change the ancient law if it is not in consonance with modern requirements, modern progress and the exigencies of present life.

I do not wish, Sir, to say more at this stage. To the Age of Consent Committee I think our thanks are due for the very careful, for the very fair and informing report they have written in most excellent language which is not offensive even to the most orthodox people. That report has shown that the physiological, eugenic, social, economic and educational conditions of the country require that the custom should be changed. Under those five heads they have given, what to my mind at least are conclusive and unanswerable, arguments in favour of the change. Therefore, the choice before this House is the choice between stagnation and progress, between the deterioration of the nation's manhood and womanhood and healthy national development. Which will you choose? I have no doubt at all that you will choose the path of national progress and national development, and I hope you will not be swayed by sentiment or false cries of “religion in danger” and vote against the measure. I commend this measure to the acceptance of this House, and I hope it will be taken into consideration. (Applause.)

THE HONOURABLE MR. P. C. DESIKA CHARI: Sir, I move:

“That the consideration of the Bill be postponed till the Delhi Session of the Council of State to be held in 1930.”

In moving that amendment let me not be misunderstood as being anxious to obstruct or delay the progress of the Bill. (Laughter.) I shall explain the object presently. The other day my friend the Honourable Mr. Rama Prasad Mookerjee pointed out that it is our fate to get at the fag-end of the Session a very important measure requiring serious consideration. We have before us to-day a Bill which very seriously interferes with the age-long customs and usages of the people of India. We have a penal measure threatening people who disobey that law with very serious consequences. A measure which has taken such a long time and which has required such serious deliberation in the other House ought not to be brought here and practically rushed through at very short notice. I admit that the Bill has been laid on the table for three days prior to its being brought on to the agenda to-day. But that is barely complying with the technical requirements of the Standing Orders, and I think the Honourable Members, the non-official Members at any rate, will agree with me in thinking that sufficient time, which the importance and implications of the

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Bill require, has not been given to us. This is a Bill which requires very careful consideration, and, unless we are given ample time to study very minutely the provisions of the Bill, I am afraid we cannot do justice to this Bill—at any rate I cannot do justice to it. In the first place, I cannot but regret the attitude generally taken by the other House with reference to this House. This is a very important measure, and I am surprised that the sponsor of this Bill in the other House and the Government and Leaders of the various sections have not thought fit to propose a Joint Select Committee in order to take leading Members of this House into their confidence in going through the Select Committee stage.

I find that the Bill has been drastically changed. Originally it was a civil Bill, and a Hindu Bill; it is now an all-India Bill and a penal Bill. The Bill is completely changed. Of course on the point of order, the Honourable the President was pleased to hold that it is not possible for us to take any steps to have the Bill re-circulated after it had emerged from the Select Committee. Again, this attitude of the other House, which is characteristic of the attitude of the other House generally towards this House, I very much regret. This is a piece of social legislation. Whatever may be the view of the other House as regards the political complexion of this House, that need not have entered into the calculation of the Honourable Members of the other House in considering the desirability of taking Members of this House during the Select Committee stage. It is all the more necessary for us to minutely scrutinise this Bill as the Bill is coming on to us for the first time. I also cannot refrain from making a remark about the attitude of the supporters of this very important measure in the other House. If they had really been anxious that the Bill should be passed this Session, they should have shown greater consideration to the Members of this House by having the Bill passed in the other House fairly early, and they should have given an opportunity to the Members of this House for more serious consideration of the various provisions of the Bill. They do not expect us, I suppose, to say ditto to whatever they say; and whatever may be the majority by which the Bill has been passed, we have got a duty to perform; and I conceive the duty of a second Chamber to be not to pass in a hurry any measure because it had an overwhelming majority in the other House. We have to consider on the merits the *pros* and *cons*, the arguments for and against, adduced in the other House. As a revising Chamber it is our duty to examine all the proceedings in the other House and the arguments put forward in the other House before we endorse the opinion of the other House or upset their decision. Sir, I particularly refer to the proceedings of the last two or three days. I have not received copies and I do not think there is any time for the Government of India to supply copies of the proceedings of the last two or three days to Honourable Members of this House. They have been sitting very late hours, and on the last day on which the Bill was passed in the other House, I understand the House was sitting over night to finish the Bill.

THE HONOURABLE MR. G. A. NATESAN: The speeches have been reported at length in the newspapers.

THE HONOURABLE MR. P. C. DESIKA CHARI: We have not got very great faith in the reports published in the newspapers.

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces: Nominated Non-Official): Most of the proceedings are already in our hands.

THE HONOURABLE MR. G. A. NATESAN: I thought not only journalists but every intelligent citizen read newspapers.

THE HONOURABLE MR. P. C. DESIKA CHARI: I now understand the mentality of my friend Mr. Natesan. He is not a lawyer.

THE HONOURABLE MR. G. A. NATESAN: Thank God, I am not.

THE HONOURABLE MR. P. C. DESIKA CHARI: We, lawyers, are accustomed only to confine ourselves to material records and we always regard the authoritative publication of proceedings of the other House as the only proceedings of the statements made in the other House, on which we must base our judgment, and we are not carried away by newspaper statements, which may be statements or mis-statements.

THE HONOURABLE THE PRESIDENT: The Honourable Member is wandering away from the subject.

THE HONOURABLE MR. P. C. DESIKA CHARI: I am sorry, Sir. I will come back to it. So, my point is that with a view to enable the Members of this House to understand the view-points of the Members of the other House, to find out what amendments have been moved, what was the strength of feeling on these amendments, what is the nature of the arguments advanced and what is the attitude of the different sections of the other House, it is necessary for us to have those proceedings before we can satisfactorily deal with the Bill before us.

One other consideration which weighs with me is this. After the Report of the Select Committee in the other House, the general impression created is that over-zealous social reformers who are obsessed by the unstinted support given by the Government wanted to rush the Bill through in undue haste. We all know the fate of a motion to have the Bill re-circulated, after it had emerged from the Select Committee with a very drastic change—it was almost a new Bill. It is therefore necessary that the people who have got a genuine opposition to this Bill should be reconciled, so that they may have the consolation at least of knowing that the revising Chamber had before them their views and that these views were very seriously considered before arriving at some decision.

My next point is about the contention of my Mussalman friends that a very great injustice has been done, and postponement of the measure would be in the ends of justice having regard to their view-point. The Bill was originally a Hindu Bill when it was circulated. Musslamans all over the country naturally did not care very much for the Bill and they did not express themselves properly during the circulation stage. Later on, after it was made into a Muhammadan Bill, there was no opportunity for the Honourable Muhammadan representatives in the other House as well as in this House to ascertain properly the views of their constituencies, to explain the view-point of the reformers to their own constituencies, to bring them round, if possible, by telling them that the measure would not touch their religious usages at all. I think it is necessary that some time should in all fairness be given to the Mussalman representatives in this House for this purpose; otherwise an impression will be created in the minds of the Muhammadan representatives, who are bound to be representatives of a minority community in this Council, that whenever it suits the representatives

[Mr. P. C. Desika Chari.]

of the majority community, they might trample upon their usages, upon their rights, by sheer weight of numbers. I am anxious that at this stage of our political evolution such a bitterness of feeling should not be roused. The most serious consideration on which I tabled this motion is this. I believe the Government had not sufficient time to consider seriously the Report of the Age of Consent Committee, particularly that portion relating to the necessity of exemptions.

Though this is a private Bill, the ultimate responsibility of enforcing this penal legislation would be on the Government, and there is need on the part of the Government to proceed with extreme caution in measures of this kind. There were various amendments moved in the other House and Honourable Members have got on the Agenda paper a long list of amendments relating to exemptions. I am not going into the merits of those amendments, but I only want further time for the Government. The Government was not in a position to support any of the amendments moved in the other House—perhaps they were not able to accept any of those amendments on account of the vagueness of those amendments or for some other reason...

THE HONOURABLE SIR MANECKJI DADABHOY: Sir, is not the Honourable Member deviating from his motion?

THE HONOURABLE THE PRESIDENT: I was wondering myself whether I should allow the Honourable Member to continue. I thought perhaps it would save the time of the House in the end to allow him to continue to speak at length on this motion, as I would not in that case allow him to make a second speech on the motion that the Bill be taken into consideration.

THE HONOURABLE MR. P. C. DESIKA CHARI: I should like, Sir, to speak on the other motion also.

THE HONOURABLE THE PRESIDENT: The Honourable Member must then strictly confine himself to his motion for the postponement of the discussion.

THE HONOURABLE MR. P. C. DESIKA CHARI: I thought I was confining myself to the motion. I am sorry. My point is that the Government ought to be given more time to consider whether it is really necessary to bring in draft amendments as regards exemptions. I will not enter into the merits of the case at all.

After all, no harm will be done by this Bill being postponed till the Delhi Session. What is after all three or four months in the life of a nation? These age-long customs have been in existence for centuries, and no serious harm will be done by allowing these things to be continued for another three or four months. And even if one of the amendments were passed, it may not be possible for the Bill to get the assent of the Legislative Assembly again. And particularly I would refer to the heading of the Bill as a Bill of 1928. Obviously even if that formal amendment be carried out, I submit it would be necessary for the Bill to be sent back to the Assembly, and in that view where is the harm in the Bill being taken up during the Delhi Session so that any amendments that will be carried may be acceded to by the other House in the course of the same

Session? Sir, if I am not to be allowed another right of speech on the consideration of the Bill, I shall proceed with my opposition to the consideration of the Bill.

THE HONOURABLE THE PRESIDENT: I think perhaps we had better get the motion for postponement out of the way first. Has the Honourable Member finished?

THE HONOURABLE MR. P. C. DESIKA CHARI: I place my amendment before the House.

THE HONOURABLE THE PRESIDENT: Amendment moved:

"That the consideration of the Bill be postponed till the Delhi Session of the Council of State to be held in 1930."

THE HONOURABLE MAJOR NAWAB MOHAMED AKBAR KHAN: Sir, with regard to the adjournment question, I should like to invite the attention of the House to the minutes of dissent of Maulvi Muhammad Yakub and K. B. Imambaksh Qadri, where it is distinctly stated that the opinion of the leading Muhammadan theologians have not been ascertained in this vital matter, and that in the absence of that, the extension of the Bill to the Muhammadan community is not considered advisable. Secondly, the Bill was circulated under the heading of "The Hindu Child Marriage Bill" and not with the idea of including Muhammadans within its meshes. As the Bill is intended to come into operation from the 1st of April, 1930, I do not see for what reason it should be rushed through this very Session without ascertaining the Moslem view at large and specially those of the Moslem theologians. Secondly, Sir, I would ask my Honourable friend, Mr. Ramadas Pantulu, and I would remind him, what has happened to the Lucknow Pact, according to which the Hindus promised that if two-thirds of the Muhammadan element opposed a certain measure the Hindus would not thrust that measure on the Muhammadan community? Was the promise of his community in that Pact one of those promises that are honoured more in the breach than the observance?

THE HONOURABLE SIR MANECKJI DADABHOY: Are the other minority communities bound by that Pact?

THE HONOURABLE MAJOR NAWAB MOHAMED AKBAR KHAN: No, I am not saying that the Parsis are, but I do say that the Muhammdans are. That was the Pact between the Moslems and the Hindus.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: (Punjab: Non-Muhammadan): Did that comprise all shades of Hindu thought?

THE HONOURABLE MR. MAHMOOD SUHRAWARDY: It was the Congress of 1916 which accepted this Pact.

THE HONOURABLE MAJOR NAWAB MOHAMED AKBAR KHAN: It was a Pact of the Hindus and the Mussalmans generally. The Hindu element was fully represented in the Congress.

THE HONOURABLE RAO SAHIB DR. U. RAMA RAU (Madras: Non-Muhammadan): Are you a Congress man?

THE HONOURABLE MAJOR NAWAB MAHOMED AKBAR KHAN: I am not a Congress man, but I belong to the Muhammadan community and you gave that undertaking to the Muhammadan community at large. You did not give it to the Muhammadan representatives of the Congress only. That was a Pact between the Hindus and Muhammadans at large.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: It was the Congress only.

THE HONOURABLE SIR MANECKJI DADABHOY: It is not binding on this Legislature.

THE HONOURABLE THE PRESIDENT: Will the Honourable Member address the Chair?

THE HONOURABLE MAJOR NAWAB MAHOMED AKBAR KHAN: It is now clearly known to the Hindu Members that more than two-thirds of the Moslem Members of the Indian Legislature have declared themselves against the application of this Bill to their community, and out of three Moslem members on the Age of Consent Committee, two have written minutes of dissent against the extension of it to Moslems. May I therefore ask the Honourable Mr. Ramadas Pantulu how in fair justice he or any other Member of his community is enforcing this Bill on the Muhammadans in spite of their clear undertaking that they will not do so when two-thirds of the Moslem community are against the operation of a certain measure? May I also appeal to the Government Benches that they should not be in so great a hurry to thrust this measure on the Moslems without fully ascertaining the opinion of the leading schools of thought of Moslem theologians, such as the Jamiat-ul-Ulama at Delhi, the Ulemas of the Faranghi Mahal and the Mujtahids of Lucknow? These are the institutions to which the Muhammadans of India look for the *fatwa* in a matter of this nature. There are clear indications that all our leading theologians, together with the Mujtahids of the Shia community, are against the introduction of this piece of legislation. The orthodox element of the Muhammadan community have got very cogent reasons why they want the adjournment of this motion to the winter Session in order to be able to elicit the opinion of Muhammadan religious heads and the opinion of Muhammadan schools of thought that are looked up to by every Muhammadan of India for guidance. I do not think that there is anything pressing at this juncture. I appeal to the Government to help us, and I commend my amendment to the House. I do not know whether my appeal will have any effect. I am not responsible for it. I have done what I can.

THE HONOURABLE MR. G. S. KHAPARDE (Berar Representative): Sir, my Honourable friend Major Nawab Mahomed Akbar Khan was interrupted very much when he was speaking. So, I shall speak only for a few minutes. There is a Resolution of this House passed on the same day, or possibly on the next day, when we passed the Lee Commission recommendations here and when we granted all the demands that were made on behalf of the Civil Service. On that day, we passed a Resolution that any Resolution that was opposed by two-thirds of the Muhammadans present on the occasion should not be taken into consideration. That is a Resolution of the House. Unfortunately, I did not know that this matter would come up; otherwise, I would have brought it with me. In the course of the afternoon, if all the

reports are available here, I shall produce it. All this heckling and talking and a certain amount of triumph that was exhibited here are a little out of place. I was present and voted when this House agreed to the Resolution not to pass any Resolution which is opposed by two-thirds of the Muhammadans present.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: When was that?

THE HONOURABLE MR. G. A. NATESAN: Under what circumstances?

THE HONOURABLE MR. G. S. KHAPARDE: That was on the same day or about the same day on which the Lee Commission recommendations were passed. It may be in 1924 or in 1925. If you give me time, I shall produce it.

THE HONOURABLE MR. SURPUT SING: (Bihar and Orissa: Non-Muhammadan): Sir, I beg to support the motion brought by my Honourable friend Mr. P. C. Desika Chari that the consideration of the Bill be postponed till the next Session of the Council of State. My object is obvious. In view of the utmost importance of the Bill to society and by reason of the fact that the measure has been passed by the Assembly quite at the fag-end of the session, it is just and proper that the consideration thereof should be postponed for the present. There is no gainsaying the fact that the Bill is calculated to affect the most delicate domestic relations of millions and millions of the people of our country. The Bill was passed rather hurriedly by the lower Chamber. Our House being a revising body should have sufficient time to consider seriously and dispassionately the *pros* and *cons* of the various provisions of the Bill. Our Chamber should avoid all hurry in the matter and set about the task in a calm and sober spirit without any passion or.....

THE HONOURABLE THE PRESIDENT: Order, order. Honourable Members sitting in the neighbourhood of a Member who is speaking should remain in their seats.

THE HONOURABLE MR. SURPUT SING: In a calm and sober spirit without any passion or prejudice in judging the minute details of the measure. But the time afforded to us for doing so is absolutely inadequate. Besides, Sir, we have to gauge the sense of the whole country with regard to the Bill before we can commit ourselves in any way. I propose therefore that the consideration of the Bill should be left over till the next Session of this Council.

THE HONOURABLE SIR MANECKJI DADABHOY: Sir, I oppose this motion. This motion is simply brought in this House (*An Honourable Member*: "Motion or amendment?") The motion to adjourn. It has been simply brought in this House as a dilatory measure for the purpose of preventing this Bill being placed on the Statute-book by this Council in the course of to-day. None of the Members who have spoken this morning have urged any substantial reasons for postponing the consideration of this Bill to the next Session at Delhi. The only ground which is common to all the Members who have opposed this motion is that they have not had sufficient time to consider the question, and that we should elicit the opinions of the country before we can give our adherence or opposition to this measure one way or the other. I would at once point out that that argument regarding not having adequate opportunities to consider the measure is simply futile. This Bill has been before the Legislative Assembly for the last two years. It was remitted to Select Committee on two distinct occasions. It has been debated in the other House many times.

THE HONOURABLE MR. P. C. DESIKA CHARI: Have you got all the debates?

THE HONOURABLE SIR MANECKJI DADABHOY: Yes, all the debates, except the last debate regarding some futile amendments, some silly amendments, that were brought in that House. I have got in my possession all the proceedings relating to most of the amendments now proposed.

Now, just consider for a moment what will be the result of postponing this motion. The Bill contemplates that the Act should come into force next April. If you postpone the decision on this Bill till the end of February next, that would mean that you will not be able to bring the Act into operation on the 1st of April next, as it is now contemplated. What will be the result? You will have to bring the Act into operation probably at the end of next year, or the beginning of 1931, and the result will be that a large number of marriages will take place both among Hindus and the Mussalmans with a view to defeating and frustrating the provisions of this Bill. Is this Council, I ask, justified in doing this when they know that this Committee which was appointed to consider the matter, and which was presided over by Sir Moropant Joshi, has pointed out that the injury done to young girls is of a serious character? Those who have studied that report cannot overlook the fact that it would be a criminal neglect, in my opinion, on the part of any Member of this Council to delay the passing of this Bill for even a single day.

As regards the other point that the public have not had opportunities of expressing their opinion, I may at once say that that point is also untenable. Many Muhammadans of all classes, many learned Maulvis and Ulemas were examined by Sir Moropant Joshi's Committee and many of them unquestionably and unhesitatingly.....

THE HONOURABLE MR. G. S. KHAPARDE: Was there any Ulema on the Committee?

THE HONOURABLE SIR MANECKJI DADABHOY: That is beside the point altogether. The Committee was duly constituted and there were at least three Muhammadan Members on it.

THE HONOURABLE MR. MAHMOOD SUHRAWARDY: Of whom two—the majority—dissented.

THE HONOURABLE SIR MANECKJI DADABHOY: They have not dissented on all matters. As regards certain points they have dissented. I do not think some of the Honourable Members have even read the dissenting minutes. They have not dissented on all the points. They have only dissented on certain points.....

THE HONOURABLE MR. P. C. DESIKA CHARI: On main points.

THE HONOURABLE SIR MANECKJI DADABHOY: And they brought forward certain alternative schemes. Most of them signed the original report subject to explanatory reports.

THE HONOURABLE MAJOR NAWAB MOHAMED AKBAR KHAN: If my Honourable friend will read Maulvi Muhammad Yakub's.....

THE HONOURABLE THE PRESIDENT: Order, order.

THE HONOURABLE SIR MANECKJI DADABHOY: I therefore submit that this motion is simply brought forward with the object of delaying the passing of this legislation, and I am perfectly confident that this Council, in its sagacity and its sound judgment, will not see the advisability of agreeing to such an unreasonable request.

THE HONOURABLE KUMAR SANKAR RAY CHAUDHRY (East Bengal: Non-Muhammadan): Sir, I rise to support the original motion moved by my Honourable friend Mr. Ramadas Pantulu and to oppose the postponement motion. Objection has been raised about the Bill being taken into consideration on several grounds. One is that it affects the Muhammadan community, and my Honourable friend Mr. Khaparde referred to a Resolution that we should not pass any measure if two-thirds of the Muhammadan representatives were opposed to it. With regard to that point, my submission is that this is not a Bill to which that applies. It is not a religious Bill at all because it does not affect the legality of marriages. All that it says is that if a marriage takes place under a certain age those who perform the marriage shall be liable to a fine, not that that marriage will be illegal. So it does not affect the religious rite or sacrament of marriage. It is a general Bill affecting Hindus and Muhammadans alike. If effect were to be given to my Honourable friend Mr. Khaparde's contention in all Bills of a general character, which of course affect Muhammadans, then if two-thirds of them object no Bills could be passed. Take, for instance, the last Bill we had, the Transfer of Property Bill. Suppose two-thirds of the Muhammadans raised an objection, would it have lain in the mouth of Mr. Khaparde to say that that Bill could not be passed? This Bill has nothing to do with Hindus and Muhammadans particularly; it affects them equally; but it does not affect their religious rites, and the marriage remains perfectly valid. It only tries to discourage early marriages. It is quite clear that if such a marriage does take place it will remain valid in law.

THE HONOURABLE MR. G. S. KHAPARDE: May I be permitted to explain what I meant. What I meant was that when religion or religious sentiments are involved, then there is a pact between Hindus and Muhammadans that if two-thirds of them oppose such a measure it should not be carried.

THE HONOURABLE KUMAR SANKAR RAY CHAUDHURY: I have already explained that this has nothing to do with religion, because it does not prohibit early marriages. All that it does is to try and improve social conditions by discouraging such marriages. If *Sati* was not a religious movement, the object of which was to take a widow quickly to heaven (Laughter), I think this also cannot be taken to be a religious Bill. Then with regard to the grievance of the Honourable Mr. Chari that the Bill originally was not intended to touch the Muhammadans and that the Muhammadans have not been given sufficient opportunity to deal with the new Bill, my submission is that though the Bill as originally introduced was confined to Hindus, the Bill was then postponed on the ground that the Age of Consent Committee was going to deal with cognate matters. And what were the terms of reference to the Age of Consent Committee? Paragraph 2 runs as follows:

"To inquire into the effect of the amendments made by the Indian Penal Code (Amendment) Act, 1925, and to report whether any further amendment of the law is necessary, and if so, what stages are necessary as regards offences (a) without and (b) within the marital state."

[Kumar Sankar Ray Chaudhury.]

I lay particular emphasis on clause (b). That Committee was appointed to deal with the age of consent and to deal with sections 375 and 376 of the Indian Penal Code. It had a general application. It applied to Hindus as well as Muhammadans, and the second paragraph comprehended also the case of offences within the marital state. So the object with which this Committee was appointed was to deal with the Hindus as well as Muhammadans, with regard to the age of consent not only outside but also within the marital state. It does not lie in the mouth of my friend Mr. Chari to say now that the Muhammadans were taken by surprise. There were Muhammadan representatives also on the Committee and they have, as my Honourable friend Sir Maneckji Dadabhoy pointed out, supported to some extent and to some extent dissented from the report of the Committee. That is with reference to the objection that Muhammadans have only recently been brought within the scope of the Bill.

Then, with regard to the Bill being hurried through in this House, my submission is that the Bill has been long before the public and before us and we should not postpone it further, and my reasons for that are these. I as a Member coming here from the Legislative Assembly know how difficult it is for a private Member to introduce a Bill in the Assembly and to carry it through. First of all, it is very difficult to get a ballot in view of the large number of Bills that private Members try to introduce there. Then, if you get a ballot, in view of the small number of days that are allotted to private business and the large amount of work to be done on those days, it is very difficult to carry a Bill through. In my experience of the last eight years I think only two or three private Bills have been got through the Assembly. Then there is the question of Government support. It is only I think in the case of the present Bill that we have been able to secure Government's support. The Government have all along assumed a neutral aspect in these matters. I think their conduct was disapproved by some higher authority in England perhaps, and that is probably the reason for the change in their conduct now. And we do not know whether this attitude will continue for all time to come. Next, the Labour Party is in office but not in power. That is also perhaps one of the reasons why the Government have taken up this new attitude. If the Labour Government goes then the Government here also may change their attitude. Again, you do not know how long this Assembly and this Council of State are going to last. They may be dissolved in November and a fresh election take place. So it is not advisable that we should postpone this Bill. The principle of the Bill I think no one has questioned. It is only in matters of detail that objections have been raised. We can later on bring in amendments for the improvement of the Bill after having obtained experience as to its working. There will be time enough for that. Under all these circumstances, and considering the fact that if we defer this Bill, there is hardly any chance of the Bill becoming law at even a distant date, I submit that the Bill should be allowed to be proceeded with and to be carried into effect as law without further delay.

THE HONOURABLE RAO SAHIB DR. U. RAMA RAU: I move that the question be now put.

THE HONOURABLE THE PRESIDENT: In accepting that motion for closure, I give the Council to understand that I am accepting it only in

regard to the amendment moved by Mr. Chari; I am not shutting out the discussion on the motion for consideration of the Bill.

The question is that the question be now put.

The motion was adopted.

THE HONOURABLE THE PRESIDENT: The question is:

"That the consideration of the Bill be postponed till the Delhi Session of the Council of State to be held in 1930."

The motion was negatived.

THE HONOURABLE MR. G. A. NATESAN: Sir, I rise with a full sense of responsibility to support this Bill. I have given my most careful consideration to all aspects of this question. I have had to read—being compelled as a journalist to read everything for and against it—all available literature on the Bill and I have further had the benefit of discussions with people whom I consider most qualified to pronounce an opinion upon a Bill of this character, who not only by their learning, their scholarship, their thorough uprightness and their thorough knowledge of the Sanskrit literature, the texts and Smritis, are entitled to pronounce an opinion. I may state that this Bill has had the support of such an eminent person as Sir Sivaswamy Aiyer, who certainly cannot be accused of giving his support to rash legislation: he has himself had long experience of the country as an administrator, and everybody knows that he is a great student of Sanskrit literature and the Smritis. I have further had the advantage of discussion with Mr. T. R. Venkatrama Sastri, who has been in public life for a long number of years, who was also for sometime Advocate General to the Government of Madras and is a student of Sanskrit and has established his reputation as a good scholar. I am quite aware, Sir, that there is opposition to this Bill and that a great deal of it is genuine. I am aware, Sir, that there are a large number of educated people who have given their support to this Bill and thereby incurred unpopularity and perhaps obloquy and calumny for the moment. I am aware that Government have also taken a serious responsibility, that unscrupulous agitators may take advantage of it and bring Government into trouble. But, Sir, I feel that those who have supported this Bill and incurred unpopularity and the Government who have taken the responsibility of supporting this Bill are doing the right thing, and their consolation should be that they are helping a progressive measure which is calculated in the end to promote the good of not only the Hindu community and the Muhammadan community, but the whole Indian community in general. (Applause.)

Sir, in a measure of this kind, you cannot possibly expect everybody to agree. In no part of the world has anyone agreed to legislation of this kind without some sort of demur. You always have the conservative element; you always have the progressive element; and the history of the world is the history of conflict between the conservative and the progressive elements; and though the conservatives in the beginning seemed to have larger support, in the end the progressives have triumphed. In many instances the conservatives have had to confess that they have been in the wrong and the progressives have been in the right. As my Honourable friend Mr. Ramadas has pointed out, we have advantages and disadvantages, but I do think that the advantages outweigh the disadvantages, and the Government have been quite justified in giving their full support to the Bill, without which a measure of this kind could not possibly

[Mr. G. A. Natesan.]

be carried; and the fact that Government have lent their support does not necessarily mean that the measure itself is wrong. On the other hand, I feel confident that they have given their support to a measure which will fully justify itself in the eyes of the public, though not now, but later on. Even those who oppose the measure now, if I may say so from a short-sighted policy, will see later on that this measure is to their advantage.

I support this Bill because I am convinced that early marriage, early consummation and early maternity are evils and that they are fraught with disastrous consequences. Anyone here with any heart, who knows something about the health of a girl wife, who knows something of the health of the children begot by girl wives, who knows something of the babies that survive, weaklings, lean and of poor health, who knows how modern conditions have altered many things, will certainly support the measure. In the good old times, I may say almost all the girls were in the villages where they enjoyed pure light and air and where conditions were healthy. Those were the days when girls had not even education, they had not the mental and physical strain caused by education. Now, what happens? People migrate in large numbers to towns and girls are married and girl wives are taken to different towns and compelled to live under the stress of economic circumstances in congested houses and to become mothers too soon; and I tell you from experience—and I challenge anyone to contradict my statement—that in most cases the deaths of girl wives and in many cases the deaths of infants are due to the system under which we are suffering. Indeed it is sad to contemplate the fate of many of these girl mothers. I am not talking from imagination; I have a very high authority in support of my point, namely, Dr. Campbell, Principal of the Lady Hardinge College at Delhi, who, I may say, has also had a long experience in Madras as a doctor, and her wide experience has enabled her to state:

“She had attended more than one thousand Hindu girls for child births at the ages of from 12 to 16 years. And the evil effects seen in them and in others under observation or treatment as a result of early child bearing could hardly be exaggerated.”

Mark these words—and I hope anyone who has humanity in him will confess that his experience is the same as that recorded by the doctor—

“Tuberculosis was very often developed during pregnancy or lactation as the resistance of the tissues was lowered by the strain, unnatural at so early an age. This is the reason why tuberculosis was much more common in girls than in boys. About 40 per cent. of the girl mothers died in the first year and those who survived were weaklings.”

THE HONOURABLE MR. MAHMOOD SUHRAWARDY: Educate them. Remove the ignorance of the masses.

THE HONOURABLE MR. G. A. NATESAN: Sir, I think, it is a greater difficulty to educate the boys and girls and the masses and even Members of the Legislature. It is a stupendous task. (Laughter.) Sir, this is in accordance with our own experience and the experience of doctors, the testimony of one of whom is unimpeachable, that there is really a great toll taken of human life as the present social conditions stand. I cannot therefore conscientiously give any sort of support to the opposition.

Sir, we have been told that mothers are against this Bill and they will be. I quite understand that; owing to shortsightedness or inability to understand

exactly the full significance of this Bill, at present the mothers may be against it. I want to tell this House that there are many mothers and parents who are now anxious, as far as possible, to marry their girls as late as it is convenient to them. But it is because you have the system of early marriage and because you have this evil system of paying bridegrooms' prices that every parent is anxious to get his girl married soon. Let the conditions be altered, as they will be when this measure becomes law, and then many parents will welcome this; and for this reason that even the old mothers in the villages are anxious and the education of the girls will certainly be advanced too. To a great extent most of the parents now, on account of the custom of society, stop the girls from going to school as soon as they are nearing the age of puberty. Well, if this Bill is passed, that practice will be put a stop to, and that is certainly a matter on which you ought to congratulate yourselves.

THE HONOURABLE MAJOR NAWAB MAHOMED AKBAR KHAN: You cannot force people to send their girls to school.

THE HONOURABLE MR. G. A. NATESAN: Those who are anxious to send their girls to school will have all the support they want.

Well, Sir, I have been told that if this Bill is passed it is likely to affect the morals of the people. I deny that. I live in the midst of a large non-Brahmin population in the city of Madras. Indeed, I have been living there for the past 30 years, and most of the non-Brahmin girls marry after puberty. It is in fact a slander to say that these girls are in any way worse in morals than the girls who marry early. And I think those who have advanced this reason are talking without a sense of responsibility and without realising in the least what the full implication of such a slanderous statement is.

Sir, we have next been told that religion is in danger and that Government is making a great mistake in supporting a Bill of this character which cuts at the root of the fundamental tenets of our religion. I deny that this Bill affects our religion. Those who are so obtuse as not to be able to distinguish between the fundamentals of religion and the practices and customs associated with it, which are quite different things, are under a delusion. But I do say that those who are conversant with the Hindu religion—and I speak also for the Muhammadans because many Muhammadans are as truly religious as those who have opposed this Bill—have also said that this is not a measure which stands in the way of religion. And I prefer to take the opinion of those who are better entitled to speak than those Pandits and Maulvis who, I fear, cannot be expected to take a long view of questions like this.

Then again, Sir, I am entitled to support this Bill because it solves more than anything else the problem about which for many years in Southern India we have been agitating, namely, this question of post-puberty marriage. Some 20 years ago a distinguished citizen of Madras, the late Mr. V. Krishnaswami Aiyer, started this agitation for post-puberty marriages. We formed an association called the Madras Hindu Association of which I had the honour to be secretary, and we carried on a great propaganda in its favour. We invited a great deal of literature and we had the good luck at that time of getting a first-rate brochure on the subject written by Mr. Sastri—now the Right Honourable Srinivasa Sastri. I may add that when Mr. Sastri married his daughter after puberty, a number of orthodox friends—men and women—including

[Mr. G. A. Natesan.]

my mother, attended the marriage and there was no more talk about it, no attempt at ostracism or ex-communication. I mention this publicly because, if Government has any doubts that orthodox people will give them much trouble, they need not have any apprehension because when the Bill is passed they will reconcile themselves to it and the situation will not be so grave as some people make out.

Sir, some people have said it is contrary to Hindu ideals. I challenge anyone who has a correct conception of Hindu society and of Hindu religion to substantiate that. More than anything else I would say this, that if there is anything in our ideals or religious customs which makes them incompatible with modern conditions, which will prevent our taking our rightful place among the nations of the world, I say rather than live in that fashion, we should give up those things. I am surprised that the opposition to this legislation comes from politicians who talk of non-co-operation, *satyagraha*, civil disobedience and non-payment of taxes, independence, and so on. I cannot for a moment bring myself to believe that opposition to a measure of this kind should come from people like these. But after all they ought not to forget that when we get self-government, when we get full responsibility and when our Legislatures get full power to legislate, they will then have to take up social legislation, and I wonder if the people who talk in this fashion realise what they are doing.

I do not think I have much more to say, but two or three things I should like to say in conclusion. To those who are opposed to this Bill I say I honour your genuine opinion but do get yourselves reconciled, because in the end the measure will be useful. To the supporters of the Government, who have been most active in getting this measure on the legislative anvil, I would say, and I would ask the people also who oppose me to say, that they are actuated by the most humane considerations and motives, and you have no right to take them to task for doing what they consider to be right. I am sorry to see that one of the active members of the Swarajist Party in Madras declared that it is the duty of those who are genuinely opposed to this measure that they should take steps to disobey this legislation. I would only remind them that they are doing a thing which is fraught with the gravest consequences to society. They must remember that a very large part of the Hindu and Muhammadan Members of both Houses are giving their support to this Bill, and that the Government have at last abandoned the attitude of neutrality which they had maintained for long years, and given a helping hand to this Bill owing to the pressure of public opinion. If they now start the obstruction of civil disobedience, I do think that their conduct will be fraught with consequences to Indian society which will certainly be disastrous. To the Government I would say: "You have certainly taken a serious responsibility in giving your support to this. You should give all the publicity that lies in your power to this legislation. Let there be no village in which your village munsiff is not active in explaining to the people that there has been a change in the law of marriage, so that no man who hereafter is brought into court will be in a position to say that he was not aware of this legislation and that the Sircar had not informed him." If you do this, and if those who are opposed to this Bill recognise the genuine and honest motives which have actuated the Government

to give their support to the measure, I do think that Indian society will sooner or later get itself reconciled to this measure.

I will conclude with one more observation. It often happens that when some one who is most dear to us, particularly a friend of the doctor, is suffering from a disease which requires operation, and when the doctor operates on him, gives one cut and then another, and further uses a little pressure to take away all the putrid matter, the patient cries and very often curses the doctor and the relations round him. But what happens later on? When the operation is over, when he is cured, he gives the doctor his thanks and blessing for his great service and for saving his life. I assure you that we have now a situation somewhat similar to this. When the evils of the system are eradicated, not only the supporters of the Bill, not only the Government, but everybody who has now lent his support to advancing this measure will, I know, receive the thanks of their bitterest opponents.

And not only that. I look forward to the day when those who have opposed the Bill to-day will find the condition of things so changed, so altered for the better, that girls will be studying in schools and colleges after 14, that marriages of girls and consummation will be celebrated on the same day; that the system of celebrating it for four and five days, which entails considerable expense upon the parents, will be discontinued; that girls and boys will be married and their consummation celebrated at a time when they are physically fit, when the children of such unions will be healthy; and all will say that this legislation has proved to be for the good of our society.

THE HONOURABLE SIR EBRAHIM HAROON JAFFER (Bombay Presidency : Muhammadan) : Sir, I am desired by the Muslim elected Members of this Council to make a short statement regarding the Bill which is before us, and with your kind permission I hereby do so. Ever since the British Government began to administer this country, they have scrupulously and without any reservation respected the Muslim religion and the personal law obtaining therein. This attitude of the British Government has been consistently confirmed by many decisions of the British Courts and the Privy Council.

THE HONOURABLE THE PRESIDENT : Will the Honourable Member kindly raise his voice ?

THE HONOURABLE SIR EBRAHIM HAROON JAFFER : Sir, I beg to point out that we have received messages from a large number of Ulemas, both Sunni and Shia, including the President of the All-India Jamiat-ul-Ulema, the Principal of the Deoband School of Theology, Ulemas of the famous Faranghi Mahal and the Mujtahids of Lucknow bearing their serious and considered opposition to this proposed legislation. Further, Sir, we feel bound to observe that the passing of this Bill will be contrary to the provision of the Lucknow Pact, relating to religion and personal law, by which it was agreed that such subjects should not be discussed in and passed by any Legislature in India if two-thirds of the members of the community concerned were opposed to it. We feel deeply concerned in the establishment and perpetuation of this convention, especially having regard to the approach of responsible Government in India, and we feel that the non-observance of this convention under

[Sir Ebrahim Haroon Jaffer.]

majority rule would mean the removal of protection and the safety of our community in matters of personal and religious laws.

With these observations, Sir, we oppose the Bill.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan) : Sir, on principle I do not like the Indian Legislatures to interfere with the religious injunctions of the various religions. But as this principle has not been followed by the Legislatures, I have no other alternative but to support the motion of my Honourable friend Mr. Ramadas Pantulu. In the Punjab, Sir, we have about 400 Sanatan Dharma Sabhas. I have also the privilege of being the President of the Punjab Sanatan Dharma Pritinidhi Sabha, a representative institution of the orthodox Hindus and Sabhas of the Punjab. I am also the President of the Sanatan Dharma Sabha of Lahore. But all the same I do not like to speak on behalf of any of these orthodox institutions to-day. I might mention, Sir, that I have not received so far any instructions from any member of my constituency or from any of the Punjab orthodox Hindu organisations or persons asking me to oppose the Bill.

THE HONOURABLE MR. MAHMOOD SUHRAWARDY : Have you given your evidence before the Age of Consent Committee ?

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Yes. Before the Age of Consent Committee I gave my evidence that, in deference to the Hindu orthodox opinion, I was for the age of 13 as far as the marriage age of girls was concerned. But I also stated there, which I think my Honourable friend Mr. Suhrawardy does not know, that my personal opinion was for a higher age. As far as I know, not a single public meeting has been held in the Punjab to protest against the passing of this Bill. I might also state here for the information of the House that before marrying my girls, I consulted some of the best Pandits who were learned scholars, and their ruling was that there was no religious bar to my marrying my girls after they had attained puberty.

THE HONOURABLE MAJOR NAWAB MOHAMED AKBAR KHAN : After they had attained puberty ?

THE HONOURABLE MR. G. S. KHAPARDE : Are you a Brahmin ?

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : I am a Kshatriya. My Honourable friend Major Nawab Mohamed Akbar Khan interrupted me with a remark whether I meant after puberty. Perhaps I might inform him that the controversy among the Hindus is whether girls are to be married before they attain puberty or after they attain puberty. That was the reason why I used that phrase to state clearly that the ruling given to me by the learned Pandits was that there was no religious bar to the marriage of girls after they attain puberty. I accordingly, Sir, married my girls over the age of 14, and in the orthodox circles there was no adverse criticism made upon me. I understand it is a fact that since I gave my evidence before the Age of Consent Committee, there has been a marked change in the views of the orthodox Hindus in the Punjab. As far as the urban educated population is concerned, even now, Sir, the age of girl marriage ranges between

14 and 18, if not higher. If we take the average among the educated Hindus, it will be about 16. So, Sir, it seems that at least the province of the Punjab is for having this reform, and for this reason, I give my support to this motion. It is a matter of regret, Sir, that in the Punjab, particularly in the hill districts and the sub-montane tracts, early marriage is still much in force. In certain communities the girls are sold. By sale I mean that the parents of the girl, before betrothing their daughter, accept a certain sum of money, and this custom is generally prevalent among the poorer and the lower classes. It is also in force among the Rajputs of the Hoshiarpur and Kangra districts, and there it is sad to find that the poor parents, considering that the girl may not be sold for a higher price, are forced to marry their boys to secure their money not being lost. I think at some near date some legislation ought to be brought

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forward to put a stop to that custom of selling girls. I hear, Sir, that in Bengal the custom is reversed and that there the boys are sold. But however, Sir, when we are dealing with reforms, I think that this measure which it is very necessary to pass...

THE HONOURABLE THE PRESIDENT : I am sorry to interrupt the Honourable Member in the middle of his speech, but it is 12 o'clock, and, in pursuance of the undertaking which I gave yesterday, I must adjourn the House till half past two o'clock this afternoon.

The Council then adjourned for Lunch till Half-past Two of the Clock.

The Council re-assembled after Lunch at Half-past Two of the Clock, the Honourable the President in the Chair.

THE HONOURABLE THE PRESIDENT : Has the Honourable Lala Ram Saran Das concluded his speech or does he wish to continue ?

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Yes, Sir, I want to make a few more observations. Sir, as far as the question of age of girls is concerned, I dealt with it this forenoon. Now, I will take up the question of boys. According to the Hindu religion, life is divided into four parts and after Brahmacharya comes the adult age. So, according to our Hindu Shastras, the age proposed in the Bill is quite in harmony with them.

Now, I come to the economic side of the question. In ancient times, even a few decades back, prices of foodstuffs were very low and the cost of living was very much lower than what it is now. With the heavy increase in the cost of living and with the heavy increase in prices, we find that our physique has greatly suffered. To a friend of mine, who is a Member of the Assembly, when he told me that marriages have been taking place in the early years of life in the olden days and nothing serious has happened and what was the reason for bringing this legislation now, I said that one of the reasons was that our physique has greatly suffered; we must protect our body first before we do anything else; and I added that the question of unemployment and the question of higher living have made the life of an ordinary person very difficult. It is desirable that until and unless boys and girls are of good physique and of good strength, they ought not to be married. In the Punjab, Sir, we have got various communal institutions, the Brahmin Sabha, the Kshatriya Sabha, the Agarwal Sabha and the Ahluwalia Conference, the Jat Conference and various other such institutions. As far as my knowledge goes, they have all advocated

[Lala Ram Saran Das.]

this reform. Then, Sir, comes the question, in case this legislation goes through, whether or not the people will be prepared to welcome it. As far as the Punjab is concerned, I think the people will welcome it, and there will be no defiance of law.

With these few words, Sir, I support the motion.

THE HONOURABLE MR. G. S. KHAPARDE: Sir, to save time, I have divided my argument into seven parts, (Laughter) and I shall begin with the first. The first is that this Bill has attracted a great deal of notice and I suppose myself and the Government are glad that it had attracted so much notice. Why has this Bill excited people so much? It is for this reason, and a good reason. Here in India the earliest Indian Penal Code took away all our criminal law; then came the Criminal Procedure Code which took away all our criminal procedure; then came the Contract Act, which took away all our dealings in moveable property.

THE HONOURABLE SIR MANECKJI DADABHOY: Are you serious?

THE HONOURABLE MR. G. S. KHAPARDE: I am absolutely serious. In this country our penal laws have gone; our procedure has gone, dealings in moveable property have gone, and only yesterday we disposed of real property too. Now, what remains for us of our law? I suppose it will be conceded that we naturally like to be judged and to be guided by Indian law. The Hindus have lost all this, so have the Muhammadans. All that is left to us, Hindus, is three things, marriage, adoption and inheritance; and the Muhammadans have not got adoption, but they have got marriage laws and their laws of inheritance; these laws have gone, and of those that remain, the marriage law is about to go now. So, if this legislation passes, we may be regarded as persons who had no civilisation at all, who had no laws of our own, who had no notions of our own; everything has to be governed by Roman law as it has filtered through the English law. That is what the position comes to. I do not like that position, frankly speaking. In those days of the Penal Code, people had not so advanced; there were very few people who knew English; in the days of the Evidence Act and the Criminal Procedure Code, we all submitted; nobody knew what they were about. It was after Dadabhoy Naoroji went to England that these political matters started and we began to understand that we had some rights and they had to be protected. At present Government have disposed of all laws of contract, tort, criminal jurisdiction, civil jurisdiction, evidence; all these things have gone. All that remains practically now is this inheritance and marriage; and about marriage this is the Bill, and we encroached upon inheritance about this time last year. When Sir Hari Singh Gour's Bill came in, I objected to it, saying piece-meal legislation to destroy the Hindu system is wrong. If you do not want Hindu laws to obtain here, by all means bring in a law and show it to me and say: "This is better law than Hindu law", but to pull away one pillar one day, another storey the next and take away the foundation on the third day is, I humbly submit, not the right procedure. It is not only I that have got this feeling; there are many people who have the same feeling; that if the marriage law and inheritance law are passed, we might as well be Hottentots, non descripts of Africa; and have Roman law as it has filtered through the English law. Now this is a position

which I do not think the Government itself wants nor do I want it. How has it come about? It has come about by the process of taking away one thing at a time; not dealing with the whole subject but taking away one portion at one time, and in that way you can undermine the foundations of this hall: this hall cannot stand. But that is not the way.

Therefore, my first and strongest argument is that India is inhabited at present and has been for some time by Hindus, Muhammadans, Parsis, Christians, Jews and the hill tribes, if you like to have them on the list. Well, the Hindus had their civilisation, they have a long-standing civilisation of their own. It existed in 12,000 B. C. The Chaldeans have mentioned in their books Vedas and the particular forms of prayer that our ancestors had then; they still exist, and I am still here to-day to recite them and I recite the same prayers that they have put down in their encyclopædias. That is to say, the Hindu population has been existing for nearly 12,000 years before Christ, and nearly 2,000 years after; that is to say, for 14,000 years we have existed. So, the Muhammadans had a large civilisation going on for a long period, and they are still here. The Christians are also here. So are the Parsis, who have also got a civilisation more or less contemporaneous with ourselves.

Well, now, is all this civilisation to be turned out? Why? For what reason? They say our customs are not good. Well, Sir, I put the question—if they are so bad, if all these customs are so bad, how is it I have survived for 14,000 years and am still here to talk and pray in the language which our ancestors used? If our customs are so bad and everything is so contemptible, then we should have disappeared. The Phœnicians came after me: we have borrowed some things from them. The Greeks came after me. The Romans came after me. Then there were the Dark Ages, and the Middle Ages, and we are living in the Modern Age now. And all this time I have been there, saying the prayers which my great-great-grandfather said. Where is a Greek now? Who prays in Greek? Where is the worship of Apollo? Who worships Janus in the Latin tongue? Why are they all gone? The Phœnicians are gone. The Greeks are gone. The Romans are gone. Therefore, we claim that our formula, our prayer solves the problem of immortality, and we have been at least for 14,000 years immortal! And the whole thing cannot be so bad as to deserve to be turned out root and branch. Similarly, the Muhammadans will say the same thing. The Jews will say the same thing. I have always claimed that this India is a museum of God, and every nation that is good is brought and kept here. The Aryans were good: they came here. The Greeks were good: they came in the shape of Alexander. The Romans came and invaded other parts. The Muhammadans were good: they came. Then came the Christians. The lost tribes of the Jews are to be found in parts of the country as Bani Israels. Why has God brought all these people together? Not that one should kill the other. Not that one should supersede the other. But that everybody should live in comity and harmony. Therefore, going on this principle, I say: "Let each man observe his own laws. Do not bother him or turn him out of the things he has inherited." Up to this time the Government have adhered to their original intention of not disturbing the customs or religious observances of the people. And what is no less important is the Proclamation of Queen Victoria. I do not propose to quote from it, but it has been quoted very often and it has been definitely promised

[Mr. G. S. Khaparde.]

that religious matters and customs and ancient things will not be disturbed. Well then, why is it my friend to-day in moving that the Bill be taken into consideration stood up and thanked the Government for the assistance which they rendered in the other House and expected that they would render the same assistance in this House here? I say this is very bad indeed. Government have promised to be neutral. Why are they not neutral now? What has happened? Have all these customs sprung up since the British came here that they have become so anxious over it to-day after having ruled over us for over 200 years? Why is it that this thing has come up at this particular moment? The customs have been there ever since the British came and long before they came. Why have they attracted the Government so much as to induce them to depart from their rule of neutrality? This morning it was said—and it has been said elsewhere—that the Government took upon themselves to abolish *Sati*. Of course, there is a section in the Penal Code which punishes *Sati*, and we all know that *Sati* was abolished by the British Government.

THE HONOURABLE MR. H. B. CLAYTON (Bombay : Nominated Official) : Don't you think it was rightly abolished?

THE HONOURABLE MR. G. S. KHAPARDE : That is what I am going to submit, if you will kindly hear me another minute. I say the British Government abolished *Sati* by enacting the section. But *Sati* they could never abolish, and it has not been abolished. All cases of *Sati* do not come to notice. Formerly they used to be burnt publicly on the funeral pyre. Now, instead, when a woman thinks her husband is in despair, she goes and poisons herself, or pours kerosene over herself and burns herself, or jumps down a well. And in that sense *Sati* has not been abolished. Only on paper we know that there is a section which punishes *Sati*. As a matter of fact, *Sati* is so deeply rooted in human nature that it cannot be abolished. I will mention to you instances of it. From the days of Cranmer who allowed himself to be burnt alive rather than recant, the principle of giving up your life for a cause you hold sacred, has been established. To take the latest example, when the "Titanic" sank in 1910, and Mr. Stead, the Editor of the *Review of Reviews*, was on it, when the ship got into trouble and the sea was very boisterous, life-saving apparatus was brought and offered first to the ladies who were told : "Ladies save yourselves". They were English—I can mention their names. And these English ladies said : "What about our husbands?" They said : "There is room for your husbands". The ladies then said : "Look here, our place is by the side of our husbands. We do not care to save ourselves without our husbands." What was the consequence? The "Titanic" went down and these ladies died with their husbands, and a few days after when the bodies came up there they were arm in arm with their husbands. So you see you have not abolished *Sati*. I say it certainly exists and your own people followed it and they were *Satis* to die with their own husbands. What more do you want? I do not think there is any single Englishman who condemns these ladies who gave up their lives and refused to leave their husbands behind. Supposing one of these ladies had been saved or revived, do you think she would have been prosecuted for attempting to commit suicide? I do not think any English Judge would give a judgment against her. Where is there

a single jury that would? Why then, *Sati* exists. It goes on. It is not true to say that it is abolished. *Sati* only means that a woman loves her husband so much that she prefers to be burnt along with his body. There are so many people willing to die for a principle from the days of Cranmer. McSweeney was the last person who died for the sake of a principle and starved himself. And there are so many boys at Lahore and Meerut....

THE HONOURABLE THE PRESIDENT : The Honourable Member is getting very discursive. There is no question of anybody dying for the sake of a principle in this Bill.

I think the Council will be interested to know which of the Honourable Member's seven points he is dealing with at the moment. If he is still on the first point of the seven, assuming that all the points are of equal importance, his speech will be of very great length.

THE HONOURABLE MR. G. S. KHAPARDE : This is my first point, and to show that it is unconstitutional I am putting forward these instances. The first argument that I was urging is this. The Government promised neutrality. They have now broken that promise, and they are doing something which really speaking cannot be called neutral. That is not a constitutional procedure. I shall curtail this part of my argument and go on to the next point, which is this. The principle of all representative governments is that people elect certain representatives on certain issues, and those representatives, whether in one Chamber or two Chambers, decide those matters and matters connected with them. In this particular instance, I ask, was this the question before the country on which the representatives sitting here and in the other House were elected? I am one of the elected Members, and I humbly submit that this question was never before the people at all. The question in those days was that Mr. Gandhi had promised self-government in one year, and everybody thought that it was a very good thing to have. That is why the Swarajists and the Congress people and the other parties came into power. They were elected in order so to work as to gain self-government within one year.

THE HONOURABLE MR. G. A. NATESAN : This is the first step towards it.

THE HONOURABLE MR. G. S. KHAPARDE : This cannot be a step towards self-government. Suppose you marry your daughter at 16. Would that give you self-government immediately?

THE HONOURABLE MR. G. A. NATESAN : That will bring us nearer it.

THE HONOURABLE MR. G. S. KHAPARDE : It has nothing to do with it. Self-government is a different thing.

THE HONOURABLE SIR MANECKJI DADABHOY : That would serve you as a qualification for self-government.

THE HONOURABLE MR. G. S. KHAPARDE : It is not self-government. It is not a qualification. I could not understand the attitude of the people myself, and I never believed it. But still, they thought that by a miracle Mr. Gandhi, who was supposed to be a Mahatma, would be able to work a miracle and we would get self-government in one year. So, people have come here with a view to getting self-government. But what have they done? This business is destroying what little is left of the glory of my own country.

[Mr. G. S. Khaparde.]

If this is self-government, I congratulate you upon getting it at once. The fact remains that this was not a live question at issue when the elections took place. These people did not have a mandate to make laws about religion. When they wanted to make a small alteration in the Prayer Book in England, we know how long it took before the Parliament could do anything, and the cry was raised that these people were not there to decide about the Prayer Book and that they were elected on certain issues and on those issues only could they legislate. Again, in England, when there was the question of marrying a deceased wife's sister, it took 50 years to get that legislation through the House of Commons. Is it intended that in India the law of inheritance and the law of marriage should be altered in one day? I cannot understand it. It is unconstitutional. In England, Government was always a Government by the majority in the House of Commons, but they remained neutral when this question of altering the Prayer Book came up. Why, then, when the marriage laws are being discussed, do Government side with them in the other House, and also with them in this House? I put that plain question. If this child marriage was so bad, how is it I have survived all this time? China is looked upon as a sort of place where all sorts of undesirable things take place, but it is in the best position that I know of. They have survived; they have not died. Why is it then that all these laws are being enacted in this country? My argument on this point is that this is unconstitutional. Our people speak of liberty and independence and self-determination. When it comes to its being applied, they say that this law should be thrust down the throat of all these people by legislation. Whoever seeks the help of Legislatures to carry out his ideas is, I humbly submit, an autocrat at heart. He is not a Liberal. A Liberal is one who claims liberty for himself and allows it to others. Like Christ who preached his doctrine. They did not believe him and he preferred to be killed. Similarly, the reformers in this particular case should have adopted the attitude: "Look here, this is a very good thing; you should follow it; I shall also do it. I shall go to my own people and explain the matter to them. I shall explain the difference to them and convert them to my views". The person who says that is a Liberal. One who seeks to thrust his ideas on others with the help of authority and power is not a Liberal, whatever else he may be. So, in this particular instance, Government have rendered assistance to the other party and they have acknowledged it with great gratitude. I say they are not Liberals. That is my first point that this is unconstitutional. It is an unrepresentative Government masquerading in the form of a representative Government. In my part of the country, up to this time, not a single reformer has dared to preach this doctrine. So far as I know, nobody knows anything about it. It is easy enough to frame a Bill, secure Government sympathy and pass it in the House. The man then becomes immortal. But that is not a liberal Government nor is it a representative Government. So, that is my first point. (*An Honourable Member*: "The second point, I hope.") It is not the second, if you please. I put down under the head "unconstitutional" so many things, and I have mentioned them now to you.

The second point which I wish to mention is this. There are conventions in politics. Everything is not regulated by laws or rules. There are certain conventions which we observe. Now one of the rules which are not laid down but which are observed everywhere is this rule of which I was speaking just now.

THE HONOURABLE SIR MANECKJI DADABHOY: You had finished that.

THE HONOURABLE MR. G. S. KHAPARDE: My dear friend, if you will

THE HONOURABLE THE PRESIDENT: Order, order. The Honourable Member will kindly address the Chair.

THE HONOURABLE MR. G. S. KHAPARDE: I do not mind interruptions. But I simply mean to say that they are destroying religion, religious customs. I have complained already about it, and to-day I mean to put it more strongly. This process of abolishing one thing at a time is not right. First came the law of the age of consent. That was in the nineties of the last century. I myself was in sympathy, but I thought that they should do this with the aid of the reformers and not with the aid of the law. That was my position then, and the same is my position now. I will not give you an autobiography of myself to show what I have done. I am for carrying them out myself, but am not in sympathy with the reforms being carried out with the aid of the law. There are many reasons, but one of these is that in domestic matters, it is not desirable that strangers or officers should have any right to interfere. Let it be my own affair. It is a domestic matter. I will do it myself. It was urged here by some people that marriage is not a matter of religion at all and that it is a social matter. It is purely a social matter. Well,

3 P.M. I was glad to see that my Honourable friend Mr. Ramadas considered that it was religious and that it was a domestic matter. But his supporters here have gone a little beyond that and say this is not a religious matter at all, and the argument was that nobody says the marriage will be null and void but the man who performs it will be punished, and that is not going against religion or destroying religion. That reminded me of a book I read in my younger days, when the question of *Sati* was being argued. People went in a deputation to the then Viceroy.....

THE HONOURABLE THE PRESIDENT: I hoped that the Honourable Member had finished with *Sati* under his first point. I must ask him not to go back to it again.

THE HONOURABLE MR. G. S. KHAPARDE: I mentioned it, Sir.....

THE HONOURABLE THE PRESIDENT: The Honourable Member is requested by the Chair not to mention *Sati* again. He dealt with it very fully under his first point.

THE HONOURABLE MR. G. S. KHAPARDE: I was mentioning, Sir, that.....

THE HONOURABLE THE PRESIDENT: I am not inquiring what the Honourable was going to mention. Will the Honourable Member please continue his speech.

THE HONOURABLE MR. G. S. KHAPARDE: My point in that matter was that to render a thing punishable is to prohibit it, and when you punish a person who gets married or allows persons to be married at a particular age, it means that it is prohibited by law, and to that extent it certainly is an interference with religion. It is not only religious with me. With due deference to these learned Muhammadan gentlemen who say it is a purely social matter, I submit that it is still a matter of religion with them, and for this reason, that

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during the performance of the ceremonies certain portions of the Koran are read by the bride and bridegroom. If it is not religious, why are these *Kalmas* read? They say it is not necessary. I say it is necessary. Muhammadan law prohibits a man from marrying more than four wives, and if he wants to have a fifth wife, the Ulemas will not permit him to do so. Then again, if he has a wife and wants to marry another, he has to treat both equally well, and if he is not able to do that he ought not to take a second wife. If a Muhammadan ill-treats his first two wives and wants to marry a third, the Ulema will have something to say to that. So it comes to this, that marriage is clearly a religious matter which is regulated by immemorial usage by Muhammadan law, and it is as much a religious matter with them as with the Hindus. A further point in that connection is that Muhammadan law favours monogamy. It does not like polygamy and the proof of that is that the *mehar* or dowry which is given to every wife who is superseded is purposely made very high, in order to prevent a man taking another wife. In that way Muhammadan law has endeavoured to introduce monogamy; when it was first introduced, polygamy was the custom, and, in order not to upset things too much, they placed this restriction upon it. So I submit, Sir, that with both the Hindus and Muhammadans it is a religious matter. To go on further with that. How can you say that it is a purely social matter? It is not so with Christians or Jews. It is not so with Roman Catholics, nor even with Protestants. In the Orient more or less, and especially in India, marriages are not elective among the Brahmins and the Muhammadans. A Brahmin, after he reaches the age of eight, has to have the sacred thread given to him. In the case of a girl it is the betrothal which takes the place of the sacred thread. That is done as a religious obligation on the part of Brahmins. Among Khattriyas for a long time they have had elective marriages and marriages are contracted at a very late age. So it was permitted also to the Vaishyas and Sudras, and the persons who really labour under the disability most by their religion are Brahmins and Muhammadans. I will not speak more about it because I have got a separate amendment and when that is reached I shall explain the matter further. So that contention about its not being a religious matter cannot possibly be upheld. What we are afraid of is that once you make this a purely social matter, it will become something like a contract, and you can marry to-day and repudiate it to-morrow and marry again and go on repeating that merrily. I am told in America there are ladies who have been divorced 20 times. That may be so, I do not know, but I do not want that sort of thing to come into my society and I will do my best to avoid it altogether. Marriage is not a pure contract or purely a social matter. Those are the two points which I wish to labour and which I have laboured. Some go further and say that civilization is advancing and in India nowadays we get the final result without the initial stages. So when the railway came to India I rode in a locomotive and I did not know a word about it, nor do I even now. Aeroplanes have now come and no one understands them. In the same way reforms come in. In Russia reforms have come with a rush and they have very nearly abolished marriage. Is that also going to be our fate? They have trial marriages in America. Is that to be introduced here? But once it is looked upon as merely a matter of contract we cannot object to it and cannot prevent it, though I know that

that will upset my society in such a terrible way. I am afraid of taking a single step which may lead to such a conclusion. I want to preserve the fabric of my society as it has been preserved in the past. These are new things, and young men take easily to new things. Take, for instance, the Bolshevik. I suppose the Government are really paving the way so to say to make young men adopt that course. And the point is this. If marriage is to be turned into a social matter altogether by law, are the Government willing to prescribe any forms in which it is to be performed? Is it to be performed before a Registrar? What are the forms in which this marriage will be carried out? Would it be like what it is in Russia? There you meet a woman and you say, let us be married, and she says "yes" and the thing is done. Then you say to her, "I divorce you", or she says it to you, and the thing is done. I want to understand what the position will be. That is why I ask these questions. If you take away all that religion imposes, if you take away all that usage and custom lays down, what do you give in its stead? Is it to be a mere contract to be signed in the office of the Registrar? How are you going to work it? This is an absolutely unworkable law, at least in the present state of society. People in fact can never rise to the highest point of intelligence as a whole—so high as to decide legal doctrines such as this Bill creates. So, I submit, this Bill is unconstitutional and not in consonance with the genius of the country. It is not practicable. How is it then to be carried out?

The further ground on which I oppose this law is this. I believe it was mentioned in the other House that others are laughing at us and hold Indians in poor estimation and therefore our laws have to be improved to the standard of the world that is going on. I submit that this is a dangerous doctrine to introduce, dangerous because in this world there are people who will always object to you, no matter what you do. As the old story goes, a man and his son were going to sell a bullock; the son was riding on the bullock and the father was following on foot. So, one man said, "Young man, you ride and yet your father walks?" The son got down, and the old man was put on the bullock. Then another man said, "Old man, you ride and your son walks?". Then both of them were walking. Another man said, "Why don't you both ride?" So both the father and the son rode. Then they were told, "How cruel you are?" Yet another man said, "Why don't you both carry the bullock on your heads?" The consequence of this was that they got wounded and the bullock went away. If you listen to every criticism that is made about you, there will be trouble. I mention this argument because it was mentioned in the other House and a great deal of discussion took place on that. I also say that marriages will have to be elective; at present among the Hindus, or Brahmins at any rate, and Muhammadans, the bride and bridegroom do not meet before they are married and there is no election or any preliminary thing. If they grow up, then we shall have to make room for the further parts of it, for the bridegroom and the bride meeting and liking one another, and so on. Then, if marriage becomes elective, you will have to provide for divorce. At present there is no divorce among Hindus. It may be separation or divorce as the case may be. There are other portions of the Bill also. All that trouble we will have to take. I have wandered through a small portion of the world. Whether marriage is elective or whether it is done on the advice of the parents, if you take an inventory of

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happy people, it will come very nearly to the same. It does not go beyond that. Now, let us analyse the thing. What are the central doctrines on which this change is based? The doctrine, if the pair marry young, then the child is bound to be very weak and the nation will deteriorate. That was urged; I believe it was talked about. There are three books on the subject which I want to mention, namely, Westermarck's "History of Human Marriages", Latourneau's and Havelock Ellis' "Studies in the Psychology of Sex". These are books written by very great men on this subject specially, and I should have liked my friends who are putting forward this reform to have quoted from them. At present it is said that these early marriages deteriorate people; they are bad, and so on. When people base their conclusions on science, I rather become a little nervous, because science changes things very fast. In my younger days Dalton's theory of the atom was taught to me with great care. To-day nobody would like it, because there are no atoms, but there are electrons. What are those electrons? What is electricity? Nobody can define it. Similarly in many other directions I can give you illustrations of how things change. Jagadish Bose's researches have changed a great deal of biology. P. C. Ray's researches in chemistry have changed a great deal of the opinions of the present day, and I am afraid they will change very fast. I have specially taken note of the opinion of Havelock Ellis. Unfortunately I have not got the book to read out the original, but fortunately for me, it has been referred to in a petition which I gathered at the other House. We find Havelock Ellis in his "Studies in the Psychology of Sex" says:

"That science and observation both support the ancient Indian view that girls become fit to be mothers on the first onset of menstruation, and that abstinence after attainment of puberty is fraught with the most disastrous consequences."

Medical opinion is that when females attain a certain age when they are subject to certain physical conditions, they become at once fit for motherhood. That is the doctrine of the ancient Hindus as well as the doctrine of Muhammadans. The opinion which I have quoted is the strongly expressed opinion of a great scientist. Therefore, the law among the Hindus that marriage should be consummated on the girl attaining puberty, and in the case of Muhammadans as soon as the girl attains that age, is based on sound medical principles; and until I hear arguments to show that the opinion of Havelock Ellis is wrong, I for one will not be convinced that our custom is bad. If anything, our custom appears to be good. In the Census Report, which is not written by any doctrinaire person, but which merely ascertains opinions, you find this passage:

"In Burma where there is on child marriage the rate of infant mortality is higher than that in Bihar and Orissa where child marriage prevails...."

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: That may be due to other causes.

THE HONOURABLE MR. G. S. KHAPARDE: They say that child marriage tends to shorten the life of people; it is said that the mother dies,

the child dies, or is weak, and so on. Here is the Census Report which says that it is not so. It goes on:

"In Lower Burma the rate of infantile mortality is about 24 per cent. In Chile it is about 32 per cent. In Hungary 30 per cent., in Russia 25 per cent. The general average for India is 20 per cent."

Now, if infant mortality in India is only 20 per cent., where is the medical argument that has been urged that by your early marriages you increase mortality? Where does that come from? How is it supported? I should like to have here on the floor of this House arguments on this point, but they have not been urged. They go on talking on general considerations and general assumptions. Page 303 of the Report of the Census Commissioner, Mr. O'Malley, who himself had certainly a very strong prejudice against child marriage says:

"In spite of the general prevalence of early marriage, the percentage of feminine mortality to male mortality is 89 in Bihar and 91 in Bengal, as against 95, the average in other countries."

Now, how does that come to be? The other mortality is less. The child mortality is less. In fact, if you will permit me, Sir, I will cite two instances: King Edward the Third, and the Black Prince is one. The Black Prince was born when Edward III was only 18 years of age. He was the product of a child marriage. Our own Sivaji was the product of a child marriage. Where then is the justification for the plea that child marriage is so terrible that it must be put down by law? Great persons in history were born of child marriages. I say an ounce of fact is worth a ton of theory.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: What was the physique of their parents?

THE HONOURABLE MR. G. S. KHAPARDE: Well, King Edward III existed such a long time ago that I never saw him. I am told he had a good physique. So had Sivaji's father. So physique has got a great deal to do with the age. When this question is put to me, the point is not that they want to argue in favour of age but argue that physical conditions determine everything. There are two kinds of cells in the human body. One set of cells go to build up the body and the other set of cells go to reproduce it. These two kinds of cells are totally independent of one another. The defects in the one are not reflected in the other. And those people who want to argue that, because of the age or the want of development of the mother, the child is bound to be poor and weak, the onus of proof lies on them. I depend on the opinion of Dr. Weissman and Havelock Ellis. There are two sets of cells and they are independent of each other. And if you do not mind it, I will try and read a sentence or two:

"Dr. Weissman has proved that the reproductive cells are independent of the somatic cells which build up the body, and that all that can be said is that if the parents are weak and sickly—specially the mother—the germ cells may be arrested in their growth, and this would be so whether the parents are young or old."

The youth or the age of the parents has very little or nothing to do with it. If that is the opinion of doctors—I am a layman in this subject, but I wish that the doctors here or the doctors in the other place had argued these matters to convince me. Merely reciting opinions and repeating them will not do.

THE HONOURABLE DR. U. RAMA RAU: We will argue when the time comes.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Is it not a fact that the physique of the people has gone down very considerably?

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: That is due to other causes: not to early marriage.

THE HONOURABLE MR. G. S. KHAPARDE: My point is that these matters have not been argued. I should like to hear more arguments and more facts adduced. As far as facts have been adduced, they do not support their theory that infant marriage is necessarily injurious or that females after attaining a particular age ought to be made to abstain from motherhood; that they should be prohibited from performing their functions. Well, that, I submit, has not been proved, and therefore, I submit, that this legislation has been undertaken on the wrong basis and on wrong assumptions. And it is sought to be put forward and argued in a peculiar way. In the other House, all manner of questions were argued and they went into all kinds of arguments. Here we stick to our own arguments, and to justify the Bill they have not produced anything. On the contrary I have produced enough to show that it is not good.

Further I would urge that all civilisation and reform have got to have some relation with what has gone before. In other words, I am a historical Liberal as it would be called in England. I like to be in contact with the previous history, and any improvements that are brought in have to be my own, just as English people when pronouncing our name anglicise it. Similarly, improvements that are adopted by us ought not to be bodily adopted but grafted into our system and our system must assimilate it. If the food which I eat was tied on my back as a load, it would be of no value: I have to convert it into blood. Similarly, these improvements, if they are necessary and if they really are very good, have to be given to me in small doses and in such doses as I can digest and as I can make into elements of strength. Mere imitation—because such and such a person does so therefore I do so—is no argument at all. So within one year we say that marriage and inheritance and everything is going to be reformed. This is going too fast. Somebody referred to Turkey and Persia and other countries that were moving forward. I am sorry they did not mention what it has led to in Afghanistan. Hurry in reform has not resulted well in Afghanistan. So hurry in not wise, is not good even administratively. And at the present juncture when everybody is more or less excited about this matter, I am really in sympathy with the motion for deferring it for some time. Let people have time to read and understand and argue. And then, they might see the wisdom of this or not. If they do, the reform will be carried out. If they do not, that is a good reason why it should not. So I am not anxious that the law should be carried out at once and imposed so to speak at the point of the bayonet. I like that our people should have time. The reformers have not yet invaded my country or talked about this matter. Let them have time to come and do it. I am myself in sympathy with it and would help it. But I object to its being driven down the throats of the people who understand nothing about it by the strong arm of the law. These considerations, Sir, I wish to urge at this stage

because the question now before us is whether the Bill ought to be taken into consideration. I say it ought not to be taken into consideration. It has been passed rather hastily—passed after they had appointed a Committee. On the Committee there was not a single orthodox representative, not a single Muhammadan Ulema either. There was not a single Muhammadan theologian. How did they pass it? Even the evidence recorded before the Age of Consent Committee has not been published I am told. And I ask the people—Why? They are people of such extraordinary good characters that I have got to take their word for this. I would like to see that evidence, Sir. I would like to see whether their conclusions are borne out by the evidence that was recorded. That evidence has not even been published.

They say, the Committee have examined so many witnesses. I have experience of examination of witnesses. When a person makes a deposition, then it is only by cross-examination that you can find out points in favour of yourself. In the case of other Commissions, the members of the Commission cross-examined witnesses to bring out points in their favour. In this case, there was no single orthodox man on the Age of Consent Committee. There was not a single Muhammadan theologian, there was not a single Sastri. Not that Government had no materials to go upon. There is the Hindu Maha Sabha, there is the Sanatan Sabha, and there are the Anjumans and colleges for the Muhammadans. Why could they not have been asked to have a seat on that Committee and give their opinion? These people would have cross-examined the witnesses and brought out the points that ought to be brought out. Here, it was an *ex parte* proceeding. The reformers only put questions which were favourable to themselves and recorded them, and I am asked to take this evidence as gospel truth.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Was not Rai Bahadur Kanhaya Lal, a Sanatanist and an orthodox man, a member of the Committee?

THE HONOURABLE MR. G. S. KHAPARDE: I have not the honour of knowing him. I know that he is not a Sastri nor a Sanskrit scholar.

THE HONOURABLE SRI MANECKJI DADABHOY: He says he is an orthodox man.

THE HONOURABLE MR. G. S. KHAPARDE: That is not enough. Both parties must be equally balanced or very nearly balanced. This Committee should have had something like equality of members so that there might have been somebody to judge impartially between them. That has not been done.

THE HONOURABLE MR. G. A. NATESAN: But the most heterodox Brahmin often poses as the exponent of an orthodox Brahmin.

THE HONOURABLE MR. G. S. KHAPARDE: I beg your pardon.

THE HONOURABLE THE PRESIDENT: Will the Honourable Member continue his speech?

THE HONOURABLE MR. G. S. KHAPARDE: My point was that these conclusions of the Committee, which have been made much of, are really from our point of view not worth the paper on which they are written. Cross-examination has not been made of the witnesses.

THE HONOURABLE THE PRESIDENT : The Honourable Member has said all this over and over again. I find it very difficult to call the Honourable Member to order, because his remarks are in order, except that he is most sadly repeating himself. With regard to the report of the Committee to which he is referring, he has told the Council five or six times that it is an *ex parte* record.

THE HONOURABLE MR. G. S. KHAPARDE : We will leave this Committee alone, Sir. I will now come to how it was constituted. In the other House, there is not a single....

THE HONOURABLE THE PRESIDENT : The Honourable Member having now spoken for an hour, I will again ask him which point of his argument he is dealing with now. I tried to follow them and put them down for my own benefit but I have not the least idea which of his seven points he has arrived at.

AN HONOURABLE MEMBER. The last one.

THE HONOURABLE MR. G. S. KHAPARDE : I am sorry, Sir, I have taken one hour. I did not know that I had taken so much time.

THE HONOURABLE THE PRESIDENT : The Council is aware of the fact.

THE HONOURABLE MR. G. S. KHAPARDE : I was looking this way and not that way. I shall try to be as brief as I possibly can. I have taken down some of the arguments that were put forward here as I thought they required to be answered. I have answered about the help which the Honourable Mr. Ramadas Pantulu has received from Government. He said this was a corroding evil. I reply to it by saying that we have survived 14,000 years and it could not be a corroding evil if we have survived. He said that inroads have already been made by the Legislature, and he quoted many instances. That is exactly what I object to. Piecemeal legislation is not desirable. Then he mentioned about *Sati*, to which I have replied. He has again said something, which I thought was in my favour, though he said it as being in his favour. He said that 50 per cent. of the marriages are of girls above the age of 15. If that is so, where is the necessity for this legislation? If it is so, then it is not such a widespread evil that it requires to be looked into at once. English education and civilisation are working without any legislation being introduced. We are gradually drifting into the ways of the West, and we are allowing our girls to grow much higher and higher. Civilisation and reforms are being silently carried out. If 50 per cent. of the marriages are above 15 years of age, I humbly submit that the necessity for this Bill disappears. That is an admission from the other side.

One point which perhaps I ought to have made earlier is that in India, as elsewhere, we make a distinction between a betrothal and a marriage. In the case of girls in Brahmin families there is a form of betrothal which we call the preliminary marriage, but it is really a betrothal proper. When she attains maturity, then comes the consummation of the marriage. That is the real marriage as described in Western language. I think this reform is more directed against the consummation being carried out earlier. For that end, there are laws already. I do not know why that right of betrothal should be put down by the strong arm of the law. I do not want to speak much about it now, because later on I will get an opportunity of speaking about it.

THE HONOURABLE SIR MANECKJI DADABHOY : This clause does not prevent it.

THE HONOURABLE MR. G. S. KHAPARDE : That will be a difficult point and the Honourable the Law Member may be able to enlighten us on it. We have been calling it marriage up to this time.

THE HONOURABLE SIR MANECKJI DADABHOY : It is not marriage.

THE HONOURABLE MR. G. S. KHAPARDE : If you will put it down that that form, at present gone through at the age of 8, is not marriage, but betrothal, I shall be glad. If somebody will do it, it will be good. Otherwise, it becomes a difficult question. How can I possibly know how it will be decided afterwards? That is one of the difficulties that the law is declared by the Judge afterwards....

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : My friend being a lawyer of great experience knows that betrothal is not marriage.

THE HONOURABLE THE PRESIDENT : Will the Honourable Member kindly continue his speech and ignore interruptions?

THE HONOURABLE MR. G. S. KHAPARDE : Thank you, Sir. I will ignore all these interruptions. Imagine putting questions to me like that! Then the last head is general. That means that the canons that have to be observed when reforms are to be introduced and carried out have not been observed in this instance. No notice was given of this legislation, and it has been sprung on us, so to speak. I therefore strongly object to it, and say that this Bill should not be taken into consideration in this House.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE : Sir, I am thankful to you for giving me an opportunity at this stage to explain my position to the House, because I am responsible for giving notice of a number of amendments to the Bill itself. I am not going to emulate the previous speaker either in length or in the discussion of the various subjects he has dealt with. I shall be as brief as possible. I may say at the very outset that I am in complete agreement with the fundamental principle underlying the Bill. It is only with regard to some specific provisions of the Bill that I think this Council ought to go into—I am not now going into those matters, Sir. The first question that has been raised is that our religion is in danger, and when I speak of our religion I am not for the moment referring to the Muhammadans, because I do not claim to know sufficient either of the Shariat or of their ecclesiastical law to speak about it. But so far as our religion is concerned, the Hindu law has been recognized from the very earliest times to be one of the most progressive of laws which adapts itself to changing circumstances in the course of the different stages of the country's progress. It is not unknown to Members of this House that we may if we like find out passages from different Shastras which are absolutely contradictory to each other. It is possible to find a passage saying that a girl ought to be given in marriage before she completes the age of 9 or 10, or at least before she reaches the age of puberty. At the same time you can find passages in our Shastras in which just the contrary view is expressed, that a girl ought not to be given in marriage before she attains puberty. Sir, it has been repeatedly stated, and there have been various discussions over that question

[Srijut Rama Prasad Mookerjee.]

as to which is the proper rule which we should follow. So far as we are now conditioned we know from statistics that half the girls in India are married after the attainment of the age of puberty, and the other half before that age. Sir, if we analyse the different classes of persons who give girls in marriage before the attainment of puberty, we find that either they are some of the higher castes in some, not in all, provinces and some of the lowest classes in society. I do not mean any disparagement when I say the lowest classes in society—I mean those who go by the name of Namasudras and others in Bengal and who occupy the same position in other parts of India. They generally give their girls in marriage before the attainment of puberty. That is due more than anything else to an economic reason, because among those lower classes the number of females is less than the number of males. The result is that a certain sum of money has to be paid by a man before he can expect to get a girl in marriage. Therefore generally a male cannot get married until he attains the age of 30 or 35, and even later, whereas a girl is given in marriage in that society quite early—it may be at 6, 7 or 9 years. There is a great disparity in age there. That is why I say that I am in complete agreement with the fundamental principle of the Bill that there ought to be a law prohibiting a person from giving his girl in marriage before she attains a definite age, but with proper safeguards.

Sir, it has been stated that Legislatures, at least the Indian Legislature as it is now constituted, ought not to dabble in these social and socio-religious matters. But what is the other alternative suggested by the opponents of this Bill? In olden times there was a society and there was a power behind society which could enforce the rules of society. But at the present time we know that society is being disintegrated owing to western influences, economic conditions and various other causes, and where is the body which can now enforce a rule about a law of marriage? The first question is, should there be a law of marriage or not? And the second question is, if there is to be a law of marriage, should it be left to society itself to regulate its activities in a way that a law will be evolved in course of time, or should it be passed by the Legislature as a definite law so that the object we have in view may be precipitated? Sir, I think, the Indian Legislature is certainly elected mainly on political grounds; the persons who go to the different Legislatures go there mainly by virtue of their political opinions. Therefore, the religious or social side of society is not adequately represented in the Legislature, as we should like it to be when the Legislature is called upon to pass a Bill of this description. But at the same time, to make the best of a bad bargain, you cannot but agree to legislation even on this question by the Indian Legislature.

The next question which arises in this connection is that if the age of marriage is raised in this way by legislation, what will be the effect on society as it is at present constituted? I must express my disapproval of the way in which the Bill has been passed through the other place and the way in which the Assembly refused to take any note of all the recommendations of the Age of Consent Committee. I think that this House would be better advised if the recommendations of that Committee are taken into greater consideration by this House. I do not for one moment suggest that all the recommendations of the Age of Consent Committee are sacrosanct and cannot be questioned; I

would call into question the way in which the Committee has gathered opinions—more like an one-sided enquiry—about the age of marriage. But still in spite of that fact, in spite of the fact that the opinions that have been gathered by the Age of Consent Committee, the Legislative Assembly has not profited by the recommendations of that Committee. Sir, when legislation of this kind is being thrust on the people, every attempt ought to be made to see that it is to be given effect to in the best possible way. I am sure every advocate and supporter of this Bill would like to see that the Bill is effective and not a failure. It has been openly stated by some that the Bill as drafted is defective in many ways but an amending Bill would be brought in later on. It has also been stated that the Bill as drafted will have to be passed during the present Session of the Legislature and given effect to from the 1st April 1930. Sir, that is a different question which we may take up when we come to the clause concerned. But what steps have been taken either by Government or by the sponsors of the Bill to include within this Bill the conditions which were thought by the Age of Consent Committee to be absolutely essential? It is no use fixing an age for marriage without providing for the exigencies which would arise out of that rule. Take, for instance, one case. We find, at least in Bengal—I cannot speak for other provinces—that girls are now being sent to schools and are being educated much more than they were, say, 10 years ago. But we have not got a sufficiently large number of institutions to educate even the limited number of girls who are ready to take advantage of the educational facilities provided. When you are going to enforce this age rule of 14, what additional educational facilities is Government going to give in the different provinces? I know as I am intimately connected with educational activities in my own province and I can speak with authority that, in spite of the very large number of girls' schools started during the last 10 years in my province, the girls cannot find adequate accommodation in girls' schools and girls are being admitted into boys' schools at different district headquarters. That is a state of things which ought to have been taken into consideration. I would like to have a statement from the Government side as to what additional educational facilities Government would provide for girls. When the girls are not being allowed to be married at the age of 12 or 13 and have to be kept unmarried till 15, then there must be some work given to them during their unmarried stage, and what is the occupation that will keep them busy? They must be employed in some way or other, and I think educational facilities are the only definite suggestion which can be made and which would meet the difficulty in this case.

There is one other point that I want to mention. It has been suggested that unless and until the age rule is modified at once, we cannot survive as a nation. I would not go into that sweeping assertion at all, but there is one passage in the Age of Consent Committee's report, which I think ought not to go unchallenged. Sir, when the Committee was considering the question of maternal mortality owing to the immature age at which they have to give birth to children, at page 163, the Committee analyses the reasons and formulates the important and relevant conclusions, and their conclusion No. (3) is as follows:

"Economic conditions do not seem to have any relation to maternal mortality, but seem to have an inverse relationship to neo-natal mortality (i.e., of infants within the first 8 or 10 days)."

[Srijut Rama Prasad Mookerjee.]

I would enter my protest against such a statement finding a place in a report which is signed by persons of the eminence of those who were members of this Committee. To say that the number of deaths either of children in the neo-natal stage or deaths of mothers during the period of confinement is not due to economic conditions, to put it in the mildest form, is a travesty of the actual state of things. Sir, the economic condition of the country is certainly mainly responsible for the present state of things, because there is no use denying that the age of marriage was still lower than at present 50, 60 or 100 years ago. In spite of that fact, what was the mortality in the different parts of India? We have no detailed figures, but we have descriptions given in the different reports, official and non-official, and we find that the deaths of children in the neo-natal stage or deaths of mothers in the period of confinement have increased of late. If that be so, you cannot shut your eyes to the economic condition of the country. As was correctly stated by my Honourable friend Lala Ram Saran Das, the vitality of the people in the different parts of the country is going down mainly owing to economic conditions. (*An Honourable Member* : "That is not the only reasons.")

THE HONOURABLE RAI BAMADUR LALA RAM SARAN DAS: The Gauna system which used to take place four or five years after the marriage has now gone out of actual existence or practice.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: The Gauna system was not in existence in Bengal. It was in the United Provinces and the Punjab that the Gauna system was in vogue. Although there were different *samskaras*, the Gauna system was not enforced even 100 years ago, not to speak of 30 years ago.

THE HONOURABLE MR. G. A. NATESAN: But in Bengal you have consummation before puberty.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: If my Honourable friend would give me facts, I would certainly meet them, because it has not been said by the Age of Consent Committee that consummation before puberty is in vogue in Bengal but it is marriage before puberty, which is different. No body in his senses would support consummation before puberty. Nobody has up till now done so, whether it be by the oldest Shastri or by the most veteran of Pandits of the present day. That is the exception rather than the general rule. Sir, what are the facts that have been culled by the Age of Consent Committee from the hospitals and the maternity homes? Those are the sources to which one looks not for the normal state of things in society but for the abnormal state of things in society. I should have thought that my Honourable friend Mr. Natesan would have considered that point with reference to the figures that have been put forward by the Committee. He is a journalist of eminence and he ought to have read those figures much more carefully than I may be expected to do.

THE HONOURABLE MR. G. A. NATESAN: Facts and figures.

THE HONOURABLE SIR MANECKJI DADABHOY: May I correct the Honourable Member by reading a passage about Bengal from the Committee's Report?

"Witnesses may praise or condemn the system....."

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: What is the page?

THE HONOURABLE SIR MANECKJI DADABHOY: Page 67.

"...and may refer to the advantages or disadvantages accruing from it, but the fundamental fact is undeniable, nor it is questioned, that early consummation almost inevitably follows early marriage amongst both Hindus and Muslims in Bengal."

THE HONOURABLE MR. G. A. NATESAN: It is reiterated in several other places also; I would not waste the time of the Council with citing them.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: What was the evidence that was produced before the Committee? I stated in the very beginning that it has reference only to hospital registers and similar other places. What was the number of orthodox people or of the people in the innermost parts of the different places who placed the real facts before the Committee? No doubt a statement appears in the report that an attempt was made to get orthodox opinion, to get at the real state of things in the innermost parts of the provinces, but it was not enough for the Committee to visit the towns only in the different provinces and get at the state of things there. It is not from the towns themselves, but from the innermost villages of each of the provinces that you will get the real state of things, and I would challenge any Member of this House—and the evidence has not been published so far as Bengal is concerned—to find out and prove that in Bengal consummation is the rule before puberty is attained. I would like to have a reply from any Honourable Member. Is there any evidence within this report or outside it? I do not know if any Member of this House knows—no Member of this House happened to a member of the Age of Consent Committee. Therefore, Sir, I still maintain that the law ought not to be fixed with reference to the abnormal but keeping in view the general state of things in society. As I began by saying that I want a rule to be fixed, I want an age to be fixed, but at the same time, let us, as practical men, formulate such a law as would be possible for the executive or for the authority concerned to enforce it in every part of the country. I am sure it is not the intention, as I have already said, that it should be a dead letter. I was surprised to hear the other day from a very prominent Member of the other House that this Bill would have merely an educative value, it is not expected that this Bill, when it becomes law, would be given effect to, the penal measures will not be applied. I was surprised to hear that. Either you pass the Bill into an Act and take all the consequences arising out of the Act or you throw the Bill into the waste paper basket; and once you accept the position that you ought to have a Bill in a practical form, I think it would be up to this Council, this revising Chamber, to take into consideration the different clauses of the Bill and find out which of them requires amending—in what way we ought to give it a practical shape.

THE HONOURABLE MR. P. C. DESIKA CHARI: Sir, I am opposed to the principles of this Bill, though I am very much in agreement with the object with which the Bill has been brought. I am in favour of raising the age of marriage of girls and these Shastraic injunctions one way or the other do not appeal to me. As my friend, Mr. Ramadas Pantulu, has pointed out to-day, we claim to be Dharmagnas. And whatever is conducive to the best interests of the nation,

4 P.M.

[Mr. P. C. Desika Chari.]

to the best interests of the Hindus, we are entitled to incorporate in the rule of Dharma. That is my position. I may at the outset inform the Members of this Council that I hail from a province in which this Bill would have no operation at all! There is absolutely no infant mortality in Burma and there would hardly be any case to be dealt with under the Act if passed into law. I say this, not only with reference to the Burmans, the indigenous population there, but with reference to the various classes of Indians and others who have gone there. This very strongly appeals to me and I, would request Honourable Members from various other provinces to bear in mind that what was possible for the various classes who have recently gone to Burma to do by the healthy growth of public opinion can also possibly be done in other parts of India. If really those who cry themselves hoarse over social reform and protest to be zealous over social questions, if they would really agitate and do a little propaganda work in this country, things would soon right themselves. I am sorry to say that during the last 100 years no attempt has been made to educate the people in the various parts of the country, especially in the innermost corners of the country. But as Pandit Kanya Lal puts it in his minute of dissent to the Age of Consent Committee's report, no attempt has been made by the Government to give any sort of general education to the people of the country or to do socialistic propaganda work, to tell the villagers that in the interests of their progeny it is harmful to have early marriages and early consummation of marriages. If this propaganda work had been done, there would have been no need to rush through a Bill, to try to force down the unwilling throats of people who are ignorant, people who cannot appreciate the good offices of the reformers, a piece of penal legislation with a view to bring about the desired result. I am afraid that even if this Bill is passed into law, unless there is very great propaganda done in the different parts of the country, the law would either be a dead letter or it would be disobeyed on a very large scale. Because no body of persons are willing that what they regard as an ancient and inalienable custom, for which they have the highest regard, should be tampered with by other people who are not of them. Here there is an attempt to undertake legislation dealing with the religious sacraments of the Hindus and the personal law of the Muslims.

THE HONOURABLE SIR MANECKJI DADABHOY : No.

THE HONOURABLE MR. P. C. DESIKA CHARI : There is an attempt to interfere with the Shariats of the Muhammadans.

THE HONOURABLE SIR MANECKJI DADABHOY : No.

THE HONOURABLE MR. P. C. DESIKA CHARI : Rightly or wrongly, whatever may be the modern conception of marriage under the Muhammadan law, whether it is regarded as a pure contract or not, the fact remains that the Muhammadans regard the Shariats to be the only law applicable to the case of marriages among the Muhammadans. That being the case, my real difficulty, though I am very anxious to raise the marriageable age of girls, is this, that if you accept the principle you accept the large claim which is now put forward that a foreign Government having a different religion from yourselves, supported by a heterogeneous Legislature, would have the right to interfere with the delicate human relationship in domestic matters.

THE HONOURABLE MR. G. A. NATESAN : That is unfairly stated.

THE HONOURABLE SIR MANECKJI DADABHOY : The Bill has been brought by a Hindu Member.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Is it not the duty of the Government to look after the health and the physique of its subjects ?

THE HONOURABLE MR. P. C. DESIKA CHARI : I shall deal with that later. I am only concerned with the higher aspect of the outcome of the acceptance of the principles of the Bill. Sir, there are Muhammadan friends who will take care of the Muhammadan religion. So far as the Hindu religion is concerned, it cannot be gainsaid that the Hindu marriage is a religious sacrament. We know what are the essentials of Hindu marriage—it is purely and simply a religious sacrament. The Honourable Mr. Khaparde has already pointed out that marriages in India in the sense is different from the sense in which that word is understood in the countries of the West. It is a mere betrothal and is regarded as a sacrament, and that is enjoined by the Hindu religion to be done in a particular manner. The argument that the present Bill does not affect this religious sacrament has been very well answered by the Honourable Mr. Khaparde at very great length and it is not necessary for me to go into that again. Well, what then is the position ? When a claim is put forward to interfere with the religious sacraments—and a claim has been successfully advocated in the other House—is it not our duty to see that the claim is resisted with all our might ? Is it not necessary that we should stand up and say, “We know our own business. We know it is a religious sacrament and you have all along been acting on the principle that you would never violate a religious sacrament” ? This morning my friend, Mr. Ramadas Pantulu, referred to Lord Lansdowne's dictum with reference to the right of the Government to interfere in matters of religion. And he also referred to the Government of India Act and to the other provisions similar to it in the earlier Acts. My position is that there has been a claim put forward by our foreign rulers. They were by Acts of Parliament, and to the Acts of Parliament our representatives were not parties and were never consenting parties even after the passing of the Acts. Our position is that when the claim has been put forward it was not within our power to resist that claim in the British Parliament. For the first time in the history of British rule a religious sacrament is sought to be violated by penal legislation. (*Honourable Members* : “Question ?”) My friend the Honourable Mr. Ramadas Pantulu has been referring to a number of legislative measures which have been enacted on the principle that the Government can interfere with religion. But, on analysing them, they come to this. *Sati* has been referred to as a part of the religion, but it is not a part of religion, as the Honourable Mr. Khaparde has pointed out. It is a common, universal thing. It may take different forms, and *Sati*, though it was attempted to be abolished, was not abolished, as has been made out by my Honourable friend. But my point is that *Sati* was never part of religion. It is only a gloried martyrdom, an act which was held in very great reverence by our ancients. *Sati* was put down not by the British rulers, but by our national Government, the Muhammadan rulers who preceded the British. No doubt, that principle has been further carried forward by the Britisher, and after

[Mr. P. C. Desika Chari.]

all, the legislation undertaken for the purpose affects only social customs. As regards the various enactments which have been cited as instances to show religion has been interfered with, I submit that all these various Acts which have been mentioned have been made in furtherance of the liberty of conscience which I advocate here in opposition to this Bill. They were several permissive legislations. For instance, the Widow Remarriage Bill, etc. The object of those Bills was not to force any particular class of people who may have conscientious objection to a particular course to remain within the Hindu fold. The legislation was undertaken to further that liberty of conscience, which I now advocate and this Bill is certainly laying the axe at the root of liberty of conscience. The various enactments which have been referred to by the Honourable Mr. Ramadas Pantulu this morning are merely instances which support my argument that liberty of conscience ought not to be interfered with. He referred to various enactments which have affected the law of succession under Hindu law. I submit that the principle *Pindam datura Dhanam Hareth*—the estate follows the *pinda*—has never been recognised as a cardinal principle by any school of Hindu law, and succession to property has always been regarded as a purely secular institution, so that, interference with the line of succession or with the right to property can never be regarded as an interference with religion.

THE HONOURABLE SIR MANECKJI DADADBHOY : What about the law of adoption ?

THE HONOURABLE MR. P. C. DESIKA CHARI : No doubt adoption is regarded as a very desirable thing, but the principles of the law of adoption have never been questioned.

THE HONOURABLE SIR MANECKJI DADABHOY : Is it not a religious obligation to adopt ?

THE HONOURABLE MR. P. C. DESIKA CHARI : It is not a religious obligation. I may say for the information of the Honourable Sir Maneckji Dadabhoy that it is an institution which is regarded with favour by the community, and religion never objected to it.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : Are we going to have a dissertation on adoption now ?

THE HONOURABLE MR. P. C. DESIKA CHARI : My point is that though it has been claimed by various Acts of Parliament that the Legislatures have a right to interfere with religious customs and usages, this is the first instance of that claim being actually put into force, and when there is interference with a religious sacrament, it is our duty to see that our religious sacraments are not violated by the Legislatures.

The next question that I wish to deal with is about post-puberty marriage. Rightly or wrongly, a large section of the people—I will not say an important section of the people ; the Brahmins all over India form only 3 per cent. of the population—have been regarding pre-puberty marriage as a thing which they are bound to carry out. (*An Honourable Member* : “Shame.”) The educated Brahmins no doubt have been violating it, as pointed out by my Honourable friend Mr. Pantulu. I do not object to propaganda work being done to educate public opinion among these Brahmins to tell them that it is

high time that they gave up this system of pre-puberty marriage. But it is one thing to do propaganda work with these people. But to tell them, who have got a conscientious objection to celebrating post-puberty marriages, “You must do it ; if you do not take our advice, here is the law for you, and you will find yourself in prison” is a thing which I do not approve of to be addressed to people who have been observing these customs for centuries and centuries. If there is a conscientious clause leaving a loophole for them, so that they may be educated by the other 97 per cent. of the people, and by the educated members of their own community, they may be reconciled after all to the institution of post-puberty marriage. But to interfere with matters of conscience, with firm rooted religious faiths which have been in existence for centuries is rather a serious matter and I certainly object to legislation being brought in one fine morning to force this social reform down the throats of these people. I may tell you that there are thousands and thousands of villages all over India where the Brahmins have been living the old, old life, free to do their own *samskaras*, free to carry on their religious worship and to act in all matters according to their age-long customs which they think are according to the *Shastras*. Is it fair on the part of the reforming section to suddenly pounce upon them and tell them, “Look here, you have had liberty of conscience for thousands and thousands of years. We have got the support of the mighty British Government. No longer can you have peace in your own homes. We have got the necessary aid of the Government to force you to come down to our level, to accept our principles, to give up your ancient customs which are the work of centuries”? Sir, that is a position which I cannot tolerate. Intensive propaganda, moral persuasion and growth of healthy public opinion should precede any legislation of this kind. And as nothing has been done in these directions it is not opportune—even if you admit for the sake of argument that it is open to the Legislature—to enact a penal law with the object which this reform has in view. I quite agree with what my friend the Honourable Mr. Ramadas Pantulu said that this legislation if enacted would not lead to loose morals. I strongly protest against any statement that this legislation would have that demoralizing effect. I do not object to it on that ground. What I wish to point out is the grave unwisdom of forcing a change on the whole structure of society and undermining the foundations of Indian social life by penal legislation, relying upon doubtful medical opinions. It is not necessary for me to dispute the authorities brought forward one way or the other, medical or otherwise, as regards the existence of the evil and as regards the root causes of these evils. Let it suffice to say, as has been pointed out with the aid of statistics contained in the Census Report of 1921, that these corroding evils, as they are called, are not due to our ancient institutions. It may be due to other causes. But when you cannot be sure of your premises, when you cannot be sure of the remedies, when you cannot diagnose the disease, is it fair to enact a drastic measure of this kind ? (*An Honourable Member* : “Who told you that ?”) I do not want to take the time of the Council to show that the medical opinion in this matter is no good at all. But it is not necessary for me to refute the authority of medical men. All I say is that it is not conclusively proved that the present condition of society and the present high rate of infantile mortality, like the death of large number of girl mothers, have been due to these evils. (*An Honourable Member* : “Question ?”)

[Mr. P. C. Desika Chari.]

You may question it, but after perusing all the literature on the subject I do not find that it has been successfully made out that these conditions are to be attributed to the system of early marriage. As regards the opinion of westerners and others who have studied this question, there are various conflicting views. On the other hand various sociologists after studying Indian conditions have nothing but praise for the social institutions of India. That being the case it is not desirable that we should base any legislation on the views of these medical experts or on the views of outsiders who have come into the country and expressed conflicting views as to the causes of the present condition of Indian society.

Sir, I do not propose to take the time of the Council as I originally wanted to at this late hour, but I would appeal to you that the principles of this Bill are not acceptable to people who regard Hindu marriages as sacraments, and I for my part cannot reconcile myself to the view that a Hindu marriage is not a sacrament. I am opposed to the principle of a penal measure which concerns the delicate relations of human life. I am supported by millions of people who are members of this glorious heredity of civilization, whose social institutions have withstood the test of time and successfully withstood successive cycles of foreign invasions and conquests.

With these words I beg to oppose the motion.

THE HONOURABLE MR. G. A. NATESAN: I move that the question be now put.

THE HONOURABLE THE PRESIDENT: The question is that the question be now put.

The motion was adopted.

(The Honourable Mr. V. Ramadas Pantulu rose in his place.)

THE HONOURABLE THE PRESIDENT: The House having accepted the closure, the Honourable Member loses the right of reply.

The question is:

"That the Bill to restrain the solemnization of child marriages, as passed by the Legislative Assembly, be taken into consideration."

The Council divided:

AYES—28.

Ashraf-ud-Din Ahmed, The Honourable
Khan Bahadur Nawabzada Saiyid.
Asthana, The Honourable Mr. Narayan
Prasad.
Basu, The Honourable Rai Bahadur
Suresh Chandra.
Burdon, The Honourable Mr. F.
Charanjit Singh, The Honourable Sardar.
Clayton, The Honourable Mr. H. B.
Commander-in-Chief, His Excellency the
Dadabhoi, The Honourable Sir Maneckji.
Dutt, The Honourable Mr. P. C.
Fazl-i-Husain, The Honourable Khan
Bahadur Mian Sir.
Graham, The Honourable Mr. L.
Gwynne, The Honourable Mr. C. W.
Harnam Singh, The Honourable Raja Sir.
Harper, The Honourable Mr. K. B.
Latifi, The Honourable Mr. Alma.

Maqbul Husain, The Honourable Khan
Bahadur Sheikh.
Mookerjee, The Honourable Srijit Rama
Prasad.
Natesan, The Honourable Mr. G. A.
Ram Saran Das, The Honourable Rai
Bahadur Lala.
Ramadas Pantulu, The Honourable Mr. V.
Rama Rau, The Honourable Rao Sahib
Dr. U.
Ray Chaudhury, The Honourable Mr.
Kumar Sankar.
Ryan, The Honourable Mr. T.
Symons, The Honourable Major-General
Sir Henry.
Thompson, The Honourable Sir John.
Watson, The Honourable Sir Charles.
Weston, The Honourable Mr. D.
Woodhead, The Honourable Mr. J. A.

NOES—10.

Akbar Khan, The Honourable Major
Nawab Mahomed.

Akram Husain Bahadur, The Honour-
able Prince A. M. M.

Desika Chari, The Honourable Mr. P.
C.

Jaffer, The Honourable Sir Ebrahim
Haroon.

Khaparde, The Honourable Mr. G. S.

The motion was adopted.

Mehr Shah, The Honourable Nawab
Sahibzada Saiyad Mohamad.

Muhammad Hussain, The Honourable
Mian Ali Baksh.

Padshah Sahib Bahadur, The Honour-
able Saiyed Mohamed.

Suhrawardy, The Honourable Mr.
Mahmood.

Surput Sing, The Honourable Mr.

THE HONOURABLE THE PRESIDENT: The question is:

"That clause 2 do stand part of the Bill."

THE HONOURABLE MR. P. C. DESIKA CHARI: Sir, I move the amend-
ment which stands in my name and which runs as follows:

"That the following proviso be added to sub-clause (2) of clause 1 of the Bill, name'y:—

'Provided that nothing in this Act....'

THE HONOURABLE THE PRESIDENT: Order, order. I put clause 2 to the
Council. Clause 1 will come at the end. Clause 2; amendment No. 13 on the
paper.

THE HONOURABLE MR. P. C. DESIKA CHARI: I beg to move the
amendment which stands in my name and which is as follows:

"That in sub-clause (a) of clause 2 of the Bill for the word 'fourteen' the word
twelve' be substituted."

Sir, in moving the amendment, I have the support of the learned Pandit
Madan Mohan Malaviya who has defended his position very ably in his minute
attached to the report of the Select Committee. It is this. The Bill is objec-
tionable from the orthodox point of view. It is necessary to conciliate the
various sections who are opposed to the Bill and it is further necessary that we
should proceed with extreme caution; and, if the age is fixed at twelve, we would
achieve a very great thing, because if we obtain support from all sections of the
people to this age, we secure the support of those who are opposed to the very
principles of the Bill. In that case, the principle having been once accepted,
after the Bill has been in operation for some time—it may be possible to
educate public opinion in the meanwhile—the marriageable age may be raised
still further. If the Rubicon is once crossed, it is quite easy to go on raising
the age. That is one point.

The second point is, as I pointed out at the consideration stage, that it is
not desirable to have sudden changes in the systems of marriage which may not
be acceptable to all classes of people. With a view to make it acceptable to the
largest class of people, this amendment is proposed. There is a large section of
people, as I have already pointed out, who believe that if they are a party to a
post-puberty marriage of a girl, the gate to heaven will be closed. Rightly or
wrongly, they believe that. On the other hand, as my friend Mr. Rama Prasad
Mookerjee has pointed out, there are classes of people in the lowest strata who
have been accustomed, on economic or other grounds, to have the marriages
celebrated at a very early age. Their case has also to be taken into consideration.

[Mr. P. C. Desika Chari.]

It will be a real hardship to certain classes of people if you insist upon reform at one stretch and tell them that you must have post-puberty marriage; rather than that, it is desirable to deal with the evil effectively to a certain extent; and Honourable Members who have perused the proceedings of the Legislative Assembly cannot but be impressed by the fact that a large volume of opinion is in favour of conciliating the view of people who are opposed to the principles of this Bill by adopting this age of 12. We find in the Age of Consent Committee's Report that in most of the provinces (I believe except in Bengal) the general age of puberty ranges from 12 upwards. Such being the case, I think it is necessary in the interests of the reform, which is being advocated by this measure, to fix the age at 12 and slowly get along to higher ages when public opinion is sufficiently advanced.

With these words, I commend this amendment for the acceptance of the House.

THE HONOURABLE RAO SAHIB DR. U. RAMA RAU: Sir, I beg to oppose this amendment. If we accept this amendment, the very object of the Bill will be frustrated. I oppose this amendment mainly on the medical and national health point of view. In India the rate of infantile mortality is very high. For instance, in a city like Madras, where every year 20,000 children are born, not less than 6,000 children, or one-third, die before they attain the age of one year. This is all due to girl mothers bringing forth children at a very early age. Unless the age is fixed at 14, as usual marriage will take place at 10 or 11 and just after the marriage, owing to the frequent talk of marriage of girls at an early age, the sex mentality psychologically is stimulated, with the result that puberty is hastened; and the moment they attain the age, generally consummation is effected, and before they are 12 or 13 they become mothers; and when once they begin to bring forth children, it so happens that every year they go on bringing forth children. In that way before they are 15 or 16, the health of the mother breaks down and she is of no use for this work. So far as the children are concerned, through not having enough mother's milk and being artificially fed, their health suffers considerably and they contract all sorts of diseases, such as rickets and other deficiency diseases. Then, even if they live longer than one year, they easily fall a prey to epidemic diseases and die, due to want of vitality in their system. So far as these child mothers are concerned, the maternal mortality of India is 17.89 per thousand, whereas in Europe it is 2.35 to 6.64 per thousand. That shows the enormous difference between India and Europe. Then in India the maternal mortality at the age below 15 years is double that at the ages between 15 and 19. And that is another reason why the age of marriage should be fixed at 14. And the vitality of these infant mothers, when they bring forth children at such a young age, is sapped and they become an easy prey to consumption. Consumption is a disease which attacks any person whose vitality is at a low ebb, and if you take statistics into consideration, 50 per cent. are those who give birth to children at the early age of from 12 to 13. If you take the statistics which are given in this book, my statement is proved. And look at our manhood. Every day by day and year by year our health is going down and the average life of a man in India is the lowest in the world. The Honourable Mr. Khaparde belongs to the old type, but, as we know, the vitality of Indians is becoming lower day by day. That is due to the mothers.

Let us look at the provinces where infant mortality is not so very high. Take, for instance, the Punjab, where infant marriage is only 35.5 per cent., whereas in Bengal and Bombay it is 64 per cent. Compare the health of the Punjabis with that of the Bengalis. The Punjabis are certainly stronger, both men, women and children. That in itself shows that early marriage has a bad effect.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: The Punjabis' physique has deteriorated considerably in recent years.

THE HONOURABLE RAO SAHIB DR. U. RAMA RAU: Or take the province of Assam where child marriage is only 27 per cent. and the North-West Frontier Province where it is 19 per cent. The people there are very strong. That is another reason why the age of marriage should be fixed as high as 14. My own opinion is in favour of 16, but as a compromise I am willing to fix it at 14. If we want to improve the Indian nation physically, we must have healthy and strong mothers. Weak mothers cannot give birth to strong children. We are all fighting for Swaraj. When we get Swaraj, unless we have healthy and strong men, how shall we succeed in maintaining it? Certainly we will not have Swaraj long, unless we have strong and healthy men.

Further, Sir, this Bill is intended to protect child widows. Their troubles and miseries are known to every Member of this House. I do not want to waste the time of the House by recounting them, but the sooner we get rid of them the better. And the only remedy is to advance the age of marriage up to 14 or higher.

The opponents of the Bill have been quoting the Shastras or Puranas. What are the Shastras? They are made for the welfare of the community. If the people think the Shastras ought to be improved and require modification, there is no reason why this should not be done. Then again, do we really follow the Shastras? The Shastras lay down that you should marry your daughter at 8 years of age. Do you stick to that? Do you not marry your girls at any age from 8 to 13? If so, why not 14?

THE HONOURABLE MR. P. C. DESIKA CHARI: That will be done gradually.

THE HONOURABLE RAO SAHIB DR. U. RAMA RAU: I am not one of those who believe in doing it gradually. 14 is the earliest age from my point of view. After all, laws are intended for the welfare of the community, and should be judged in the light of common sense. And common sense tells us that we must fix an age as high as possible.

Then, Sir, as for the argument that the girl ought to marry before she begins to menstruate, opinion differs and Pandits differ. And there are hundreds of instances even now where the girls are married after they menstruate, of course secretly. Why not give them open opportunities to marry with a clean conscience? I know, Sir, a family where there are four girls. The first girl was married at the age of 12 and began to menstruate at 13. The second girl was married at 13, and did not menstruate till 14. The third girl was married at 14 and menstruated at 15. That shows that the mentality is stimulated by the idea of husband and marriage, and that brings on menstruation. If you fix the age at 14, because the girl knows that she cannot marry before then, that mental stimulation will not exist and she will continue up to 14 without menstruating.

[Rao Sahib Dr. U. Rama Rau.]

Then, Sir, there is another very shameful and degrading practice in Southern India—I do not know if there is the same practice in other parts of India—and that is the system of giving dowries during the time of marriage. I heard to-day from a Bengal Member that the dowry system is prevalent there too, whereas in my part of the country the dowry is given if a boy marries a particular girl. And that system is very degrading and degenerating. Before a girl is married to a boy either the boy or the boy's relation demands a big dowry depending on the social position of the boy or the University examination that he has passed. Very often, it is the practice in Madras that a boy who has passed the School Final will demand a dowry of a thousand rupees; a boy who has passed the Intermediate, Rs. 2,000; a boy who has obtained his B.A. degree, Rs. 3,000, and so on. And just imagine a poor man having a number of girls who is afraid to keep the girls long unmarried lest they should begin to menstruate, and if they do that, nobody will take them! So the man has to sell his property and undergoes untold miseries in order to get his girls married before they begin to menstruate. This is a very great hardship on poor people. Such being the case, this hardship would be put a stop to if this Bill is passed into law.

Again, Sir, the Honourable Mr. Khaparde doubts doctors and science. All that is answered in this book. If he goes through it carefully, all his questions will be answered. Though he does not believe in doctors and their doctrines, doctors have to be relied upon. They go by statistics available in all parts of India. As the Honourable Mr. Mookerjee has said, he has no regard for these statistics. But the only statistics available are the hospital statistics. The people who are there are very poor people who cannot take care of themselves. So, the statistics are given here. He also said that infantile mortality and maternity mortality are not due to age at all. I am one of those who think that they are mainly due to early marriage. If they give birth to children at a tender age, the effects are very dangerous. I know for instance.....

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: I did not say that it was not at all due to early marriage. That was only one of the reasons for the heavy mortality.

THE HONOURABLE RAO SAHIB DR. U. RAMA RAU: This book says that it is mainly due to that. Because, as soon as the girl is married there is every chance of a girl becoming pregnant, if she is married at an early age, whereas if she is married late, the chances of getting more children are less.

With these few observations I strongly oppose the amendment that has been moved.

THE HONOURABLE MR. SURPUT SING: Sir, I beg to support the amendment moved by my Honourable friend Mr. Chari. My object is to bring the age on a par with the age which was accepted by the framers of the original Age of Consent Act. Twelve is the universally accepted age in this country. That was the age also proposed by Rai Shaib Harbilas Sarda in his original Bill. We must not also forget that only a few months back twelve was the age for marriage in Great Britain where the age of puberty is admittedly higher than it is in this country and where marriage usually takes place at about eighteen and over. The main opposition to the Bill, Sir, will be greatly isarmed if this amendment is accepted by the House.

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 sub-clause (a) of clause 2 of the Bill for the word ‘fourteen’ the word ‘twelve’ be substituted.”

The question is that that amendment be made.

The motion was negatived.

THE HONOURABLE THE PRESIDENT: The question then is:

“That clause 2 do stand part of the Bill.”

The motion was adopted.

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 SRIJUT RAMA PRASAD MOOKERJEE: Sir, I beg to move the amendment which stands in my name:

“That in clause 3 of the Bill after the words ‘child marriage’ the words ‘knowing or having reason to believe that it is a child marriage’ be inserted.”

Clause 3 refers to punishment for a male adult below 21 years of age marrying a child. That is what the side note says. As is quite evident from the amendment that I propose, a person ought not to be punished for committing an offence which he does not know at the time when he commits it to be an offence. If the person knowingly commits the offence, or had reason to believe at the time when the offence was committed that the girl with whom he was being married was under 14, then he may be punished. Certainly it is not the intention of the framers of the Bill to punish persons who might after enquiry into the age of the girl have been satisfied that the girl was above 14. But when the case comes up before the court later on, under the subsequent clauses of the Bill, the court holds that although inquiry was made by the prospective husband before marriage, he was not correct in his assumption as to the age of the girl. In such cases, certainly the husband ought not to be put to the punishment mentioned here.

THE HONOURABLE MR. V. RAMADAS PANTULU: Sir, I am constrained to oppose this amendment. My friend will see that the section requires that the prosecution should prove that the offender contracts a child marriage. In order to prove that fact, the prosecution has got to prove that either party is a child. A child is defined as a person under 18 years of age if a male and under 14 years of age if a female. The prosecution has got affirmatively to prove that either of the parties was a child under the clause. Unless this is established by the prosecution positively and affirmatively, no offence is brought home to the accused. After this is done, my friend wants the prosecution to prove further that the person who contracted the marriage also knew or had reason to believe that it was a child marriage. That will be an impossible burden to sustain for the prosecution in a court of law. My friend as a lawyer knows that under the sections relating to onus of proof in the Evidence Act, the onus of proof is thrown on the person who has better means of knowledge

[Mr. V. Ramadas Pantulu.]

than any other person. The prosecution cannot be expected to know the age of the parties better than the man who contracts the marriage. Very often, so far as the Hindus are concerned, I know that horoscopes are consulted, the date of birth of the girl is ascertained, and there will hardly be a case of a girl or boy marrying each other without knowing the exact age or date of birth of each other. I suppose this takes place even among the Christians. They know the date of birth of the bride or the bridegroom. Therefore, as between the prosecution and the accused, the person who has better means of knowing the date of birth is the accused in this particular case, and he is generally expected to make inquiries and possess requisite knowledge or means for such knowledge. If the amendment is accepted, it will nullify the provisions of this Bill. Therefore, I am constrained to oppose the amendment.

THE HONOURABLE MR. G. S. KHAPARDE : I beg to support the amendment on the ground that the principle which my Honourable friend has enunciated, that the person who has better means of knowing should prove it, would be easily interpreted to mean that the guilty man knows whether he has committed the offence or not, and therefore, when a charge is brought against him he should prove his innocence or go to jail. If that is the understanding of the law, I object to it. The principle is not that the man who has got greater knowledge should prove, but the prosecution must in every case make out its case. After the prosecution makes out the case and a charge is framed, then the defence is called upon to plead and to give evidence. Therefore, I support the amendment which has been moved.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : Sir, I am in sympathy with the object of the amendment, but, Sir, as I have already explained, the amendment if carried will defeat the Bill. Therefore, I oppose it.

As regards the objection raised by my Honourable friend Mr. Ramadas Pantulu about the onus, my submission would be that accepting the onus by the accused, he ought to have been given an opportunity to show that he had a sufficient case of not knowing that the age was really below the prescribed age.

THE HONOURABLE MR. V. RAMADAS PANTULU : He can show that there was no child marriage.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE : Under the clause as drafted it is not open to him.

THE HONOURABLE MR. V. RAMADAS PANTULU : It is open to him to disprove the prosecution case.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : With
5 P. M. these words, Sir, I oppose the amendment.

THE HONOURABLE THE PRESIDENT : The original question was :

"That clause 3 do stand part of the Bill."

Since which an amendment has been moved :

"That after the words 'child marriage' the words 'knowing or having reason to believe that it is a child marriage' be inserted."

The question is that that amendment be made.

The motion was negatived.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE : My next amendment is with regard to the same clause. I move :

"That in clause 3 the words 'and below twenty-one' be omitted."

A differentiation has been made between a male between 18 and 21 in this clause and, in the next clause, males above 21 years of age. I do not want that any differentiation should be made between these two classes of persons. If this amendment with regard to clause 3 is carried, then the consequential amendment that clause 4 be omitted altogether would come in. The result will be that all persons who contract a child marriage shall be punished with fine which may extend to one thousand rupees. That is the purpose of this amendment.

THE HONOURABLE MR. V. RAMADAS PANTULU : Sir, the differentiation between the two classes of offenders has been based upon the fact that in the case of persons between 18 and 21 years they are generally or at any rate sometimes under the influence of guardians, and in some cases the minority is extended by Statute as, for instance, of those under the Court of Wards, etc. ; they have when over 21 a much greater freedom. Therefore, there is a real difference between them and persons still under tutelage—in their case the guardians take a much greater interest in their marriage than they do themselves ; whereas people above 21 are themselves directly concerned. That is the reason for the differentiation.

THE HONOURABLE MR. G. S. KHAPARDE : My friend Mr. Ramadas Pantulu has not given us the reason for a differentiation in punishment between an offender of 18 and an offender of 21. How is the man of 21 a greater offender than the man of 18 ? I do not see that there is any ground for difference between them and therefore the amendment should be carried.

THE HONOURABLE MR. V. RAMADAS PANTULU : Under certain Statutes minority extends to 21 also.

THE HONOURABLE THE PRESIDENT : The question is :

"That in clause 3 the words 'and below twenty-one' be omitted."

The motion was negatived.

THE HONOURABLE THE PRESIDENT : The question then is :

"That clause 3 do stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

THE HONOURABLE THE PRESIDENT : Clause 4. Does the Honourable Member wish to move the same amendment to this clause ?

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE : No, Sir, as the amendment to clause 3 was lost it is not necessary to move it.

THE HONOURABLE MR. SURPUT SING : Sir, with your permission I propose to take together the amendments to clauses 4, 5 and 6.

THE HONOURABLE THE PRESIDENT: I think perhaps the Honourable Member had better confine his remarks to clause 4 at present.

THE HONOURABLE MR. SURPUT SING: Then I move:

"That in clause 4 of the Bill for the words 'simple imprisonment which may extend to one month, or with fine which may extend to one thousand rupees, or with both' the words 'fine which may extend to one thousand rupees' be substituted."

My endeavour is to take the sting out of the Bill. Tender and delicate family relations should not be subjected in all conscience to such a penalty provision as imprisonment. In a poor country like India a fine is amply calculated to meet cases of infringement of the marriage law. In the lower Chamber it is evident that the intention was made clear that all infractions should be met by a fine only. With these remarks, Sir, I beg to submit my amendment for the acceptance of the House.

THE HONOURABLE MR. V. RAMADAS PANTULU: I have explained Sir, the difference between clauses 3 and 4. Clause 4 deals with a person who is above 21 years of age, when he may be expected to be responsible, and therefore a heavier punishment is provided in this case.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: Sir, in this Bill—I speak with regard to clause 4 though the same principle applies to some other clauses as well—the proposal to have imprisonment as a punishment for the offence is I think wrong on principle, at least in the initial stages of this reform. Sir, as said by the different speakers this morning, there is a large section of the public opposed to this legislation. It is either a penal legislation or a legislation for educating the public. If it be a penal legislation, then by all means retain imprisonment. But I submit that the framers of the Bill did not want this to be a penal legislation, at least in the beginning. After this Bill has become an Act and has been in force for some time, when all the people in the country know the provisions of the law and the purpose for which this Bill is enacted, then it will be a proper time for putting in the graver punishment of imprisonment. Until and unless education spreads in the country, it is not fair to impose such a punishment for the offence as is here laid down. At this late hour I do not want to go into the report of the Age of Consent Committee. But I am sure that Honourable Members have seen there that a definite opinion was expressed by a large section of the reformers even who appeared before the Committee that at least in the beginning it ought to be merely a fine and not imprisonment for the offence.

*THE HONOURABLE MR. NARAYAN PRASAD ASTHANA: Sir, I oppose the amendment because if a fine is simply to be imposed the people will habitually disobey the law. They will think that a fine is but one of the necessary expenses to be incurred in marriage. (*An Honourable Member*: "Up to a thousand rupees?") Yes, certainly. They already spend thousands of rupees on fire-works, thousands for processions, and they would readily pay a thousand for a fine also. It would be one of the normal expenses of a marriage celebration. We are legislating here for all time. Of course in

* Speech not corrected by the Honourable Member.

the preliminary stages the courts will themselves take a lenient view. But here we are legislating for all time, and therefore it is necessary that the punishment of imprisonment should remain.

THE HONOURABLE MR. G. S. KHAPARDE: The argument of my friend Mr. Asthana appears to be that people have no sense of *izzat* or any sense of decency at all, and that they will regard the fine as part of the expenses to be incurred. He thinks that the fact of conviction for the offence would not weigh with them at all. This mentality is not seen in my own province, nor do I possess it myself. I therefore submit that the amendment should be carried.

THE HONOURABLE THE PRESIDENT: The question is:

"That in clause 4 for the words 'simple imprisonment which may extend to one month, or with fine which extend to one thousand rupees, or with both' the words 'fine which may extend to one thousand rupees' be substituted."

The motion was negatived.

THE HONOURABLE THE PRESIDENT: The question is:

"That clause 5 do stand part of the Bill."

The motion was adopted.

Clause 4 was added to the Bill.

THE HONOURABLE THE PRESIDENT: The question is:

"That clause 5 do stand part of the Bill."

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: Sir, my amendment runs as follows:

"That in clause 5 for the words 'performs, conducts or directs,' the words 'actually officiates in that part of the ceremony which finally renders the marriage tie indissoluble in' be substituted."

This clause deals with persons who are not only responsible for the marriage but those who perform, conduct, or direct any child marriage, and they are liable to punishment. The wording which has been suggested by me in the amendment is the wording which appears in the report of the Age of Consent Committee itself. It was never the intention of the framers of the Bill to bring in all persons who may be directly or indirectly performing a child marriage. Is the poor barber who officiates to be brought within the four corners of this clause? At least in Bengal there is a certain portion of the marriage where not only the priest but the barber has to officiate in certain parts of the ceremonies.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: That is not the wording in the clause. Your amendment will make him liable, because you use the word "officiates".

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: There are other female members of the family who perform certain parts of the ceremony. In my amendment I have clearly stated, it is only in the final stage of the marriage ceremony that the person responsible should be brought within the purview of this clause, that is, the person who gives the bride away, the priest who utters the *mantra* and nobody else. Those are the two persons who are really responsible for the ceremony.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: And not the bridegroom?

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: The bridegroom comes in under another clause. This clause is not for the bridegroom, but for a person who is not either of the contracting parties—neither the bride nor the bridegroom. There is separate provision in the Bill for them. I suggest to Honourable Members who go by the report of the Age of Consent Committee that they ought to accept this very reasonable suggestion of the Committee which was not recommended by the Select Committee, which was appointed before the Age of Consent Committee submitted its report. The change made in the amendment is according to the suggestion of the Age of Consent Committee.

THE HONOURABLE MR. V. RAMADAS PANTULU: In opposing this amendment, I would just state two things. I would remind my Honourable friend that the Bill as framed by Mr. Sarda originally was much more drastic; he wanted to invalidate all child marriages. Then, the Select Committee altered it radically, and the idea is not to take such a drastic step but to cast the net as wide as possible so as to punish everybody responsible for child marriages. That is the new principle. That principle will be greatly abrogated by the amendment which my Honourable friend suggests. I would also remind this Honourable House that the jurisdiction in regard to this is vested in District Magistrates and Presidency Magistrates, who are very experienced magistrates, knowing the law and the customs of the country. Therefore, they know what is meant by “performing, conducting or directing” a marriage. I do not think any District Magistrate or Presidency Magistrate vested with jurisdiction under the Act will go to the length of punishing a barber or a musician or a person of that sort. The fear is absolutely unfounded. The idea is to get at the people who are really responsible and save others who cannot be responsible. The amendment is really mischievous, in the sense that it will have legal mischievous consequences, and therefore I beg to oppose this amendment very strongly.

THE HONOURABLE MR. G. S. KHAPARDE: I wish to support the amendment, on the ground that we have the words: “Whoever performs, conducts, or directs”. Supposing in the case of a marriage, a man goes to an astrologer and says, “I wish to give my daughter in marriage to such and such person, will you kindly tell me whether the marriage is auspicious,” and the astrologer tells him that it is auspicious, he would have to go to jail. (*The Honourable Mr. V. Ramadas Pantulu:* “No”.) Similarly, a man comes to me and says, “I have not got a house, will you kindly lend your house” and I lend my hall, I ought to go to jail. The priest, musicians and other people who help in the marriage will go to jail. I have seen harsh legislation, but this is a kind of legislation which I have never seen before.

THE HONOURABLE THE PRESIDENT: The question is:

“That in clause 5 for the words ‘performs, conducts or directs’ the words ‘actually officiates in that part of the ceremony which finally renders the marriage tie indissoluble in’ be substituted.”

The motion was negatived.

THE HONOURABLE THE PRESIDENT: Does the Honourable Member wish to move the next amendment (No. 18 A on the paper)?

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: The next is the same as the previous one just rejected, and I will not move it.

THE HONOURABLE THE PRESIDENT: Clause 5; amendment No. 19. The Honourable Mr. Surput Sing.

THE HONOURABLE MR. SURPUT SING: I beg to move:

“That in clause 5 of the Bill for the words ‘simple imprisonment which may extend to one month, or with fine which may extend to one thousand rupees, or with both,’ the words ‘fine which may extend to one thousand rupees’ be substituted.”

My intention is to impose a fine only instead of imprisonment. India is a very poor country and if a fine is imposed that will be sufficient to meet the purposes of law. As my friend the Honourable Mr. Asthana has said, there are many people who can spend thousands of rupees on fireworks. I beg to submit that India is considered to be one of the poorest countries and there are very few people who can afford to pay Rs. 1,000 as fine. I request the House to consider this matter and accept the amendment.

THE HONOURABLE THE PRESIDENT: The question is:

“That in clause 5 of the Bill for the words ‘simple imprisonment which may extend to one month, or with fine which may extend to one thousand rupees, or with both,’ the words ‘fine which may extend to one thousand rupees’ be substituted.”

The motion was negatived.

THE HONOURABLE THE PRESIDENT: The question then is:

“That clause 5 do stand part of the Bill.”

The motion was adopted.

Clause 5 was added to the Bill.

THE HONOURABLE THE PRESIDENT: The question is:

“That clause 6 do stand part of the Bill.”

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: Sir, I beg to move:

“That in sub-clause (1) of clause 6, the words ‘or negligently fails to prevent it from being solemnised’ be omitted.”

Sir, clause 6 refers to the punishment of a parent or guardian concerned in a child marriage. The first part of the first paragraph of the clause is all right. But the second part of the first paragraph (I will read the first few lines too) runs as follows:

“6. (1) Where a minor contracts a child marriage, any person having charge of the minor, whether as parent or guardian or in any other capacity, lawful or unlawful, who does any act to promote the marriage or permits it to be solemnised”

here comes the pertinent clause—

“or negligently fails to prevent it from being solemnised, shall be punishable with simple imprisonment which may extend to one month, or with fine which may extend to one thousand rupees, or with both.”

My objection to that part of the clause is this; that if a boy goes away from the father and marries an infant as defined under clause 2, then he would be made able because here again the onus is on him to show that he ought to have

[Srijut Rama Prasad Mookerjee.]

exercised proper control over the son and not allowed him to marry a child. That is not fair. Where a son is living under the care of the father or the father is instrumental in giving a boy in marriage, certainly punish him. But where the father is not responsible for the marriage but the son is responsible for the marriage himself, I wonder how the father can be brought in. Sir, here it is even possible that it may be in the case of a girl even, when our society is progressing or rather retrogressing towards western methods, there might be instances where a girl even might leave the protection of the father and go and marry. Then, would the magistrate come down on the father and say that he was responsible for the minor daughter and therefore should be punished for the minor girl having herself been married to another person?

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: Is there no significance in the word "negligently"?

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: Sir, the previous part of the clause is sufficient to include these things, because the words "who does any act to promote the marriage or permit it to be solemnised" refer to the active participation of the parent.

THE HONOURABLE MR. G. A. NATESAN: But there is an explanatory clause which makes it clear.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: Yes, the second part of the clause creates all the difficulty. That does not go as far as I propose; on the other hand the second part runs as follows:

"(2) For the purposes of this section, it shall be presumed, unless and until the contrary is proved, that, where a minor has contracted a child marriage, the person having charge of such minor has negligently failed to prevent the marriage from being solemnised."

THE HONOURABLE MR. G. A. NATESAN: What more guarantee do you want than that?

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: But if the negligence is there presumed, then the onus is on the poor parent that, if the child goes away from the protection of the father, then he is to be made responsible for that. No doubt, in our Hindu society the sons have so long been quite different from the sons in western countries. The influence of the father in the family is felt much more in Hindu families than in western families but, as I have stated at another time, owing to various circumstances, that influence is now diminishing and it is not a very rare thing for a son to go away from the protection of the father and marry without the permission of the father. Sir I think it only fair that in such cases the onus should be put not on the father but on the prosecution. And the first two parts of the clause are sufficient and would be a deterrent for these cases.

THE HONOURABLE MR. G. S. KHAPARDE: Sir, I have submitted an amendment that clause 6 of the Bill be omitted.

THE HONOURABLE THE PRESIDENT: The Honourable Member is not entitled to move an amendment in those terms "that the clause be omitted," that being a negative motion.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: Sir, in this case I oppose this amendment on the merits, because the word "negligently" is a sufficient protection against the guardian. The guardian under the Guardians and Wards Act has control over the minor and if he does not exercise that control he certainly ought to be made responsible provided there is no negligence on his part. As regards my learned friend's observations with regard to the presumption, my submission is that under section 106 of the Evidence Act, the onus in such cases under the general law is generally thrown on the person who has special knowledge.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: What is the special knowledge?

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: Because he is in control of the minor.

THE HONOURABLE THE PRESIDENT: The question is:

"That in sub-clause (1) of clause 6 the words 'or negligently fails to prevent it from being solemnised' be omitted."

The motion was negatived.

THE HONOURABLE MR. SURPUT SING: Sir, in moving my amendment to clause 6:

"That in sub-clause (1) of clause 6 of the Bill for the words 'simple imprisonment which may extend to one month, or with fine which may extend to one thousand rupees, or with both' the words 'fine which may extend to one thousand rupees' be substituted"

I beg to submit that instead of imprisonment a fine will be quite sufficient for the purpose of the Bill and so the amendment may be considered by the House and accepted.

The motion was negatived.

THE HONOURABLE MR. SURPUT SING: I withdraw my next amendment, Sir, by which I ask that the proviso to sub-clause (1) of the clause be omitted.

THE HONOURABLE THE PRESIDENT: The question then is:

"That clause 6 do stand part of the Bill."

THE HONOURABLE MR. G. S. KHAPARDE: Sir, I sent in an amendment that this clause be deleted; that is to say, I oppose its being passed. My reason, Sir, is, first, that it contravenes the first principles of criminal jurisprudence to place the burden of proof on the accused. Next, the earlier part of it is what is difficult to understand and not quite clear, and therefore it is much better that a requisition of this kind might be omitted than passed in this form.

THE HONOURABLE THE PRESIDENT: The question is:

"That clause 6 do stand part of the Bill."

The motion was adopted.

Clause 6 was added to the Bill

Clauses 7 and 8 were added to the Bill.

THE HONOURABLE THE PRESIDENT: I think that might be a convenient stage at which to adjourn the Council. I think there is very little likelihood, unless we sit till very late, of finishing the Bill this afternoon. I do not know whether the House would like to follow this morning's precedent and meet at a slightly earlier hour than usual to-morrow so as to ensure the business being finished at all events before the adjournment for Lunch.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: Is it not possible to meet even earlier than to-day? If we meet at 8-30 A.M., then it is possible to finish the whole thing by 12, so that we may go back to our places then.

THE HONOURABLE MR. G. A. NATESAN: There is another alternative, Sir. If the House by a majority think they can sit another half an hour or three-quarters of an hour and finish the Bill to-day, it can be done.

THE HONOURABLE RAJ BAHADUR LALA RAM SARAN DAS: I also support the Honourable Mr. Natesan that the Bill may be gone through to-day.

THE HONOURABLE THE PRESIDENT: If the House is really anxious to sit now, I am quite prepared.

THE HONOURABLE MR. G. S. KHAPARDE: You have been sitting from the morning.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN: This is a matter in which I should very much like to have the opinion of those who are opposed to the Bill, because we must consult their convenience.

THE HONOURABLE MR. P. C. DESIKA CHARI: Let us have it to-morrow. We have been here from this morning.

THE HONOURABLE MR. SURPUT SING: I think the House may be adjourned till to-morrow 9 o'clock in the morning.

THE HONOURABLE MR. G. S. KHAPARDE: Till 10 A.M.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN: In view of what has been said by the Honourable Members, Government would not insist on the House sitting further to-day, because all the Members who are opposed to the measure desire that it should not be continued to-day. As for to-morrow, there seems to be consensus of opinion that we should sit earlier than 11 o'clock. Most of the Members have suggested 10 o'clock and a few a much earlier hour. But I think on the whole there is agreement on 10 o'clock.

THE HONOURABLE MR. V. RAMADAS PANTULU: I agree to 10 o'clock. That will suit us on this side.

The Council then adjourned till Ten of the Clock on Saturday, the 28th September, 1929.

COUNCIL OF STATE.

Saturday, 28th September, 1929.

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

CHILD MARRIAGE RESTRAINT BILL—*contd.*

THE HONOURABLE THE PRESIDENT: Clause 9 of the Bill to restrain the solemnization of child marriages, as passed by the Legislative Assembly.

The Honourable Srijut Rama Prasad Mookerjee.

(The Honourable Member was not present.)

Clauses 9, 10 and 11 were added to the Bill.

THE HONOURABLE THE PRESIDENT: There is an amendment, No. 29, on the list, to add a clause to the Bill which is almost exactly similar to amendments tabled to clause 1. We return to clause 1.

Clause 1. The Honourable Saiyid Mohamed Padshah Sahib Bahadur.

THE HONOURABLE SAIYID MOHAMED PADSHAH SAHIB BAHADUR (Madras : Muhammadan): Sir, I move that the amendment standing in my name be accepted, namely :

"That in sub-clause (1) of clause 1, for the figures '1928' the figures '1929' be substituted."

Sir, the amendment I propose is merely a verbal one. It is made for the purpose of correcting an obvious and glaring mistake which has occurred in the Title of the Bill. We are now in the year of grace 1929. It is only recently, in the present legislative Session at Simla, that this Bill has been passed by the Legislative Assembly and it is expected that the Bill will be passed to-day in our Council also. So that within this year the whole thing will be over. It will therefore be a misnomer to call this an Act of 1928. On these grounds, Sir, I move that the amendment be accepted.

THE HONOURABLE MR. L. GRAHAM (Secretary, Legislative Department): Sir, I am tempted to deal with the Honourable Member's amendment in one sentence by saying what's in a name. This is merely, Sir, the Short Title of the Bill, and though we must admit that in another place there was this small omission, that is to say, although when the Select Committee reported on the Bill they very properly inserted the date 1928, expecting that the Bill would be passed in that year, when the time came for making the final motion on the Bill it was not observed by the Honourable Member in charge and consequently that small amendment was not made. But, as I have said, whether that amendment is made or not, the effect of the operation of the Act is entirely unaffected. If the Honourable Member is very gravely concerned for the purity

[Mr. L. Graham.]

of our Statute-book I may reassure him by telling him that I shall probably bring forward next Session a general Repealing and Amending Bill,—in which this small provision might be included. But, Sir, there is absolutely no occasion for this House at this stage to make an amendment in this Bill and thereby delay the passing of the Bill.

THE HONOURABLE MR. P. C. DESIKA CHARI (Burma: General): Sir, I have carefully listened to the explanation given by the Honourable the Law Secretary, but I find that the reasons given in his speech practically support the amendment proposed. If it is a misnomer to call this an Act of 1928, and if it is desirable to have it amended, why should we go to the length of introducing an amending Bill for the purpose.

THE HONOURABLE MR. L. GRAHAM: May I point out, Sir, that it is not a case of introducing an amending Bill for this purpose, but this small error will be included in a general Repealing and Amending Bill.

THE HONOURABLE MR. P. C. DESIKA CHARI: My point is that this Act, even if this Bill is passed in its present form, is not to be put into operation till April 1930. In that case there will be no harm done by the amendment being accepted, even though it may be necessary for this amendment to go to the other House for its acceptance. I therefore support the amendment that has been moved by my friend Mr. Padshah Sahib Bahadur.

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces: Nominated Non-Official): Sir, the object of this amendment to my mind is quite clear. This game of fault-finding is only done with the object of delaying and postponing the passing of this measure to-day. My Honourable friend Mr. Graham has very carefully explained that this is not going to affect the Bill so far as the operative part of it is concerned. The Bill will come into force on the 1st of April 1930, and whether the year in the Short Title remains 1928 or is made 1929, that does not really affect the merits of the case. Under these circumstances, I think it is not necessary to make this amendment as it would involve remitting the Bill to the Legislative Assembly which will not be able to take it up till the next winter Session, with the result that there will be great delay in the passing of this most useful measure.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE (West Bengal: Non-Muhammadan): Sir, the Honourable Mr. Graham has not been able to find out any other Bill passed into an Act by the Indian Legislature or by any other Legislature in the world....

THE HONOURABLE MR. L. GRAHAM: May I contradict that statement, Sir.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: He has not mentioned any Act where this kind of error has been allowed to remain. It is clear that the error is there, not intentionally but owing to an omission either of the Select Committee or of the Legislative Department of the Government of India.

THE HONOURABLE MR. L. GRAHAM: Neither.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: The Government supports the Bill. I take it they take the responsibility for the drafting of the clauses as well. Merely because, by making this very necessary correction, we delay the passing of the Bill by two or two and a half months, that is no justification for perpetrating or allowing this mistake to remain on the Statute-book. Although we have this Bill in the year 1929, we call it an Act of 1928. During the last Simla Session there was the Hindu Inheritance Bill; there also such a mistake had been made in the beginning, but subsequently that error was corrected on it being pointed out, and Government at once accepted it. What stands in the way of correcting a mistake patent on the face of it? I would also point out, Sir, that the Bill as drafted is to take effect from April 1930. If Government or the sponsors of the Bill think that five months is sufficient time to the country at large, I think Government may take steps to educate public opinion during the next two months and have the Bill passed in February next. There will be no harm in delaying the measure by another two months.

THE HONOURABLE THE PRESIDENT: The original question was:

"That clause 1 do stand part of the Bill."

Since which an amendment has been moved:

"That in sub-clause (1) of clause 1, for the figures '1928' the figures '1929' be substituted."

The question is that that amendment be made.

The Council divided:

AYES—8.

Akbar Khan, The Honourable Major Nawab Mahomed.
Desika Chari, The Honourable Mr. P. C.
Khaparde, The Honourable Mr. G. S.
Mookerjee, The Honourable Srijut Rama Prasad.

Muhammad Hussain, The Honourable Mian Ali Baksh.
Padshah Sahib Bahadur, The Honourable Saiyid Mohamed.
Suhrawardy, The Honourable Mr. Mahmood.
Surput Singh, The Honourable Mr.

NOES—21.

Ashraf-ud-Din Ahmed, The Honourable Khan Bahadur Nawabzada Saiyid.
Basu, The Honourable Rai Bahadur Suresh Chandra.
Charanjit Singh, The Honourable Sardar.
Clayton, The Honourable Mr. H. B. Commander-in-Chief, His Excellency the.
Dadabhoy, The Honourable Sir Maneckji.
Dutt, The Honourable Mr. P. C.
Fazl-i-Husain, The Honourable Khan Bahadur Mian Sir.
Graham, The Honourable Mr. L.
Gwynne, The Honourable Mr. C. W.
The motion was negatived.

Latifi, The Honourable Mr. Alma.
Maqbul Husain, The Honourable Khan Bahadur Sheikh.
Natesan, The Honourable Mr. G. A.
Ramadas Pantulu, The Honourable Mr. V.
Ray Chaudhury, the Honourable Mr. Kumar Sankar.
Ryan, The Honourable Mr. T.
Symons, The Honourable Major-General Sir Henry.
Thompson, The Honourable Sir John.
Wacha, The Honourable Sir Dinshaw.
Weston, The Honourable Mr. D.
Woodhead, The Honourable Mr. J. A.

THE HONOURABLE MR. P. C. DESIKA CHARI : Sir, I beg to move the amendment which stands in my name and which runs as follows :

"That the following proviso be added to sub-clause (2) of clause 1 of the Bill, namely :

'Provided that nothing in this Act shall apply to Brahmins who obtain a certificate from the principal Civil Court of original jurisdiction where they reside that they are entitled to claim exemption on the ground of conscientious objection'."

Sir, in this connection I would refer the House to Appendix XI of the Age of Consent Committee's Report, on which the sponsors of the Bill are prepared to swear. They regard the Age of Consent Committee's Report as the Bible. Sir, if you peruse Appendix XI, which deals with statistics relating to the Vaidic family of the orthodox Brahmin, on an analysis you will find that this community, which has been living according to the old Hindu ideals and observing all the Dharma Shastras and living a very orthodox life, is absolutely free from the evils which are made the strongest basis for bringing forward this measure.

THE HONOURABLE MR. G. A. NATESAN (Madras: Nominated Non-Official): Where have you the authority for this statement?

THE HONOURABLE MR. P. C. DESIKA CHARI : Appendix XI of the Age of Consent Committee's Report. From that it is clear that simply because this evil exists in other societies, it is not desirable to bring in this penal measure to embrace a class of people who do not deserve it.

Sir, I have already dealt with the objection to the Bill on the ground that it very greatly violates the principle of liberty of conscience which the Brahmins have been enjoying for centuries and centuries. Sir, they form only 3 per cent. of the population, and I am glad that in this Council there are representatives of Brahmins who hold very forward views on social reforms; and I may state for the information of this House that practically the whole of the English educated community is in favour of social reforms. That being the case, naturally one portion of the community would act and react on the other portion, and I think in the course of time the English educated community should be in a position to influence very largely the views of the orthodox section. But till that happens it is desirable that the Brahmins who form only a small percentage should be left in full enjoyment of this liberty of conscience which they have enjoyed for thousands of years. This I bring in as a sort of exemption which would apply only to those people who claim it. I have put in some restriction on this absolute liberty of conscience by insisting upon people, who want to claim exemption, going to the court of civil jurisdiction and showing that they are Brahmins and entitled to exemption on the ground of this objection. The object of it is to place prominently before the members of the community who want to take this objection that they should bear in mind that what they do is not in consonance with the practice which is regarded as proper by the rest of the population. It is with the object of bringing to their notice constantly that it is high time that they should give up this orthodox principle and it is not to put in any unnecessary restriction. Also my object is to prevent other classes who may not deserve this special treatment from claiming it on the ground that they are Brahmins. To provide a safeguard, I have stated that

these people who claim exemption should obtain a certificate from the principal court of civil jurisdiction. After all, it may be said that it is a very easy matter for the Brahmin to go to the court of civil jurisdiction and support his claim with an affidavit, and there will be no difficulty. But I do not want to place very great difficulties in the way of these people claiming the exemption. Sir, I submit that, with a view to allow a process of evolution in social reform, I think we ought to take this serious objection of the orthodox community into consideration.

Sir, I commend this amendment to the acceptance of the House.

THE HONOURABLE THE PRESIDENT : Amendment moved!

"That the following proviso be added to sub-clause (2) of clause 1 of the Bill, namely :—

'Provided that nothing in this Act shall apply to Brahmins who obtain a certificate from the principal Civil Court of original jurisdiction where they reside that they are entitled to claim exemption on the ground of conscientious objection,'"

There are two somewhat similar amendments later in the list, No. 9 in the name of the Honourable Mr. Khaparde which would apply the exemption to Brahmins also, and No. 11 in the name of the Honourable Mr. Surput Sing, to make the exemption general. I would suggest to those two Honourable Members that, if they wish to press their amendments, they should do so in the form of amendments to the amendment moved by the Honourable Mr. Chari. The Honourable Mr. Khaparde would amend Mr. Chari's amendment by introducing the words "or Muhammadans" after the word "Brahmins". The Honourable Mr. Surput Sing, if he wishes to move, can move his amendment by substituting for the word "Brahmins" the word "persons".

THE HONOURABLE MR. SURPUT SING (Bihar and Orissa: Non-Muhammadan): Sir, I do not want to make an amendment of a special nature. My amendment is of a general nature, and I hope that the Honourable Mr. Chari and the Honourable Mr. Khaparde will agree to the general features of the Bill.

THE HONOURABLE MR. P. C. DESIKA CHARI : I have no objection.

THE HONOURABLE THE PRESIDENT : Does the Honourable Member move his amendment that the word "persons" be substituted for the word "Brahmins"? Is that his intention?

THE HONOURABLE MR. SURPUT SING : I do not want to put that special clause in my amendment. It should be for all in general.

THE HONOURABLE THE PRESIDENT : Amendment moved to the amendment moved by the Honourable Mr. Chari:

"That for the word 'Brahmins' the word 'persons' be substituted."

THE HONOURABLE MR. G. S. KHAPARDE (Berar Representative): There is one clause in which Mr. Chari wishes a person to go and apply, whereas my amendment merely is that we claim exemption. That is the difference. If my Honourable friend will omit that reference to the civil court and getting a certificate, then it will come into conformity with my amendment.

THE HONOURABLE THE PRESIDENT : We have got to take the Honourable Mr. Khaparde's amendment separately.

THE HONOURABLE MR. G. S. KHAPARDE: The amendment which I wish to move reads as follows :

"That to clause 1 of the Bill the following sub-clause be added, namely :

'(4) It shall not apply to any person who, being a Brahmin or Muhammadan, claims exemption therefrom on the ground of conscientious objection'."

This amendment of mine is very simple and I believe would be acceptable to this Honourable Council, (*An Honourable Member* : "No".) for this reason that I do not claim to put any responsibility upon anybody. The Brahmins are a small minority and the Muhammadans are in larger numbers. Still on a matter of this kind involving conscience, anybody who does not believe in this particular legislation should have the opportunity of saying that he is a conscientious objector. In English law, even in the matter of vaccination and other things, conscientious objection has been permitted. Here also in certain matters conscientious objection should prevail, and there is no reason why in a law designed to change a practice centuries old conscientious objection should not be permitted. In my opinion, to permit this conscientious objection will advantage and forward the cause of reform by not raising resentment in the minds of the people who do not believe in it. Those who do not believe in it will be able to say : "Oh I do not believe in it," and they will be exempted. There will be no cause for bitterness left behind. Things which have grown up for centuries cannot be destroyed in one minute or by one piece of legislation. So I myself think that my conscience clause is advantageous to the cause which my reforming friends have at heart. Therefore, I place my amendment before this Honourable Council and I hope that it will be accepted.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY (East Bengal : Non-Muhammadan) : Sir, I rise to oppose the motion not through any want of deference to the feelings and sentiments of my friends, but on constitutional grounds. Yesterday, we had a long and interesting dissertation on the constitutional aspect of the Bill from my Honourable friend, Mr. Khaparde. It was not only an interesting but a unique discussion. For what were the points enunciated by him ? They were : First, we have come here on mere political tickets and should not therefore interfere in social and religious matters. If that were so, we ought, I think, to confine ourselves to merely political matters. Then he stated that the Legislature should not interfere in social matters. That would, I submit, make social legislation impossible. Then he laid down that the Hindus, Muhammadans and Christians should not interfere with the personal laws of one another. My friend Mr. Khaparde had extolled the benefits to be derived from the existence side by side in India of the various communities with their ancient traditions and cultures, and I fail to understand why we should not take the benefit of their existence and help in respect of social as well as other legislation. Now, he has come to the latest principle of constitutional law, and I hope it is the last creation of the fecundity of his intellect at this age. He said yesterday that the Government should be neutral and referred to the Royal proclamations. But I think the undertaking that the late Queen Victoria and her successors gave to the people of India was not so much to remain neutral, but to be impartial to all classes of their subjects without any distinction (Hear, hear) and if assent is to be given by His Majesty to the present amendment, that I submit would amount to a violation on his

part of the very essential condition upon which the allegiance of the people to him is based.

I come now to the merits of the amendment. Conscience, Sir, to my mind is a very elastic and ambiguous thing.

It is also nobody's monopoly, and, if it requires some protection, I do not understand why such protection should not be afforded to the conscience of all people without any distinction of caste or creed. (*An Honourable Member* : "No objection.") Is it because other communities have no conscience to protect or does the conscience of the Hindus and Mussalmans, who are the inheritors of two very old civilisations, require special protection on the ground of their being very old like that of my friend Mr. Khaparde ? (Laughter.) Coming again to the principle of the conscientious objection, I think we have not sufficiently understood the principle upon which protection has been afforded in some cases. I think such a principle ought to be restricted to cases of mandatory provisions of law, as where you require a man to do a particular thing, and not to cases like the present of a restrictive legislation.

***THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE:** Sir, I have a somewhat similar amendment on the paper. If I have your permission, I would move that as an amendment to the amendment that has been moved by the Honourable Mr. Chari.

(**THE HONOURABLE THE PRESIDENT** assented.)

Sir, my amendment would be that in place of the sub-clause that is proposed to be added by the Honourable Mr. Chari, the sub-clause will stand as it appears in Amendment No. 29 on the agenda :

"Notwithstanding the provisions of this Act the marriage of a girl who is not below twelve years of age shall be valid if, before the solemnization of the marriage, any one of the contracting parties or their parents or guardians have obtained the sanction of the principal court of civil jurisdiction ;

Provided that the principal court of civil jurisdiction shall grant such sanction only if the court is satisfied that the interests of either or both of the contracting parties to the marriage or their future welfare, happiness, or safety require it."

Sir, I do not agree.....

THE HONOURABLE MR. P. C. DESIKA CHARI: I have got a similar amendment to this on the paper. This may be taken up with that.

THE HONOURABLE THE PRESIDENT: If the Honourable Mr. Mookerjee is intending to move his amendment as an amendment to the amendment of the Honourable Mr. P. C. Desika Chari, Amendment No. 12 is more similar to the Honourable Member's amendment than Amendment No. 5, which is the one which we are at present dealing with.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: If you will permit me to move it on that occasion, then I shall speak a few words now on the proposal before the House. I do not think that the exemption clause should be as broad as it is now attempted to be put by the Honourable Mr. Chari. Here, it is by conscientious objection that a person who is a Brahmin can get out of the Act. Although a Brahmin I do not want to come in under such an

* Speech not corrected by the Honourable Member.

[Srijut Rama Prasad Mookerjee.]

exemption clause. Sir, I want that a proper safeguard should be made for exemptions being allowed under the Bill, but not in the very vague and broad terms moved by the Honourable Mr. Chari. As has already been explained by my Honourable friend to my right, it will be very difficult to prove whether a person has got any conscientious objection or not. The mere statement of fact that he has got a conscientious objection would be sufficient, because it is not a matter which can be proved in a court of law. Then, again, it is not only with regard to Brahmins but with regard to other communities or other sub-classes of other communities as well that this question may be raised. Therefore it is not very safe to attempt to introduce such invidious distinctions among different classes in a general Bill of this character.

THE HONOURABLE MR. V. RAMADAS PANTULU (Madras : Non-Muhamadan) : Sir, in opposing all the amendments moved, I wish to say a very few words. First of all, Sir, speaking as a Brahmin myself, I should be sorry if any Brahmin supported the amendments. Brahmins, Sir, have claimed at all times to be the advanced wing of the population and the natural leaders. Whether that claim is justified or not, still they have not given up that claim. Therefore, if they want to set the example to other people, and if they want to retain the position of natural leaders of the less advanced sections of the population, they ought to set a better example. So far as Madras is concerned, Sir, where the Brahmins form 3 per cent. of the population, the evil of child marriage, as I said yesterday, extends to 25 per cent. of girls between the ages of 10 and 15. I am in a position to say that the spread of the evil is due to the imitation of the Brahmin who is supposed to be superior. Therefore, if the Brahmin is to set an example to the other people whose laws and customs do not prohibit post-puberty marriage, it is high time that we make the Brahmins give up that custom which is a bad example to other people. On that ground I very strongly oppose any amendment relating to the Brahmin who ought to lead and not to mislead the nation.

There is only one thing more to say with regard to the amendments. If these amendments are accepted, the law, which is a new law, providing a new penal provision, will be very uncertain, and nobody will know how to administer it. I wish the Honourable Sir James Crerar, who gave very good reasons for opposing a similar amendment in the other House, had spoken. I will make up for the defect by quoting a passage from his speech instead of stating the objections myself. Sir, in speaking on a similar amendment, the Honourable Sir James Crerar said :

"I submit that it is extremely important in the case of any law, more particularly in the case of any penal law, and more particularly still in the case of a penal law newly enacted in a sphere which has hitherto not been the subject of penal law, that that law should be clear, that its application should be precise and the principles on which it is administered should be uniform. Now, what does this amendment propose to do? It proposes to place in the hands of hundreds of District Judges throughout India the substantial decision in each case as to what the law means, what is principle behind it, and in what manner it ought to be applied and administered. I say, Sir, that it is an essentially vicious feature of the amendment. It makes the law uncertain, it deprives it of uniformity and it delegates in point of fact to an individual judicial officer what is the duty of the Legislature, namely, to lay down the principle of the Bill. What then would happen? It might very well happen that, in cases of a similar character, you would obtain the most diverse decisions from the various District Courts throughout India. It might even happen that cases

occurring in one district would be dealt with and decided on entirely different principles from similar cases in adjoining districts, according to the prejudices or the idiosyncracies of particular District Judges."

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE : What is the page?

THE HONOURABLE MR. V. RAMADAS PANTULU : It is from the debates of the 19th September, 1929, page 1112. I entirely associate myself with the forcible way in which the points against the amendment were put by the Honourable Sir James Crerar in the other House.

On these grounds, Sir, I very strongly oppose all the amendments.

THE HONOURABLE THE PRESIDENT : The original question was :

That clause 1 do stand part of the Bill".

The House is at the moment considering three amendments that have been moved. I suggested that two of those were very similar to the Honourable Mr. Chari's amendment and might be taken as amendments to that amendment. But the Honourable Members who moved them have pointed out that there are further differences which they are not prepared to sacrifice. Therefore, I think I had better put the three amendments to the Council in order, which will enable the Council best to come to a decision on them. Therefore the first amendment I put is that of the Honourable Mr. Surput Sing, No. 11. The amendment moved is :

"That the following sub-clause be added to clause 1, namely :

"(4) It shall not apply in those cases where the parent or guardian of either of the contracting parties has obtained an order from the principal Civil Court of original jurisdiction where the said parent or guardian or either of the contracting parties resides permitting a marriage between the parties on conscientious or exceptional grounds."

The question is that that amendment be made.

(The Honourable Mr. Surput Sing rose in his place.)

THE HONOURABLE THE PRESIDENT : I put the Honourable Member's amendment. The Honourable Member had one opportunity to speak and did not take it. I am afraid he cannot have it now.

The question is that that amendment be made.

The motion was negatived.

THE HONOURABLE THE PRESIDENT : I next put to the Council the Honourable Mr. Khaparde's amendment which is No. 9 on the list :

"That to clause 1 of the Bill the following sub-clause be added, namely :

'(4) It shall not apply to any person who, being a Brahmin or Muhammadan claims exemption therefrom on the ground of conscientious objection'."

The question is that that amendment be made.

The Council divided :

AYES—6.

Akbar Khan, The Honourable Major
Nawab Mahomed.

Akram Husain Bahadur, The Honour-
able Prince A. M. M.

Desika Chari, The Honourable Mr. P. C.

Khaparde, The Honourable Mr. G. S.
Muhammad Hussain, The Honourable
Mian Ali Baksh.

Padshah Sahib Bahadur, The Honour-
able Saiyed Mohamed.

NOES—25.

Basu, The Honourable Rai Bahadur Suresh Chandra.

Burdon, The Honourable Mr. E.

Charanjit Singh, The Honourable Sardar.

Clayton, The Honourable Mr. H. B.

Commander-in-Chief, His Excellency the.

Dadabhoy, The Honourable Sir Maneckji.

Dutt, The Honourable Mr. P. C.

Fazl-i-Husain, The Honourable Khan Bahadur Mian Sir.

Graham, The Honourable Mr. L.

Gwynne, The Honourable Mr. C. W.

Harper, The Honourable Mr. K. B.

Latifi, The Honourable Mr. Alma.

Maqbul Husain, The Honourable Khan Bahadur Sheikh.

Mookerjee, The Honourable Sriji Rama Prasad.

Natesan, The Honourable Mr. G. A.

Ramadas Pantulu, The Honourable Mr. V.

Rama Rau, The Honourable Rao Sahib Dr. U.

Ray Chaudhury, The Honourable Mr. Kumar Sankar.

Ryan, The Honourable Mr. T.

Symons, The Honourable Major-General Sir Henry.

Thompson, The Honourable Sir John.

Wacha, The Honourable Sir Dinshaw.

Watson, The Honourable Sir Charles.

Weston, The Honourable Mr. D.

Woodhead, The Honourable Mr. J. A.

The motion was negatived.

THE HONOURABLE THE PRESIDENT: I would point out to the Council that the Honourable Member (the Honourable Mr. G. S. Khaparde) had very small grounds for claiming a division, particularly in view of the fact that only four members of the Party on whose behalf he apparently moved this amendment supported him, the rest have not.

I now put the Honourable Mr. Chari's amendment to the Council, No. 5, on the paper:

"That the following proviso be added to sub-clause (2) of clause 1 of the Bill, namely:

'Provided that nothing in this Act shall apply to Brahmins who obtain a certificate from the principal Civil Court of original jurisdiction where they reside that they are entitled to claim exemption on the ground of conscientious objection.'

The question is that that amendment be made.

The motion was negatived.

THE HONOURABLE MAJOR NAWAB MOHAMED AKBAR KHAN (North-West Frontier Province: Nominated Non-Official): Sir, I would like to take the permission of the Honourable the President, as I did not get much chance at the consideration stage of the Bill, to lay the whole facts of the orthodox Muhammadan position and how we feel about it before the Council.

THE HONOURABLE THE PRESIDENT: I called the Honourable Member to move his amendment No. 10, to insert a clause that the Bill shall not apply to Muhammadans. Any remarks which the Honourable Member can make which are relevant to that amendment will be in order.

THE HONOURABLE MAJOR NAWAB MOHAMED AKBAR KHAN: Sir, the foundation of a Muslim rests on the Koran and the traditions of the Prophet

and then the Shariat. There are four schools of thought amongst the Sunni-Mussalmans, namely, (1) the Hanifi prevailing in former Turkey, Afghanistan and India; (2) the Shafi in Egypt, certain parts of Arabia and the Malaya Peninsula; (3) the Humbl in Arabia and (4) the Malki in the Barbary States including Morocco. The Shias are confined to Persia, and certain parts of Afghanistan and India. There are many other sects amongst the Muhammadans numbering 72 in all.

The Muhammadan law was firmly established during the life-time of Hazrat Mohammed and many complicated law points were solved by him. The regular procedure of a Muhammadan Code and its important principles were laid down by the second Caliph Hazrat Omer and the superiority of the Muhammadan law to that of the Roman law can easily be ascertained by reading Maulvi Shibli's "*Alfaruq*" and "*Kanzul-Amal*". The latter of these two books contains all the decisions and judgments of the first two Caliphs. The most exhaustive and complete jurisprudence of the Ommyyeds and Moors was compiled in Spain under the name of *Fatawa-i-Mehdia*. The Muhammadan law was developing and was greatly developed by Abu-Hanifa, but it was to the exertions of his pupil Imam Yusuf, the great Qazi-ul-Quzat or the Supreme-Judge of the Abbasside Caliphs, that we see the codes of Abu-Hanifa compiled by him with his annotations under the names of *Dur-ul-Mukhtar* and *Rad-ul-Mukhtar* and *Durrar and Ghurrar*. As Central Asia, the home of the Ottoman Turks, Iran and a part of Khorassan, now called Afghanistan, were under the dominions of the Abbasside Caliphs the Hanfi law was in force through all these countries, and that is why Mahmud of Ghazni and Mohamed Ghauri together with their Afghan successors introduced the Hanfi law into India after their conquest of this country. In India itself two more important law books were compiled by its Muslim rulers and were called the *Fatawa-i-Qazikhan* and *Fatawa-i-Alamgiri*. Both these law books are very small compared with the law books of the Ommyyeds and the Abbassides and contain only the elementary aspects of the Muhammadan law. Sir, another very authentic and voluminous book was compiled by the learned Ulemas of Asia in the reign of Timourlane, namely, *Fatawa Tatarkhania*. There are as many books of the other three schools of thought in Islam, but I need not enumerate these as the Mussalmans in India are not concerned with them. There is no specification about the age of marriage in any of the above-mentioned authentic books, or the books of the other 72 sects of Islam including the Shias. The books of all these sects are unanimous in fixing the age of post-puberty for a girl and the age of maturity for a boy for the sake of matrimonial alliance. No marriage is valid unless these conditions are found in the couple that is going to be married. As regards the wedding, it is entirely for the contracting couple and their parents to see to their convenience for the solemnization of their marriage after they have attained maturity. Islam does not penalise the early or late marriages after attaining the age of maturity; why should we curtail this liberty of the Muslims which they have enjoyed as their birth-right for the last 1,300 years? I must point out to the Honourable Members that in Islam marriage is not considered as a social contract but as a religious precept. It is the sacred duty of every member of the Muslim community, whether male or female, to get himself married in obedience to his religious injunction and not with an idea to satisfy the demand of society.

[Major Nawab Mohamed Akbar Khan.]

Now, the age of maturity differs according to the climate and the constitution of the individuals, and it is for the local medical men and the Ulemas to fix an age-limit of maturity for each province, but to curtail the liberty of a Muslim boy or girl with regard to marriage after attainment of the age of maturity is a proposition to which no orthodox Mussalman can agree. I am reminded of an Urdu proverb: '*Mian Bivi raji tou kia Karaiga Kazi*', which means that when the bride and bridegroom have agreed to their marriage, what business has the Kazi or Magistrate to interfere. I hope the Honourable the President will fully appreciate the sense conveyed by this proverb as he is better versed in Urdu than myself at least.

It is the entirely westernised Muslims or the progressive Muslims that wish to intermeddle in these affairs, although they are less than 1 per cent. of the Muslim community as compared with the orthodox. If they want to convert the orthodox to their ways of thinking they are quite welcome to do so by educating their opinion, because it is the conversion by conviction that is the most essential thing in Islam, and not by procuring the aid of legislation. The Islamic law books that I have enumerated above may be known to Dr. Abdullah Suhrawardy and Maulvi Muhammad Yakub, Members of the Legislative Assembly, whose families are well-known for their religious learning, and I may inform the Honourable Members that these are the most reliable law books of the Mussalmans of India; and according to these books I do not find that there ought to be any age-limit for a Muslim boy or girl after their maturity. As regards the fixing of the age-limit at 14 and 18 years throughout the whole of British India, I am sorry that, as an orthodox Muslim, I cannot support it unless it is backed up by the leading Ulemas of India with some cogent reasons of climate and physical development and temperament of the couple that is going to be married.

The second reason for my being against this Bill is that it infringes on the *pardah* system of all the Muslims and especially the Frontier people who would resent the interference of any Magistrate in their matrimonial affairs.

With these remarks, Sir, I commend my amendment for the consideration of this House.

THE HONOURABLE SIR MANECKJI DADABHOY: Sir, we have listened to a very interesting and a somewhat historical discussion of the subject by my Honourable friend the Nawab Sahib. But I was waiting to see if he was going to quote any text before this House under which the Islamic law enjoined the performance of early marriages and pre-puberty consummation. My Honourable friend has not been able to show any text or authority under which such marriages have been enjoined by the Islamic law. On the other hand, the texts which the Age of Consent Committee examined distinctly prove the contrary. These texts which the Committee refer to were four principal texts, the Quran, Hadis, Ijmas, the opinion of the learned men, and Qayas.

In articles 246 to 249 of the Report, at page 112, they have been carefully considered. The only four authorities which do exist on the point have been given proper weight in the consideration of this

question, and the Committee came to the conclusion on the four authoritative sources—the Quran, Hadis, Ijmas and Qayas:

"It is conceded by the theologians examined before this Committee, that there is no express provision in the Quran, enjoining the celebration of marriage or the bringing about of consummation at any particular age."

THE HONOURABLE MAJOR NAWAB MAHOMED AKBAR KHAN: What is the Shariat based on, and what is the value of the Qayas or Ijmas in the presence of the Shariat? It is beyond the imagination of a Parsi Knight.

THE HONOURABLE SIR MANECKJI DADABHOY: Well, I am not going into the historical aspect of the case. I am going into the question of the Islamic texts. Let us see what they preach.

THE HONOURABLE MR. MAHMOOD SUHRAWARDY (West Bengal: Muhammadan): They are silent about the age.

THE HONOURABLE SIR MANECKJI DADABHOY: The next text is the Hadises:

"For instance, certain Hadises are quoted to show that the Prophet preferred marriages soon after puberty; but there are some other Hadises from which it may safely be concluded that marriages after the age of discretion were preferred by the Prophet."

So you see there is also a distinction; after the age of discretion, not the age of puberty, was preferred by the Prophet.

THE HONOURABLE MAJOR NAWAB MAHOMED AKBAR KHAN: You are quite wrong and you know nothing about Islamic laws.

THE HONOURABLE SIR MANECKJI DADABHOY: I am not wrong. Then the Ijmas were the consensus of opinion of learned men. They say:

"The Muslim theologians of India are not agreed on the point as to Marriage and Consent legislation being an interference with Muslim religion."

And the other text is the Qayas where certainly it is absolutely advocated to the contrary:

"The Qayas could certainly favour such legislation when once it is proved that it is in the interests of the community at large."

Therefore, Honourable Members will perceive that the texts of Islamic law are conflicting in some cases and favourable to the view that they should interfere where the interests of young girls are concerned.

Then, Sir, let us see the history of the two great Islamic countries. I will just refer to Turkey, the great Turkish Empire, to which every Muhammadan in India looked for precept and example as was abundantly evident at the time of the Khilafat movement in this country.

THE HONOURABLE MR. MAHMOOD SUHRAWARDY: But there is no Khilafat now.

THE HONOURABLE MAJOR NAWAB MAHOMED AKBAR KHAN: Do they look to Turkey now?

THE HONOURABLE SIR MANECKJI DADABHOY: You have not repudiated the supremacy of Turkey in all Islamic matters even now.

THE HONOURABLE MAJOR NAWAB MAHOMED AKBAR KHAN: I say from the floor of this House that it is not a fact

THE HONOURABLE SIR MANECKJI DADABHOY : You repudiated it only when Turkey with one sweep of the pen set aside the Khilafat movement, which was against the policy which you adopted in this country at the time.

THE HONOURABLE MAJOR NAWAB MAHOMED AKBAR KHAN : If anybody is going to do anything against the Shariat, we cannot follow him, irrespective of his position and status.

THE HONOURABLE SIR MANECKJI DADABHOY : Sir, what do we find ? The great and leading Muhammadan Empire passed a similar legislation and it is not a legislation of a very recent date. It traces back to 1864. Under Article 2 of No. 56 of 1923, a contract of marriage between a boy below 18 and a girl below 16 was absolutely prohibited by a Royal decree. What did Turkey do ? Turkey went far beyond what we are attempting to do now. They not only penalised marriages at a certain age, but they rendered those marriages altogether void. We are not doing this in this country. Here we are only seeking to penalise marriages performed when a girl is under 14 and a boy is under 18, while in the case of Turkey it went considerably further.

THE HONOURABLE MAJOR NAWAB MAHOMED AKBAR KHAN : Turkey has gone considerably further in breaking the *purdah* system too, which is one of the most fundamental principles of Islam, and its neglect is a very serious matter for a Muslim.

THE HONOURABLE SIR MANECKJI DADABHOY : I only hope for the good of this country that the Muslims of India will have the courage and conviction to set aside also the *purdah* system because that will be a great advantage and will lead to the development of the country and the glory of their community. (Hear, hear.) Sir, then there is Egypt. They have passed a similar law. Egypt is a great Islamic country, and there too marriages under a certain age have been prohibited. So you will see that the two great Muhammadan countries in the world have adopted this principle and they also receive inspiration from the other civilised European countries which more or less have passed similar legislation. To ask now that the Muslims should be exempted from the operation of this law is a very retrograde measure.

THE HONOURABLE MAJOR NAWAB MAHOMED AKBAR KHAN : Can you quote the Egyptian law on the subject, if you have got it ready ? We are not legislating for the Zoroastrians and discussing the Zenda-Vesta and especially the marriage system of the ancient Iranians.

THE HONOURABLE SIR MANECKJI DADABHOY : May I refer you to Appendix X of this Report in which all the detailed information is given.

I do not propose to take up further the time of the Council at this late stage. I am also of opinion that it would be a very inequitable thing to exempt a particular community from the operation of any law. The law, if it is a good law, must be a law for all. No community, no individual, ought to be exempted from the operation of a general law, and I submit this is a law which is necessary for the protection of poor infant girls, and it was pointed out yesterday in great detail and with emphasis what great hardships are inflicted on these young, immature girls. I hope, therefore, this House will reject this amendment.

THE HONOURABLE SAIYID MOHAMED PADSHAH SAHIB BAHADUR : Sir, I rise to support the amendment. Before I make my own observations on the question, I should like to deal with two of the most prominent objections which my Honourable friend Sir Maneckji Dadabhoy took to the statement of the Honourable Major Nawab Mohamed Akbar Khan. Sir, the first point that Sir Maneckji Dadabhoy made out against the Nawab Sahib was that in the Islamic law there was no provision enjoining marriage before puberty. Sir, to state the case this way is to begin at the wrong end. As my Honourable friend, Mr. Subhawardy, said in an interjected reply, "Where is there any provision in the Islamic law interdicting early marriage ?" So long as there is no such prohibition, it is wrong that any shackle should be placed upon the right of a Muslim to perform an early marriage if he considers that doing so is necessary. This is just the reason, Sir, why the Shariat, in laying down instructions regarding the institution of marriage, has not prohibited the performance of child marriage. Being conscious of the fact that, though ordinarily marriages will have to be performed, as they have been all these 1,300 or 1,400 years, there will be occasions to demand the performance of marriages even before puberty. This is just the reason, Sir, why the Shariat has made provisions enabling the parents and guardians of minor girls to give away their children or wards in marriage. Again, Sir, it was stated that the two important Muslim countries like Turkey and Egypt have enacted laws on lines similar to those on which it is proposed to enact this measure. Well, Sir, so far as Egypt is concerned, I shall not deal with it in particular, since reference was more specifically made to Turkey on the ground that Turkey was the head of the Muslims. I will deal with that part of the objection first. Turkey, Sir, as my Honourable friend Nawab Akbar Khan has stated, is no longer the head of the Mussalmans. It is not merely that I make this statement.

THE HONOURABLE SIR MANECKJI DADABHOY : Quite so ; but this law was effected in 1860 long before you repudiated Turkey.

THE HONOURABLE SAIYID MOHAMED PADSHAH SAHIB BAHADUR : That might be so. It is now that we come to Turkey and say that Turkey no longer can now claim to be the head of the Mussalmans either here or in any other part of the world, except the few people who are subjects. In proof of this fact, I would refer my Honourable friend Sir Maneckji Dadabhoy to the numerous conferences that were held in recent years in different parts of Islamic countries for the purpose of electing a Khalif. If Turkey was still a place which the Mussalmans could look up to for a lead in matters religious, there would have been no occasion for them to hold these conferences for the purpose, and the very fact that such conferences were held is proof positive of the fact that the head of Turkey is no longer the Khalif.

THE HONOURABLE MAJOR NAWAB MAHOMED AKBAR KHAN : Sir,

THE HONOURABLE THE PRESIDENT : The Honourable Member is not entitled to make another speech.

THE HONOURABLE SAIYID MOHAMED PADSHAH SAHIB BAHADUR : After the learned, able and well-reasoned speech that was made by my Honour-

[Saiyid Mohamed Padshah Sahib Bahadur.]

able friend Major Nawab Mohamed Akbar Khan, it is not necessary for me to labour to make out a case for the exemption which my Honourable friend seeks for the Mussalmans. Sir, it is a matter of common knowledge that marriage is an institution which falls within the scope of the religious and personal law of the Mussalmans. I would refer to the Age of Consent Committee's Report regarding the Mussalmans. This matter is one of religious and personal law. To attempt to legislate on this will be nothing short of an absolutely uncalled for and totally unwarranted interference with the religious and personal law of the Mussalmans. Sir, as my Honourable friends here are aware, the Mussalmans have a codified law wherein matters like marriage, divorce, religious trusts, inheritance and such other things are thoroughly treated and clearly enunciated. According to the Shariat, marriage is not only a civil contract but it is in its quintessence also a sacrament, a pious and meritorious act, and it is for this reason, Sir, that marriage is enjoined upon all Mussalmans, not merely for the purpose of satisfying their natural craving, but primarily for the purpose of begetting children.

THE HONOURABLE SIR MANECKJI DADABHOY : No, no. "Aulade Saleh". Begetting healthy children to serve God.

THE HONOURABLE SAIYID MOHAMED PADSHAH SAHIB BAHADUR : That is exactly the point. That is in support of my statement. My Honourable friend in interrupting me has simply anticipated me in pointing out what really is the object of Islamic law. The Islamic law enjoins that Mussalmans, in their relationship as between man and wife, shall so conduct themselves that they beget healthy offspring, so that they may make a useful and healthy contribution to the community at large.

THE HONOURABLE SIR MANECKJI DADABHOY : Will children who are not healthy be a healthy contribution ?

THE HONOURABLE SAIYID MOHAMED PADSHAH SAHIB BAHADUR : That is exactly the point that I am going to make. Therefore, Sir, the object being to beget healthy children even though early marriages are performed among the Mussalmans—and this is very seldom done—consummation does not take place; the girl continues to stay on with the parents and is sent to the bridegroom's place only after she attains the age of puberty. Ordinarily, this is to be taken at 14 or 15. Therefore, it is quite obvious that though marriages are performed early, the consummation does not take place until after puberty. This is a perfect safeguard against much of the evil which my reformer friends want to provide against. It is quite evident that as the custom now obtains among us, there is no risk whatever of any physical or mental deterioration by boys or girls being married at an early age. Since these things are provided for in the Muhammadan law, it is not for you to do that which it would be simply redundant, and in the opinion of the majority of the Mussalmans in this country is considered to be quite an unwarranted onslaught on their natural rights. Again, Sir, Islam has gone so far in providing for conjugal felicity and all other things bearing upon the matter, that it is even open to the girl, after attaining puberty, to repudiate the marriage in case she thinks that the marriage is not to her advantage, or the man is not to her liking. All these facts go to show that there is not one aspect of the question which the Islamic Shariat has not taken care to think about and provide for.

THE HONOURABLE MR. G. A. NATESAN : This law will simply strengthen you.

THE HONOURABLE SAIYID MOHAMED PADSHAH SAHIB BAHADUR : But you need not take the credit of doing anything when it is already provided and when what you do is redundant.

THE HONOURABLE SIR MANECKJI DADABHOY : You do not listen to them.

THE HONOURABLE SAIYID MOHAMED PADSHAH SAHIB BAHADUR : If there was any necessity for it, if there had been any deficiency in the law, you are perfectly at liberty to make it good. Even then, you should have done it only with the consent of the majority who are going to be affected by the Act.

Again, Sir, about the history of this legislation, there is no doubt that this has been suddenly sprung on the Mussalmans. The original Bill which was introduced in 1927 did not affect the Mussalmans. It had nothing to do with them. It was only when the Select Committee made its report that the Mussalmans were brought in. Sir, the Mussalmans were brought in, not because, as every one here will admit, it was felt that the evil of child marriage was so rampant amongst them that it needed to be checked by means of such drastic measures as are proposed in this Bill, but simply because the remedy which the Select Committee proposed for some other purpose, for reforming in some other direction, necessitated all the other communities being included in this law, who had till then been kept out of the pale of its influence. Therefore, Sir, on the very first occasion, when it was felt necessary to apply this clause to the Mussalmans, it was not because they were interested, but because to leave them or any other community out would have been to make an invidious difference between one community and another. Therefore, there was not the least justification for the people who recommended this measure to recommend the inclusion of Muhammadans. The result of that position was that until at a very late stage the Mussalmans did not appear on the scene and no sufficient opportunity was afforded for getting Mussalman public opinion adequately ascertained. Therefore, for my friends, Sir Maneckji Dadabhoi and others, to support their statement and their views on the meagre evidence recorded either by the Select Committee on the Child Marriage Bill or the Age of Consent Committee, is a thing which is utterly unfair and unjust. I would prove my contention by what one of the members of the Age of Consent Committee himself has to say. At page 282 of the Report of the Age of Consent Committee, Maulvi Muhammad Yakub has recorded :

"The Muslim opinion being so meagre on the record, it does not justify us to draw any conclusion on its basis. Only 166 Mussalmans, throughout the whole country, have taken any part in the enquiry; out of them 104 sent in their written statements but they were not examined orally. Only 36 presented themselves for oral examination. The number of Mussalman witnesses who did not send in any written statement but were examined only orally is 26. The Committee is certainly not responsible for this paucity of Muslim evidence; every effort was made to secure the opinions of prominent Mussalmans, including some of the well-known theologians, but unfortunately they were not available at the time to give the benefit of their views to the Committee. The fact remains that the Muslim point of view is not sufficiently represented; and I do not think it would be proper and safe to introduce a measure of vast social and religious importance, until additional Muslim opinion, especially that of distinguished theologians, is placed on record."

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THE HONOURABLE SIR MANECKJI DADABHOY : You are reading only that dissenting minute; you have not read from the main report.

THE HONOURABLE SAIYID MOHAMED PADSHAH SAHIB BAHADUR : I believe that the view of the member who has written a dissenting minute is as much entitled to respect as that of those who have signed the Report without any dissent.

THE HONOURABLE SIR MANECKJI DADABHOY : Let me correct the Honourable Member. The statement is incorrect.

THE HONOURABLE THE PRESIDENT : The Honourable Member is not entitled to reply.

THE HONOURABLE SAIYID MOHAMED PADSHAH SAHIB BAHADUR : I will not take note of all that. I am not here to pronounce an opinion on the veracity or otherwise of the members of that Committee. As I have said, no sufficient opportunity was given to the Mussalmans to make out their case. And even in the Legislative Assembly how was the debate conducted? Some of the Mussalmans who walked out of the Legislative Assembly told me that they were simply disgusted with the way things were being done in that House. They were exasperated by the fact that the debate was artificially closed and they were gagged because the reformers were so anxious to thrust their reforms down the throats of the people that they did not even have the courtesy of giving a hearing to those who wanted to put the other side of the question before the Assembly. The fact is too obvious to need any further comment from me. As I was saying, no sufficient opportunity was granted to Mussalmans, and to base any opinion on the meagre evidence we have before us will be simply to commit ourselves to a decision which is not at all justified under the circumstances. There was no demand on the part of the Mussalmans for any such reform. The evil of child marriage was not considered to be of such a serious nature among Mussalmans as to call for the drastic measures which are proposed in this Bill. Now what is it we are asked to do? This is not merely an educative measure or one intended to exercise merely a moral effect upon the people. This is a penal law. You want to punish people and send them to jail for doing an act which is their own concern or the concern only of those who are naturally interested on account of ties of kinship or otherwise—for doing an act which it is perfectly pertinent for them to do under their personal law, the law which in matters like this ought to govern their conduct so long as it does not come into conflict with the general law. To penalise such acts and punish people for them is nothing short of perpetuating a most heinous act of injustice under the sacred name of law. So, from what I have said in this House, I submit that it is quite obvious that there was no case made out for the inclusion of Mussalmans in this Bill. The present measure for them is absolutely uncalled for and thoroughly unnecessary, and to attempt to include Mussalmans in the operation of this Bill will be to deprive them of their natural right to be governed by their personal law in matters in which nothing but their own law should regulate their conduct. And again, Sir, if that is done, I shall not dilate on it, but it will be in contravention of the solemn pledges made in the Proclamation of Queen Victoria of blessed memory and also in the treaties between the East India Company and the Moghul Emperors.

With these words, Sir, I support the amendment.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN (Education, Health and Lands Member): Sir, I feel I cannot sit silent when this amendment is being discussed in this House. I think it would be wrong if I did not place the point of view of some Muslim Members of this Council, as well as of some Ulemas, as well as a very large number of educated Mussalmans in India. Sir, I must first congratulate the Honourable and gallant Major who has moved this amendment on the great trouble he has taken in familiarising himself with a difficult subject, the jurisprudence and the principles of Islamic law, because I do not believe that Islamic jurisprudence and law form any part of the curriculum prescribed for the officers of the Indian Army. He has not studied the question thoroughly, but as a Councillor it does him great credit indeed to spare time from his other preoccupations to prepare himself for an intelligent discussion of an abstruse subject like this. I have nothing but admiration for the Honourable Member from Madras, who has just spoken, for the forcible and strong way in which he has placed his point of view before the Council, and really, if I may say so without being accused of flattery, that there is hardly a point which can possibly be urged in support of his point of view which he has not most lucidly and strongly placed before the Council. (Applause). If there was any defect left in the Report of the Committee which has been so often cited here, I have not the slightest doubt that after his very careful study of the problem he has made that good. Inasmuch as the case on the side of those who object to the Bill has been put so strongly and so ably and so well, I feel it is my duty now to place the other side not only for the consideration of those Muslim Members of the House who do not share that view, but also, if I may venture to hope, for the consideration of the Honourable Members who have associated themselves with this amendment. There may not be strong justification for this hope, for obvious reasons, but still I trust it is not ill-founded altogether. Although, Sir, under the Reforms, which involve the necessity of Party Government, Members more or less commit themselves to party views, I ask on a matter of this nature, which no doubt is perhaps a little of a political nature, though the Honourable Member who moved this amendment and his supporters claim that it is mainly of a religious nature, whether it is right or fair on their part to impose party restrictions on their fellow-members with the object of securing their votes and not allowing them that liberty of conscience, that liberty of vote, for which they themselves are fighting.

I said, Sir, I could not be silent on this amendment, but before I make any observations on the main subject that is before the Council, I wish to clear my position. I am, Sir, standing up not as Leader of this House; I am standing up here not as a member of Government, nor even as one of the humble persons who have tried to serve their country. I would not like a single member of this Council to vote, as I do, unless he feels that the cause I am standing up for is the cause that he himself conscientiously and truly supports. Therefore, my position, when I am speaking on this matter, is entirely personal. I have no right here to claim that I represent either Muslim Punjab, or Muslim India. I represent nobody but myself, during the course of this debate.

Now, Sir, I shall proceed to deal with the question. If I may venture to put it so, Sir, a great deal of confusion of ideas has prevailed during the debate here as well as elsewhere where this subject has been discussed. It has been said with great force that this Bill constitutes an attack on Islam, an attack,

[Khan Bahadur Mian Sir Fazl-i-Husain.]

mind you, by Government or by Rai Sahib Har Bilas Sarda. Surely not by Government, because Government did not initiate this legislation; surely not by the Mover of this Bill, because he expressly limited it to Hindus. Must we forget that the extension of this Bill was at the request of some Mussalmans themselves? What is the question just now before the Council? It is this—Muslims should not be governed by this Bill: or to be more accurate the Assembly has passed this measure, now the Council of State should exclude Muslims from its purview. But is it up to us to say that it is an attack on Islam by non-Muslims? Certainly not. We must be fair and just, especially when we are pleading the cause of righteousness and justice and fairplay. If so, Sir, then this attack is an attack by Muslims and not by non-Muslims. And is it an attack at all? I venture to submit, Sir, that those who hold this view do not wish either to change a single provision of the Islamic law or the personal law of the Mussalmans of India. This Bill does not render any provision of the Muslim law ineffective. This is a Bill which is not even modifying the law, but only making additional provision for certain contingencies which have arisen during the stay of Mussalmans in India. I thought, Sir, that I would not be far wrong if I went even so far as to accuse the Honourable mover of this amendment, my friend the gallant Major, in saying that, coming as he does from the Frontier Province, he knows full well that no child marriage prevails there, that even if this Bill did not exist, his province is quite safe from this evil, why is he anxious that, where this evil does exist, no effort should be made to eradicate that evil? He is of the view that Islam stands for adult marriage and not child marriage. If he is of the view—and I know he is—that in Islamic countries as a whole the universal rule is adult marriage and not child marriage, is it up to him to say that if amongst any section of Mussalmans this evil does exist, which Islam does consider an evil, that it should not be eradicated or that no steps should be taken to remove it? Again, Sir, to talk of Islamic law being violated by provisions of this sort, provided always that those provisions have the support of those Mussalmans who have the right and the ability to consider what their position is now, what it has been, whether it has improved or whether it has deteriorated, and whether it is not their duty, in case it has deteriorated, to take steps to improve it,—if Muslim society has that right, and I claim that every society has that inherent right, of which no religion, no speaker and no Brahmin can deprive us—I say in that case, it is up to the Muslims themselves to take steps to eradicate such evils as have crept into their society and into their religion. Is it not a fact that the Prophet said there is no doubt that in law divorce is permissible, but it is the most objectionable thing permitted under the Islamic law? And are we Indian Mussalmans in a position to say that what has been considered to be the most heinous of the permitted things is practised much more frequently than it ought to be. I will not, Sir, in the interests of time-saving, dwell at any length on this point. Islamic jurisprudence, at which the Honourable Mover of the amendment has taken a glance, is an extremely difficult subject—difficult because till very recently no one book of Muslim jurisprudence was available for the Muslim lawyer to study and understand. It is scattered in hundreds of volumes, but those who have a little acquaintance with Islamic jurisprudence know perfectly well how various principles of Islamic law have been steadily undergoing a course of evolution—social evolution being adjusted by the evolution of legal precedents. Islamic

law is, according to the sect of Islam which is most prevalent in India, based on what is called *ratiocination*. It is a very subtle method, the method of deriving other principles from established principles. Need I remind the Council that Imam Muhammad and Imam Yusuf differed on many important *fatwas* from their revered teacher Imam Abu Hanifa, and further that even Imam Muhammad and Imam Yusuf differed a great deal between themselves, and students of Islamic law know that, when Imam Muhammad and Imam Yusuf agreed, later Muftis have been adopting their views in preference to the views of their teacher.

THE HONOURABLE MAJOR NAWAB MAHOMED AKBAR KHAN: Quite.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN: That will show that for a very long time, for a number of centuries, the development of Islamic law was contingent upon the interpretation of the Muftis. We have no Muftis of that eminence either in Simla or in Delhi, and in legal matters their *fatwas* do not prevail. Is the Islamic law then going to remain at the stage it had reached more than a century ago, and take no note of the development that society has undergone and must undergo? Is this method not the most basic principle of all the institutes of Muslim law prepared by that great and pious man, Imam Abu Hanifa? Should we become absolutely deaf to the dictates of our own reason? No, Sir, it is most dangerous for the layman to try to lead his fellow-beings in matters which really are such as need the whole time of men who can devote their energy, their brains and their lives to such matters.

As a matter of fact, the confusion of ideas that prevails will presently be dissipated, I trust, Sir, when I remind the House that the Honourable Sir Haroon Jaffer read a statement to us yesterday, and at the close of that statement alleged that that statement had the support of the elected Mussalman Members of the Council present then in Council. Some of them are not present to-day; I do not vouch for the accuracy of that allegation, but he did say so. That statement shows that all this discussion is really beside the point. The statement consisted of two points. One was a graceful recognition on the part of Sir Haroon Jaffer of the policy of non-interference in religious matters adopted by the British Government since the Crown undertook the responsibility of ruling this country. The second part consisted in reminding the House that under the Lucknow Pact of 1916, it was conceded by various political parties that in the new Councils no change should be affected in the personal law of a community if more than two-thirds of the members of that community opposed it. Does the Honourable Mover of this amendment agree with that? He does. Good. Well, Sir, I do not for a moment concede that the statement of Sir Haroon Jaffer was accurate or that it should be accepted. But, assuming for the sake of argument that it is correct and the Mover of the amendment accepts it, does it not show that these Councils have jurisdiction to interfere with the personal law of various communities?

THE HONOURABLE MR. P. C. DESIKA CHARI: Subject to certain conditions.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN: Undoubtedly. The Honourable Member who interrupted also admitted that he was for Legislatures having this power, only he did not like this particular

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legislation. That is correct. Quite. Therefore, this is common ground in the House, that the modification of the personal law of each community is within the jurisdiction of this Council, provided.....

THE HONOURABLE MR. P. C. DESIKA CHARI : That is not my position.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN : You mean you do not like that position ?

THE HONOURABLE MR. P. C. DESIKA CHARI : I take an absolute stand.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN : You take your stand on this position—that this Council has jurisdiction ?

THE HONOURABLE MR. P. C. DESIKA CHARI : No, that it has not the jurisdiction.

THE HONOURABLE MAJOR NAWAB MAHOMED AKBAR KHAN : May I have two words ? What I said and what we stick to is this, that the Lucknow Pact laid down that, when two-thirds of a certain community object to the introduction of a certain Bill, then the majority community (be they Hindu or Mussalman) should not press for it.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN : I quite agree. That was exactly what I understood Sir Haroon Jaffer to say. That only means what I said before. That if, on the other hand, more than two-thirds of the members of a community do not oppose it, then the personal law of that community can be added to or modified by these Councils.

THE HONOURABLE MAJOR NAWAB MAHOMED AKBAR KHAN : Quite right. We are more than two-thirds.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN : This is not so, the Honourable Member is mistaken. We have done this discussion outside : we need not enter into that here. As I said before, the case for the side against the Bill, up to now, has been pressed with great eloquence, great ability and great thoroughness. I was saying that the statement made by Sir Haroon Jaffer, with which he claimed that all the elected Muslim Members of the Council present in Council were in agreement, and which statement was not denied by anyone concerned, was to the effect that this Council has the right to pronounce on any proposals which affect—I will say “modify” or “add to”—the personal law of a community unless more than two-thirds of that community in the Council object to it. It has been said we are brushing that aside, hence this amendment. It is thus obvious that it does not involve an attack on Islam, and no constitutional point is involved. There is no religious point about it, because the Mussalmans themselves say that the Council is free to do what it likes, unless more than two-thirds of the Muslim Members of the Council oppose it. And two-thirds are not against it.

Then comes the real issue, which is, should there be a fixation of the age for purposes of marriage or not ? The question is whether under the Islamic law marriage between children is permissible. The Bill says that we should in the interests of our community fix an age limit—whether it is 14 or 15 does not matter. The question is one of principle. Should there be a fixation of the age limit or not ? If it should be fixed, then the second question is, at what

particular age should it be fixed ? I understand the Mussalman Members of the Council are not interested in 12 or 14 or 16.

THE HONOURABLE MAJOR NAWAB MAHOMED AKBAR KHAN : After the age of puberty and maturity, under Islamic law, marriage can be solemnized.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN : That is exactly what I mean. There is nothing to prevent a marriage of a girl of 20 to a man of 30. It is an excellent marriage. Is there anything which says that marriage between a couple of that age is bad ?

THE HONOURABLE MAJOR NAWAB MAHOMED AKBAR KHAN : No.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN : Then we are in perfect agreement. This is the distinction between Islamic law and Hindu Law. This Bill modifies the Hindu law to a much greater extent than it does the Moslem law. As a matter of fact, it does not modify the Moslem law in any way except adding a provision which enlightened Mussalmans will not in practice violate. The Honourable Member opposite says that you can marry at any age. It is open to me and to every other Mussalman in India to do propaganda work in support of it. We in the Punjab, and the Honourable and gallant Major from the Frontier Province and those from the United Provinces.....

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : On a point of information. Marriage under Muhammadan law of infants is, I think, voidable by the parties after attaining majority unless the marriage has been contracted by the parents or some other such persons.

THE HONOURABLE SIR MANECKJI DADABHOY : Voidable, not void.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN : The point that the Honourable Mr. Chaudhury has mentioned is the point on which the Honourable Member from Madras dwelt himself. He said that the marriage of a minor girl, contracted by certain guardians, can be repudiated by the girl on attaining puberty. That again is a very salutary provision of law. I was submitting that the change which this Bill proposes in the Islamic law is very little as compared with what it involves in the case of Hindu law. It is, I understand, only in Bengal and to a certain extent in Bihar and in Sind that this evil does exist amongst the Mussalmans. Other parts of India are more or less free from this evil. This is not the case with the Hindus. Again, if this measure is to be opposed by some on the ground that it will affect their constituents, e.g., in Sindh, then I say that it is not up to those people who represent areas where the evil does not exist, to oppose it.

THE HONOURABLE MAJOR NAWAB MAHOMED AKBAR KHAN : Islamic law prevails in places where this custom exists. It may not be in the North-West Frontier Province or in the Punjab.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN : Islamic law is in consonance with this provision, and is not against it. I go

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further and say that Islamic practice is in consonance with this law. I go further and say that Islamic culture and Islamic tradition are all in consonance with this provision of law, and it is not right on the part of Muslim Members to say that this is an interference with their religion. As a matter of fact, I claim—some of my fellow Indians who are not Mussalmans may not be prepared to recognise it—I am prepared to go to the extent of saying that it was Islamic tradition and Islamic culture in India that brought in the idea of adult marriages in India at the time when they came in. Adult marriages may have prevailed in India of the pre-Christian period....

THE HONOURABLE MR. G. S. KHAPARDE: I question that.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN: A long time ago, but in the year 1,100 or so, when the Mussalmans came to this country in large numbers, Hindu society was not at its best. Therefore, it is not right to say that this Bill in any way does something more than take back the Indian Mussalmans to the practice of those periods of their greatness and glory of which they, from the Islamic platforms, are so fond of discoursing.

THE HONOURABLE MAJOR NAWAB MAHOMED AKBAR KHAN: Supposing—I do not know the age of puberty in Madras if a girl of 12 years of age, i.e., after puberty, is married to a person of say 18 years. How could you, according to the Islamic law, prevent that girl from contracting the marriage? Because she has attained puberty and she wants to be married to this person, how could you prevent that according to the Islamic law?

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN: 12 NOON. The Honourable and gallant Major knows perfectly well the distinction between things that a man is free to do and the things that he should not do in his own interest as well as in the interest of society. It is up to the Honourable and gallant Major to make himself drunk in spite of the tenets of Islam, but I would as a friend implore him not to do so. (Laughter.) I have taken this illustration because he is a teetotaler. No, I assure my dear friend, Sir, that there are a very large number of things that Islamic law leaves entirely to the discretion of the individual, and to that extent it is a matter of regret, and perhaps of shame, to Indian Mussalmans that it has been found necessary by some of the thinking Mussalmans to seek the aid of legislation to do what they ought to have done on their own. Again, take the case of drink. If I brought in a measure that every man who drank ought to be fined, while the Islamic law says he ought to be whipped, would the Honourable Major agree? No, no. In a country where there are others than Mussalmans living, society has to be taken as a whole and its legislation moulded accordingly. I am, Sir, interested at present only in showing that this provision of law is in consonance with Islamic culture and practice, and there can be no possible valid objection taken to it either on religious grounds or on grounds of policy or advantage of the community. It has been said that a large number of people are against it. May I ask those Mussalman Members who are thinking of voting for the amendment to remember that at least half of the Mussalmans do not belong to their sex.

AN HONOURABLE MEMBER: But they are Mussalmans all the same.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN: The Honourable Mover of the amendment may brush aside half the Mussalman population of India by saying: "Oh, they need not be talked about or even named." But he should remember that that section includes our mothers, our wives, our sisters and our daughters. Is it not a fact that a very large proportion of them who can think at all do not like the idea of child marriage. There is nothing more repugnant to the Islamic women of to-day than child marriage. And where this custom and evil do prevail amongst Mussalmans, they prevail amongst those unfortunate Mussalman brethren of ours whom we, through our neglect have left in ignorance and in poverty. And in regard to these ignorant and poor brethren is it up to us, who are well to do and Members of the Council of State, to say that in the interests of those people, so that they may continue in their evil course, we should not make this law? No, Sir. I would like the Honourable Mover of this amendment really to think hard, seriously and conscientiously, and see if he is altogether independent of the need of this legislation, that he is unwillingly standing in the way of a very necessary reform amongst a large number of his fellow Mussalmans who are not as well endowed by Providence either in the matter of knowledge or in the matter of money.

SEVERAL HONOURABLE MEMBERS: Then introduce this measure by way of propaganda and by educating the public.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN: I hold the floor, Sir. I have heard that sort of argument more than once and in connection with more problems than one. Such of my Honourable Muslim brethren, Members of this Council, who are at all politically minded—and I know the Honourable Major opposite me is not—will remember that, when the question of reforms is mooted invariably, the die-hard class of politician in England says: "First remove ignorance; first do propaganda; first get 'enlightenment'". And do my friends recognize the validity of that argument? Again, I have, Sir, in my humble way tried to serve my community in communal institutions, in institutions which have tried to carry out educational advance and social advance among the members of my community. It is all very well to say, you have striven hard, you have prepared the ground, the people are willing now to make progress, but I trust I will not be accused of 'defaming my own community for which I have the highest regard if I say that all of us workers in the interests of Muslim education and social reform, we all lack, and lack very much, two things—men and money, without which no propaganda, no reform, can be accomplished. Is it not a fact that Muslim workers in the interests of their community find it exceedingly hard to get money out of those whom Providence has blessed—money, that wretched thing we detest and at the same time cannot do without. Therefore, Sir, to say: "Oh, do not go in for legislation; go outside the Councils and do propaganda" is not to give fair advice; it is only a delaying motion.

I think, Sir, I have shown conclusively, in the first place, that the question of attacking the personal law is a myth due to a confusion of ideas. The Honourable Members led by Sir Haroon Jaffer have recognized that this Council has the jurisdiction to pass this law, provided that more than two-

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thirds of the Mussalman Members are not against it—and the Honourable Major knows perfectly well that they are not against it. Therefore, I say let us proceed to pass this law. We have not yet passed it. We are considering it in a spirit of mutual tolerance for each other's views. I respect the views of the Honourable and gallant Major as much as I respect my own views, and I know if his temperament permitted him he would respect my views to the same extent.....

THE HONOURABLE MAJOR NAWAB MAHOMED AKBAR KHAN: I look upon the Honourable Sir Fazl-i-Hussain, the Leader of the House, just like.....

THE HONOURABLE THE PRESIDENT: Order, order. The Honourable Member is quite out of order.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN: I know I have the deepest regard for him and he has a certain amount of affection for me. We know very well that all of us are trying to do our best for India as a whole, and for all the communities which make up the people of India. I can understand the scruples of those Brahmins who are over-Brahminically inclined even to-day. There is something in one's blood which cannot let one rise higher than where one has been bred, on account of the traditions one has inherited, but surely, Sir, India to-day demands from us supreme sacrifice, not only of our individual convenience, individual comfort, but also the supreme sacrifice of severing connection with the past, which past cannot now to-day be for the good of India. (Applause.)

THE HONOURABLE SHAH MUHAMMAD ZUBAIR (Bihar and Orissa: Muhammadan): Sir, I rise to support the amendment which has been moved by my Honourable friend Major Akbar Khan. But, Sir, I do not support this amendment on religious grounds at all. Sir, I maintain that this Bill, even if it is passed, will not in the least affect the religion of Islam. I further maintain, Sir, that this Bill not only does not interfere with the Islamic religion but is in accord with the principles of Islamic religion and culture. But, Sir, I support it on quite different grounds. As a member of a community which forms a minority in this House, I feel considerable nervousness in accepting the position that this House, this heterogeneous group of Honourable Members, consisting of Hindus, Mussalmans, Christians, Parsis and Sikhs, have any right to change the personal law of the Mussalmans, save and except with the consent and approval of the majority of the Mussalman Members of this House. (Applause.) This is a dangerous proposition, Sir, to which I regret I cannot subscribe. One of the modifications which the Muslim community demands should be incorporated in the Nehru Report, which I strongly support, is expressed in the resolution passed by the All-India Muslim League at the last session held at Delhi to the effect that "the Muslim law as at present recognised by Indian courts shall not be amended or interfered with by means of any legislation except by a majority of Muslim Members of those Legislatures." This is a principle which I do strongly support and stand by, and as, Sir, the majority of the Muslim Members of this House is opposed to this measure, I support this amendment of my Honourable friend.

THE HONOURABLE MR. K. B. HARPER (Burma Chamber of Commerce): I move that the question be now put.

*THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: Sir, I just want to say one word. As one of the Hindu Members who support this amendment, I would only explain that I support this amendment on the ground that Muhammadans were not included in the original Bill and they had not had sufficient opportunity of discussing the provisions of this Bill, and further the majority of the elected Muhammadan Members, both in the other House and in this House, are against the provisions of this Bill.

THE HONOURABLE THE PRESIDENT: The original question was:

"That clause 1 do stand part of the Bill."

Since which an amendment has been moved:

"That to clause 1 the following sub-clause be added, namely:

'(4) It shall not apply to Muhammadans'."

The question is that that amendment be made.

The Council divided:

AYES—11.

Akbar Khan, The Honourable Major Nawab Mahomed.
Akram Husain Bahadur, The Honourable Prince A. M. M.
Ashraf-ud-Din Ahmed, The Honourable Khan Bahadur Nawabzada Saiyid.
Desika Chari, The Honourable Mr. P. C. Khaparde, The Honourable Mr. G. S. Mookerjee, The Honourable Srijut Rama Prasad.

Muhammad Hussain, The Honourable Mian Ali Baksh.
Padshah Sahib Bahadur, The Honourable Saiyed Mohamed.
Suhrawardy, The Honourable Mr. Mahmood.
Surput Sing, The Honourable Mr. Zubair, The Honourable Shah Muhammad.

NOES—24.

Basu, The Honourable Rai Bahadur Suresh Chandra.
Burdon, The Honourable Mr. E.
Charanjit Singh, The Honourable Sardar.
Clayton, The Honourable Mr. H. B. Commander-in-Chief, His Excellency the.
Dadabhoy, The Honourable Sir Maneckji. Dutt, The Honourable Mr. P. C.
Fazl-i-Husain, The Honourable Khan Bahadur Mian Sir.
Graham, The Honourable Mr. L. Gwynne, The Honourable Mr. C. W. Harnam Singh, The Honourable Raja Sir.
Harper, The Honourable Mr. K. B.

Latifi, The Honourable Mr. Alma.
Maqbul Husain, The Honourable Khan Bahadur Sheikh.
Natesan, The Honourable Mr. G. A.
Ramadas Pantulu, The Honourable Mr. V.
Rama Rau, The Honourable Rao Sahib Dr. U.
Ray Chaudhury, The Honourable Mr. Kumar Sankar.
Ryan, The Honourable Mr. T.
Thompson, The Honourable Sir John.
Wacha, The Honourable Sir Dinshaw.
Watson, The Honourable Sir Charles.
Weston, The Honourable Mr. D.
Woodhead, The Honourable Mr. J. A.

The motion was negatived.

* Speech not corrected by the Honourable Member.

THE HONOURABLE MR. P. C. DESIKA CHARI: Sir, I move the amendment which stands in my name and which runs as follows :

"That to clause 1 of the Bill the following sub-clause be added, namely :

"(4) It shall not apply in the case of the marriage of a girl who has attained the age of twelve, but not of fourteen, years, if the principal court within whose original jurisdiction the parent or guardian of the girl resides has, after satisfying itself that the marriage is in the best interests of the girl, granted, upon application by the parent or guardian, permission for the marriage."

Sir, in moving this amendment I am on very strong ground. In fact, the Age of Consent Committee, which has very carefully gone into this question, was, I find, equally divided on this question. But from a passage in the speech of one of the members of the Committee, I find that on the question of exemption or no exemption the Age of Consent Committee was equally divided, but on this question whether in the case of girls over 12 an exemption like this should not be made, we find that most of the members of the Committee were of opinion that an exemption of the kind should be allowed. I will read the particular passage :

"The House will observe "

—says Pandit Thakurdas Bhargava—

"The House will observe that, so far as the question of exemption was concerned, the Committee was equally divided, but so far as the question whether exemption should be granted only in the case of girls of a prescribed age, the Committee was divided in its opinion, but not equally divided. As a matter of fact, I will not be guilty of disclosing any secret when I submit to the House that the majority of the members of the Committee were of opinion that if the age was prescribed, say, at 12, then exemption should be granted."

I am not relying upon this passage as a statement which is entitled to command the same amount of respect as the Age of Consent Report itself. But I submit that this is a matter which was very carefully considered and even this expert committee, who had taken immense pains to ascertain the conditions in India, were equally divided on this question—putting it as low as that. Then the President was not willing to give his casting vote and the amendment was dropped, and they did not make any special recommendation. But still it is a fact that is brought out in the Report that this exemption clause on the very lines that I have indicated in my amendment was acceptable to one half of the members. And in a case like this where it is usual to decide by the rule of a majority, and when opinion was equally divided, I submit it is the duty of the Legislature to consider very carefully whether they ought to endorse the one or the other. I submit that, when this Committee was very strong in its condemnation of these evils, to rectify which this Bill is brought, when half the members of that Committee were of opinion that an exemption clause like this should be included, I submit it is the duty of the Legislature to examine it very carefully, and in case of doubt it is always desirable to be more lenient than hard. I find that similar provisions are found in the marriage laws, not only in the Native States, where such marriage laws were adopted, but in several advanced European countries, and I find that in advanced countries of Europe like France, Germany, Hungary, Italy, Belgium, Czecho-Slovakia, Denmark, Finland, Iceland, Norway, Poland, Roumania, Sweden, Switzerland, and other countries, and coming nearer home, in Japan, there are provisions in the marriage laws for such exemptions. When such exemptions are found to

be necessary in the marriage laws of these advanced countries, when you are making an experiment for the first time, is it not advisable to provide for possible cases of hardship? Several cases of hardship were mentioned in the other House and it is not necessary for me to give instances, but the case has been very forcibly put by Pandit Kanhaiya Lal in his minute, and my amendment is practically on the lines suggested by Pandit Kanhaiya Lal. I find from an extract from the Age of Consent Committee's Report—I have not got the report myself—that Pandit Kanhaiya Lal says :

"My recommendations are :

- (1) that in any law fixing a minimum age of marriage a provision should be made empowering the District Judge, on previous application, to grant a dispensation for the performance of the marriage before the prescribed age, where the interests of the girl or her future happiness, welfare or safety urgently require it ;
- (2) that where the District Judge grants such dispensation or permission, he should have power to impose such terms, conditions or restrictions with or without security or sureties as to the separate living, custody and maintenance of the girl after marriage till she attains the prescribed age, as he may consider expedient or necessary, and also to rescind or vary the same from time to time."

But he has recommended it absolutely without any restrictions as to whether it ought to apply to girls over a particular age or to all girls of this description. But I have restricted it to girls who have attained the age of 12 but who have not attained the age of 14. And the reasons which he gives for having an exemption clause like that are very convincing and, so far as I have been able to see from the reports of the Legislative Assembly, I have not found any satisfactory answer to the reasons given by Pandit Kanhaiya Lal. And there are various passages in his minute which show that, unless there is a provision for exemption, it would work a very great hardship in several parts of the country. And he says in particular that an appeal was made to the Committee (the Age of Consent Committee) in various parts of the country by villagers who said : "If we are sick or dying and we cannot make adequate provision for the marriage of our girls, will the Sarkar or the Panches come forward? Have they made any provision for the marriage of our girls to take the place of the parent?" And this is a thing which ought to be taken note of, and I think it is quite easy to conceive of several cases of hardships, particularly in the case of orphans. It may be said that there are several orphanages. But then the point is whether it is desirable and whether proper arrangements could be made for these orphans to be taken care of and trained in their own religion and in the ways of life, to which their parents or their community are accustomed. After all, there are not very many orphanages all over the country, and it is not possible to provide for such hard cases. But it may be possible to find out several other hard cases, and the safeguards provided would ensure that the law is carried out and the exemption will be granted only in real cases of hardship. I submit that this provision is absolutely necessary in the interests of the proper working of the provisions of this Bill, and I therefore submit that this amendment at least may be acceptable to the House.

***THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE:** Sir, may I have your permission to move the second part of my amendment only,

*Speech not corrected by the Honourable Member.

[Srijut Rama Prasad Mookerjee.]

because I find that the amendment already moved by the Honourable Mr. Chari includes the first portion of my amendment and I would only make one change in the wording to suit the wording of the amendment of the Honourable Mr. Chari, i.e., change the words "sanction" to "permission" and the other consequential changes would come in. My amendment would run: "Provided that the court"—it is not necessary to repeat the words "the principal court of civil jurisdiction"; that is already mentioned in Mr. Chari's amendment. I would read the amendment as I want to propose it:

"Provided that the Court shall grant such permission only if it is satisfied that the interests of either or both of the contracting parties to the marriage or their future welfare, happiness, or safety require it."

Sir, as has already been stated by the Honourable Mover, the question of having an exemption clause in the Bill was before the Select Committee as also before the Legislative Assembly. In the Age of Consent Committee, on the question whether there ought to be an exemption clause or not, there was an equality of votes. But on the other question whether exemption should be allowed, if allowed, to girls below 12 or above 12, there was a decisive vote of the Committee. The majority of the Committee thought that if exemption is to be allowed, it ought to be allowed only to girls not below 12 but above 12. Pandit Kanhaiya Lal, who was the representative of the orthodox Hindu community on that Committee, was of opinion that an exemption clause ought to be put in and the words that I have put in in my amendment are the exact words that were proposed by Pandit Kanhaiya Lal. The amendment that had been proposed in the Legislative Assembly for having an exemption clause was a much broader one. It was not only the interests of the girl, but also the interests of the parents which the amendment wanted to include. The result was, we find from the speeches, that although a large number of Members were in favour of having an exemption clause, they would not agree to the interests of the parents being included, but they would only agree to the interests of the girl or the contracting parties being brought in. Sir, only one or two instances would be sufficient. Suppose in a family there is an old father or an old grandfather who wants to give a girl in marriage before he dies. In that extreme case should not an exception be made?

THE HONOURABLE MR. G. A. NATESAN: I am sorry you are spoiling the case for your amendment by citing this.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: The Honourable Mr. Natesan might think that I am spoiling my amendment, but I look at it from my own personal point of view, and it is open to Mr. Natesan to look at it from his own point of view. I cannot look into his mentality or his way of thinking. Sir, there might be exemption given by the court if the court is satisfied that an exemption ought to be allowed. Or take, for instance, another case. A girl, before a boy is sent to England for study, is given in marriage in India. He will be in England for two or three years. If a girl is given in marriage at the age of only 12 years or 13 years, it would not be before she attains the age of 15 or 16 that she would be living with her husband. That is another exceptional case which we in Bengal at least come across. Sir, these cases should be provided for. The opposition to this Bill, either from the orthodox Hindu community or from the orthodox Muhammadan community, has been

due, on my information at least, much more to the absence of an exemption clause like this than to any other point. Sir, I have just been handed over a telegram from Benares from Mahamahopadhyaya Pandit Lakshamana Sastri which runs as follows:

"Huge demonstration in protest of Sarda Bill by....."

THE HONOURABLE THE PRESIDENT: The telegram which the Honourable Member is now reading has probably been received by all the Members. I have received it myself. It is not relevant to the clause or to the amendment which the Honourable Member is moving.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: Had I known that, I would certainly not have read it. I would have simply referred to it. I was reading it for the purpose of showing that the support which these oppositionists to the Bill are getting from a large section of the populace is due to the absence of this exemption clause. Moreover, Sir, the necessity of an exemption clause has been conceded by Members on the Government side as well in the other House.

THE HONOURABLE SIR JAMES CRERAR: No, Sir.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: It was at least given out by non-official Members that an amending Bill will be brought in which would amend those clauses of the Bill which might appear to be objectionable. Sir, I may just refer to one observation which was made by Mr. Jayakar in the other place. Even a Member of advanced opinion like Mr. Jayakar thought that it was absolutely negligent on the part of the Government not to have brought forward an amendment which would meet with the wishes of both sides of the House. Objection was raised in the other place to the amendment moved by Pandit Nilakantha Das that it was too vague, that it was bad and the wording was not satisfactory. Sir, when Government had not made up its mind during the last Delhi Session that they would support this Bill and during the time.....

THE HONOURABLE SIR JAMES CRERAR: That is incorrect. They said quite clearly in the Delhi Session and before that they did support the principle of the Bill.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: Sir, Government did not want the Bill to go through the Assembly or the Legislature during the Delhi Session because they wanted the Age of Consent Committee's Report to be published in the meantime, by which time they thought they would be in a better position to understand what would be the effect of the provisions of this Bill. And after the publication of the Age of Consent Committee's Report, when these definite recommendations were made by that Committee, was it not right that an amendment should have been made which would meet with the wishes of the majority of the Assembly?

Sir, it is no use objecting to an amendment merely because of verbal objections. The whole question is, should there be an exemption clause to a Bill of this nature or not? Reference has been made in this House as also in the other place to the existence of an exemption clause in other countries outside India as also to the existence of exemption clauses in some of the Native States in India. Sir, I need not go into the laws of other countries, but so far as India

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is concerned, for instance, take Baroda. There the exemption clause is present, and it has been pointed out that although the exemption clause is there, there are very few applications for exemption coming before the courts. There are thousands of cases coming before the courts of prosecutions for non-observance of the rules but there are very few applications for exemption. There would certainly be applications for exemption in the beginning, but in the course of a year or two that number will go down, as is clear from the administration reports of Baroda. In 1917-18 there were only 18; in 1918-19 only 20; in 1919-20 only 27; in 1920-21 only 6. In 1921-22 there were as many as 237 applications, but in the next year again, in 1922-23, there were only 11 applications; in 1923-24 only 7 and in 1924-25 only 12 applications. I have made it absolutely clear in my amendment as to the grounds on which exemption should only be granted by the court. Sir, it was stated in the other place by the Honourable the Law Member that if you include an exemption clause of this nature, it would only mean that the richer section of the people would get exemption and that would mean that by spending money on engaging clever lawyers the rich people would be able to get over the provisions of this Bill. But with due respect to the Honourable the Law Member I say that this is not the case. You will have the judiciary there, and unless and until you can convince the judiciary that the case comes under one of these clauses the application will not be favourably considered by the court. Moreover, Sir, I find that if this exemption is included in the Bill the penal character of the Bill which has been objected to in various parts of the country would be modified to a certain extent. I therefore confidently place this amendment before the House for its acceptance.

THE HONOURABLE MR. V. RAMADAS PANTULU: Sir, it is with very great regret that I have to oppose this amendment. My friend Mr. Mookerjee is not quite right when he said that Mr. Jayakar in the other House has agreed to this proposal. What happened there was that Pandit Motilal Nehru pointed out one possible hardship to the girl, namely, the case of a young man misbehaving with a girl between 12 and 14. In that case the most civilized way of saving the girl from ruin in after life is to provide for the marriage of the girl with the man who has misbehaved. That is a very well recognized civilized method of legitimatising the children and also of saving the girl from shame. While Mr. Jayakar said that an amendment of the kind which Mr. Mookerjee has moved here was far too vague for him to assent to, with reference to Pandit Motilal's point he merely said:

"I have given this very grave consideration and my opinion is that before long it will be necessary to have a carefully worded amendment so as to secure the object which my Honourable friend has in view."

That is altogether a different matter, which will have to be considered when this Bill becomes law. Therefore, my friend is not right in quoting Mr. Jayakar in his support.

Sir, I oppose this amendment on the ground that it is so vague as to practically include everything under the term "hardship" or "interest". These words "hardship" and "interest" are very elastic and it is possible to bring in almost anything under those words. In the other House, when the matter was debated, they said, the old age of parents, the possibility of the girl having no relations living when she attains 14, the possibility of losing

a rich match, the possibility of losing a husband who will become an I.C.S., who is going to England, also the difficulty of not being able to marry two daughters at one time when a man is on privilege leave for a limited time would all come under the exemption. These and hundreds of other things might be given as illustrations of cases which cover the "best interests of girls" or make for "hardship." The enumeration of these things is quite enough to show that if this amendment is carried and things of the sort I have enumerated are included in the exemption, the whole object of the Bill will be absolutely frustrated. When you do not give any indication as to what you consider to be in the interests of the girls or as constituting "hardship" the judiciary are not likely to act rightly in all cases. I have known many cases in which when discretion is provided in a Code the judiciary has interpreted variously. Every lawyer here knows what happened in the case of the words "sufficient cause" in the Review section. The Privy Council said that the words should be interpreted *ejusdem generis* with the words that preceded. But before that every High Court in India had so construed the words as to cover every hardship and until the Privy Council set aside those decisions the courts in India were hopelessly in conflict. In this case I have no doubt that the position will be infinitely worse. Therefore I have no alternative but to oppose this amendment. In regard to the special case mentioned by Pandit Motilal Nehru separate legislation may have to be brought, but it ought not to be included in this Bill.

THE HONOURABLE MR. SURPUT SING: Sir, I beg to support the amendment moved by my friend the Honourable Mr. Chari. That amendment affords this House an opportunity of providing for exceptional cases. It is more than patent that such a provision is of the utmost importance. Any legislation undertaken without due regard to special cases will be defective legislation. Even Rai Sahib Harbilas Sarda who sponsored the Bill in the Assembly laid down a clear provision to meet cases of an exceptional nature. It passes my comprehension why that salutary suggestion was not accepted and acted upon by the lower House. I must not also disguise the fact that there is also a sense in this House that an exception clause should be introduced to cover such cases. Well, if that be the conviction of the Honourable Members of this House, it is just and proper that they should decide to introduce a proviso to that effect. In that event the unpopularity of the measure will be very much ameliorated. Again, Sir, in complex and complicated human affairs, situations must arise which will call for exceptional treatment, and those legislators are termed wise who amply provide for such situations. Sir, we must not forget for a moment that India is still a stronghold of mighty and impregnable conservatism. Forsooth no amount of experience, no logic, no reason, no standards of civilisation of other places can cause any change in our conservatism. It would be impolitic therefore if the final legislative body did not allow exemption for the strictly orthodox section for the safeguard of their interests in such special cases. For instance, a father or a derelict mother or a loving guardian on the death-bed, out of love or actuated by genuine well-being, may fondly or piously desire to marry a girl who is under 14 but above 12 years of age to a young man of choice. Such an exceptional case, Sir, I appeal to the House, must in all conscience be taken out of the category of the Bill and due allowance must be made to meet instances like this.

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[Mr. Surput Sing.]

With these words, Sir, I beg to support the amendment moved by my Honourable friend.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: Sir, I rise to support this amendment, because I am confident that it will not be carried. (Laughter). My Honourable friend Mr. Ramadas Pantulu referred to the case of review. The proviso which my Honourable friend Babu Rama Prasad Mookerjee seeks to add will supply the points for the principle of *ejusdem generis* to apply which he wants to be incorporated in the amendments; and if the provisions of this Bill are taken advantage of by courts in a very lax manner, the Privy Council has already created a precedent and will I hope restrain the courts from a wide exercise of their jurisdiction under the provisions of this Bill.

THE HONOURABLE THE PRESIDENT: The original question was:

"That clause 1 do stand part of the Bill."

Since which an amendment has been moved:

"That to clause 1 of the Bill the following sub-clause be added, namely:

'(4) It shall not apply in the case of the marriage of a girl who has attained the age of twelve, but not of fourteen, years, if the principal court within whose original jurisdiction the parent or guardian of the girl resides has, after satisfying itself that the marriage is in the best interests of the girl, granted, upon application by the parent or guardian, permission for the marriage'."

Further amendment moved to that amendment:

"To the sub-clause proposed in the amendment of the Honourable Mr. Chari, the following proviso be added, namely:

'Provided that the Court shall grant such permission only if it is satisfied that the interests of either or both the contracting parties to a marriage or their future welfare, happiness or safety, require it'."

The question is that that proviso be added to the sub-clause.

The motion was negatived.

THE HONOURABLE THE PRESIDENT: The next question is that the sub-clause be added to clause 1.

The motion was negatived.

THE HONOURABLE THE PRESIDENT: The Council has, I think, now disposed of all the amendments dealing with the applicability or the extent of the Bill. There remain amendments on the commencement clause. We will take the Honourable Mr. Surput Sing's amendment first.

THE HONOURABLE MR. SURPUT SING: Sir, I propose:

"That in sub-clause (3) of clause 1 of the Bill, for the figures '1930' the figures '1931' be substituted."

My purpose in proposing this little change is that some little time must be allowed to the public to acquaint themselves with the provisions of the Bill in such a vast country like India, where there prevails so much illiteracy and want of information, and where news from the Legislatures take some months to reach the distant parts. It cannot be apprehended also that the society will fall to pieces if another year's time is allowed for the Bill to come into effect.

If it is apprehended that many marriages will take place, there is the Age of Consent Act. In these circumstances, Sir, I beg the House to accept the amendment and extend the time for the Bill to come into force to April 1931.

*THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: Sir, I have got a similar amendment on the paper a slightly different amendment—and I think they may be discussed together. There is no use discussing the two dates separately. My suggestion is that the date may be the 1st January 1931. If the Council is not disposed to extend the time till April 1931, if they extend it up to the 1st January 1931, I shall be satisfied, and I think that is the least period which may be given. Need I move it, Sir, separately in this connection?

THE HONOURABLE MR. P. C. DESIKA CHARI: I have got an amendment.

THE HONOURABLE THE PRESIDENT: The Honourable Mr. Rama-Prasad Mookerjee has moved his amendment; the amendment of the Honourable Mr. Chari is covered by it.

Further amendment moved:

"That for the words and figures 'the 1st day of April, 1930' the words and figures 'the 1st day of January, 1931' be substituted."

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: Here again we have the support, the unanimous support of the Age of Consent Committee. What is it that is stated by the Committee on this matter? I will refer Honourable Members to pages 149, 150 and 151. There a detailed description is given by the Age of Consent Committee of the care that must be taken by Government before this law is enforced. What appeared in the evidence before the Age of Consent Committee? Although the Age of Consent Act has been on the Statute-book for a long number of years, still a very large section of the public does not even know of the existence of that law. There is no doubt that one of the fundamental principles of law is that ignorance of law is no excuse. But at the same time the Age of Consent Committee refers to it and says:

"But it is nowhere suggested that there is not a correlative duty on the part of the State to give wide publicity to the law, especially in a case where normally public opinion and sentiment alike have not yet come to realise the illegality of the Act. That after nearly 40 years of its existence on the Statute-book, the law is still unknown to most people, only emphasises the need for a very wide publicity. The law of the minimum age of marriage which we have recommended for enactment requires equally wide publicity. In fact without a preliminary broadcasting of the law it would be inexpedient to bring it into operation."

Sir, I seriously ask every supporter of the Bill whether it is possible, whether it is feasible, whether it is practicable, to let every person in the different parts of the country, in the most interior parts, in the village organizations of India, know about this new law within such a short time?

Sir, the Age of Consent Committee further says:

"Nor can the State rest content with a mere publication of these laws. The public have to be educated on the evils that these laws are intended to remove and on the need, in their own interests, for co-operating with the State in eradicating such evils."

*Speech not corrected by the Honourable Member.

[Srijut Rama Prasad Mookerjee.]

Sir, I have attempted at one stage of the discussion of the Bill to minimise the punishment to be meted out, but this Council, has thought fit to reject my proposal. If that had not been rejected, if the punishment had not been so severe as it is now in the Bill as it is going to be passed, it would not be reasonable that the time should be extended.

It has been stated in the other place that the magistrates will, in the initial stage of the application of the Act, apply only the lower punishment and not the higher punishment. Sir, here again, I would only draw the attention of the House to the different standpoints of the magistrates. Take, for instance, one case. It is a general rule that *pardahnashin* women should not be brought into a court of law but should be granted permission....

THE HONOURABLE THE PRESIDENT: I am sorry I fail to understand the relevancy of the Honourable Member's present remark. We are dealing with the date of the commencement of the Act.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: I was going to show, Sir, how European magistrates, who do not know the actual condition of the country, and magistrates who are appointed as sub-divisional officers may not have sufficient knowledge of the society at the time when they will be called upon to judge these cases.

THE HONOURABLE THE PRESIDENT: I do not see the Honourable Member's point at all. If a European magistrate has not learned the conditions in the country by the 1st April 1930, he will not have learned the conditions by the 1st of April 1931.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: No, Sir, it is not the European magistrate....

THE HONOURABLE THE PRESIDENT: Will the Honourable Member come back to the commencement clause of the Bill please?

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: Yes, Sir, I am coming to it. It is the public who ought to know of the existence of this law and the magistrate also would be expected to apply the lower punishment and not the higher punishment at the initial stage. These are the two correlated facts which have to be taken into consideration in this connection. Sir, this is the recommendation of the Age of Consent Committee at page 150:

"We therefore recommend that measures be adopted to give wide publicity to the Marriage and Consent law and to carry out an educative propaganda."

And the propaganda that is to be carried out is mentioned in the next two paragraphs, and the attention of Government is drawn to the same kind of propaganda as was adopted by them during the last war. It would not be possible, I maintain, to have a propaganda, an educative propaganda, in the country which will have the effect you want it to have within the period that has been here provided. Moreover, Sir, this date was mentioned in the Bill when it came out of the Select Committee. The Select Committee also thought that a sufficiently long period should be allowed before the Bill can be given effect to. But in spite of that fact, the Bill has not become an Act for

some months after that. There are Members of this House as well as of the other House who would not take note of that fact. Therefore, we come to this position. Although the Age of Consent Committee unanimously recommended that proper safeguards ought to be provided in this matter, although the Select Committee in the other House recommended that a sufficiently long period should be allowed to elapse before this Bill is given effect to, in spite of these very strong arguments which had convinced all the supporters of the Bill we are in this position that the 1st of April 1930 is still retained there. The only question is: Do we want this Bill to be a Bill which should be given effect to or not? If we say the Bill is not to be given effect to, then that is a different matter. But I do not want that this Bill should remain a dead letter but should be given effect to. Sir, I honestly feel that those who want reform—and I want the age rule to be imposed—I honestly feel that it would not be fair to the country at large. We are not fair to ourselves if we fix the date at the 1st of April 1930. Can we lay our hands on our hearts and say that it is possible in the particular localities from which we come to let every individual know that this law has been passed? It was proposed that it would not be left to only the district headquarters but that this Bill would have to be translated into the different languages and vernaculars of the country and circulated to the different district headquarters, to the different *panchayats*, to the union boards, to the municipalities, and also to other local bodies that might be in existence in the different parts of the country. And it was also suggested that there would have to be lectures delivered—lantern lectures were suggested by the Age of Consent Committee—in the interior parts of India where we have illiteracy in 99·9 per cent. of the people. It would not do merely to translate this and send this to union boards and local boards. These lectures will have to be organised.

THE HONOURABLE THE PRESIDENT: The Honourable Member is repeating himself. The Honourable Member has twice said that it will not be sufficient to publish the Bill through district and local boards but that there must be lantern lectures. He made both remarks twice. At this hour I think the Council will be satisfied if an argument is stated once only.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: Sir, I have tried throughout this discussion to be as brief as possible.

THE HONOURABLE THE PRESIDENT: The Honourable Member may be brief but he would be briefer if he would not repeat his remarks.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: With all submission to you, Sir, I do not repeat any remark unless it is necessary.

THE HONOURABLE THE PRESIDENT: I would ask the Honourable Member to look at the reporter's transcript to-morrow.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: I say, Sir, I do not repeat myself unless it is necessary to correlate my remarks with the next argument which I am going to make. Sir, I say the time is not sufficient for the arrangement of lectures. I would therefore submit to the Council that this is a most important amendment that is proposed. The other amendment was with regard to the exemption clause and this is with regard to the commencement one. Sir, if this amendment is accepted by the House, I

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think the rigour of this enactment would be lessened and the provisions of the Bill would be better given effect to in the different parts of the country, which is the intention of the framers of the Bill.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: Sir, I rise to oppose this amendment. We are, being males, acting under an obsession. We are looking more to the interests of the males, who for having infringed this law will have to go to jail, than to the interests of the infant girls. If we look to the interests of the infant girls, the sooner we pass this law the better. If, of course, we look to the interests of the males, it is better to postpone it as much as we can. I therefore oppose this amendment.

THE HONOURABLE THE PRESIDENT: The original question was:

"That clause 1 do stand part of the Bill."

Since which an amendment has been moved:

"That in sub-clause (3) of clause 1, for the words and figures 'the 1st day of April, 1930' the words and figures 'the 1st day of April, 1931' be substituted."

I think the "Noes" have it.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: Sir, as this is an important question, I want a division.

The Council divided:

AYES—6.

Desika Chari, The Honourable Mr. P. C.
Khaparde, The Honourable Mr. G. S.
Mookerjee, The Honourable Srijut Rama Prasad.

Padshah Sahib Bahadur, The Honourable Saiyed Mohamed.
Suhrawardy, The Honourable Mr. Mahmood.
Surput Sing, The Honourable Mr.

NOES—24.

Ashraf-ud-Din Ahmed, The Honourable Khan Bahadur Nawabzada Saiyed.
Basu, The Honourable Rai Bahadur Suresh Chandra.
Burdon, The Honourable Mr. E.
Charanjit Singh, The Honourable Sardar.
Clayton, The Honourable Mr. H. B.
Dadabhoy, The Honourable Sir Maneckji.
Dutt, The Honourable Mr. P. C.
Fazl-i-Husain, The Honourable Khan Bahadur Mian Sir.
Graham, The Honourable Mr. L.
Gwynne, The Honourable Mr. C. W.
Harnam Singh, The Honourable Raja Sir.
Harper, The Honourable Mr. K. B.

Latifi, The Honourable Mr. Alma.
Maqbul Hussain, The Honourable Khan Bahadur Sheikh.
Natesan, The Honourable Mr. G. A.
Ramadas Pantulu, The Honourable Mr. V.
Rama Rau, The Honourable Rao Sahib Dr. U.
Ray Chaudhury, The Honourable Mr. Kumar Sankar.
Ryan, The Honourable Mr. T.
Thompson, The Honourable Sir John.
Wacha, The Honourable Sir Dinshaw.
Watson, The Honourable Sir Charles.
Weston, The Honourable Mr. D.
Woodhead, The Honourable Mr. J. A.

The motion was negatived.

THE HONOURABLE THE PRESIDENT: Further amendment moved:

"That in sub-clause (3) of clause 1 for the words and figures 'the 1st day of April, 1930' the words and figures 'the 1st day of January 1931' be substituted."

The question is that that amendment be made.

The motion was negatived.

THE HONOURABLE THE PRESIDENT: The question is:

"That clause 1 do stand part of the Bill."

The motion was adopted.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE THE PRESIDENT: That concludes the consideration stage of the Bill. I take it that it is almost the unanimous desire of the House that the Bill should be disposed of to-day rather than that I should adjourn the Council till Monday.

(Several Honourable Members assented.)

THE HONOURABLE MR. G. S. KHAPARDE: Monday is better.

THE HONOURABLE THE PRESIDENT: The third reading of the Bill still remains. I am not in a position to know to what length Honourable Members are going in the debate on the 3rd reading of the Bill, and what the length of their speeches will be. If there is a reasonable chance of the Bill being finished within one hour from now, I will stay on. Otherwise, I shall have to adjourn.

THE HONOURABLE MR. G. A. NATESAN: We will stay on.

THE HONOURABLE MR. V. RAMADAS PANTULU: I think we can finish in one hour. I am speaking for my side. I do not know what the other side intends to do. I promise to be as brief as possible.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN: It is hardly fair to say that we will be as brief as possible. That means nothing. If the Bill is to be finished in one hour, that means that they should not take more than 15 minutes in all in order that the oppositionists may have 45 minutes, and that does not seem to be practicable.

THE HONOURABLE THE PRESIDENT: Let us hear what the Honourable Mr. Khaparde has got to say.

THE HONOURABLE MR. G. S. KHAPARDE: Sir, I wish to speak, because some of my remarks that I wished to make in my first speech had to be curtailed, or omitted altogether, and I consoled myself with the idea that I would be able to finish them when the third reading comes up.

THE HONOURABLE THE PRESIDENT: The Council will now adjourn till 2-30 P.M. this afternoon.

The Council then adjourned for Lunch till Half Past Two of the Clock.

The Council re-assembled after Lunch at Half Past Two of the Clock, the Honourable the President in the Chair.

THE HONOURABLE MR. V. RAMADAS PANTULU: Sir, I move that the Bill, as passed by the Legislative Assembly, be passed.

[Mr. V. Ramadas Pantulu.]

After the handsome support that this House has given to this Bill on its second reading it is hardly necessary for me to make any long speech to convince Members of this House of the beneficial nature of this measure. However, as there is a determined opposition to it from some quarters of this House, I wish to say a few words in support of it on the third reading. As regards the magnitude of the evil that the Bill seeks to remedy, there does not seem to have been much difference of opinion in this House. I have not heard any Honourable Member seriously advocating the views that infant marriages were good and that no evils followed from having infant wives and child mothers. That I take it can be taken to be the consensus of opinion of the House as a whole. If the conclusions recorded by the Age of Consent Committee are not sufficient to convince the public of the evils of this custom, I would like to quote one passage from an experienced administrator who has seen much of Indian life in this country and who can take an impartial view. I am not quoting from an irresponsible critic like Miss Mayo but from a person in authority and who is fully alive to his responsibility when he makes statements, I mean no other than the Honourable Sir James Crerar, the Home Member of the Government of India. In supporting this Bill he used the following words :

"The first and the most reasonable conclusion, the inevitable conclusion in reference to the particular contents of this Bill, is that there exists a great and a corroding evil in this country which is clamorous for a remedy. That evil, Sir, is one which afflicts, in the first instance, the most defenceless, innocent section of the community, those who have the greatest claim to our protection. The evil is not only limited to that. It is not merely the large number of young girls who year by year either die or sustain serious bodily injury, but those who are acquainted with the case, those who have studied the evidence, those more particularly who have come into contact with the practical facts and the practical consequences cannot contemplate them without—I put it no higher than this—the most serious searchings of mind, heart and conscience. It is not merely that generation after generation of young girls should be exposed to or should suffer from these evils, but there are dangers to the future generations of the country from which, if the country is not willing to adopt a remedy, it will undoubtedly suffer in its most vital and important interests."

The Honourable Member was evidently referring in the closing words of the passage to the deteriorating manhood of the country. Sir, those who say that children born of child wives and child mothers are fit to take their legitimate place in the government of this country, speak without the facts. I am connected with a University and have been for a long time. I know something about the University Training Corps and how it works. Almost every Brahmin boy, almost every boy who is the victim of early marriages is found to be married before he is 18, and generally he seeks exemption from the University Training Corps. And the attempts made by the educated Members of the Assembly and the Council of State to make military training compulsory, or even to encourage boys to take to voluntary organisations like the Territorial Force and University Corps, have proved absolutely futile, because the physique of these people has not permitted it. What greater proof do you want of the evil when it makes the young men of the present day unfit to be soldiers in the defence of their country? I wish the Commander-in-Chief were here. He is a very liberal minded soldier and a statesman who has given his support to the recommendations of the Andrew Skeen Committee. But how could we ask him and his successors to Indianize the Army more and more

if you are going to persist in this vicious custom which is producing so-called men who are absolutely unfit to defend their country?

AN HONOURABLE MEMBER: Will you produce them if you pass this Bill?

THE HONOURABLE MR. V. RAMADAS PANTULU: I cannot convince the unconvinced. Next I ask my Mussulman friends here to ponder over this matter. We are fighting the cause of the whole nation, not of the Hindu community or the Mussulman or Parsi or Christian community. This Bill takes into consideration the Indian nation as a whole, and I believe that sooner or later they will recognize that we, Hindu and Mussulman, stand side by side as one nation; then let us produce men and not degenerate hopeless babies. Therefore, Sir, there is hardly any necessity to argue with a right thinking man who is patriotic, who wishes for progress, to agree to what this Bill provides for.

With regard to the legitimacy of social legislation much has been said. I do not wish to take more than a single minute over that question, and in doing so, I shall cite two sentences from the speech of Sir Malcolm Hailey which he made in 1924 in connection with another Bill which was also intended to give protection to minor girls in another direction. On that occasion the Home Member said :

"In fact, I believe that all social legislation should proceed by gradual stages, providing social opinion with new standards and traditions at each step. If this is done, then when the Legislature makes each new step forward, it will have behind it a body of solid and convinced public opinion prepared to make the law effective."

Thus only can we secure that the social law should not be the sole creation of the Legislature, but that it should in fact be the endorsement at each stage of the social standards of the great mass of thinking men."

He is not speaking of non-thinking men whom nothing can convince; to the great mass of "thinking men" in the community he refers.

He also says :

"Still it is a sound principle of social legislation that the Legislature should always be somewhat in advance of current opinion, while of course avoiding going so far in advance of that opinion that the law in itself would become inoperative."

These are very sound principles which I commend to the attention of the House, and I claim for this Bill in a very large measure adherence to these principles which were so well and succinctly enunciated by Sir Malcolm Hailey.

Sir, to speak of such a measure as a measure of a communal character is not right. When we have now arrived at a stage when the Legislatures are intended to legislate on matters affecting the nation as a whole, on matters dealing with national problems and the civil rights of the people, we cannot but trench upon religious and social custom. No national problem or civil rights can be properly solved without in some measure, in a country like India, dealing with social and religious matters. To deny that right to this Legislature is to deny progress to this country. Therefore, I do not think there is very much in that. Some of my Honourable friends made much of personal freedom being curtailed by this measure. Legislation in all countries at all times has curtailed personal freedom to a certain extent in national interests. Those who think that legislation has no right to curtail personal freedom and that a Legislature

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cannot legislate in the interests of the nation and in doing so cannot curtail the liberty and freedom of people, will do well to read one of the oldest books on Jurisprudence now extant, the Institutes of Justinian, which all of us have been taught while students of law. Justinian gives numerous instances of legislation affecting personal freedom. It is not a new doctrine. I claim that if this evil custom has to be put an end to, personal freedom has to be curtailed, as in many cases it has been curtailed. That is not an argument which can be advanced on a sound juristic point of view.

Sir, I do not wish to keep this Council much longer. This Council has no doubt not had very great reputation for being progressive in its political or economic ideals. Some of the ladies who were interested in this legislation came to me and said, "Mr. Pantulu, do you expect your reactionary Council will see the measure through?" I assured them that though we were not progressive in political or economic matters, we might prove radical in the social sphere, and my prognostication has come true. And in this respect I wish once more to accord the thanks of myself personally and of all those interested in the success of this measure to the Government who have brought to bear on this question a very progressive view. (Hear, hear.) If Britishers are not ready to take us along the path of political progress as quickly as we want them to do, at least they can bring into the administration and the social life in this country the progressive British ideals which are suitable, and in this matter I think they have acted rightly. Therefore, Sir, the only choice for this House is between national degeneration or stagnation, and healthy national progress. Do you want to continue to be slaves unable to defend your person and property, your homes and hearths, or do you want to march along progressive lines to the Commonwealth of British Nations, in which free India will have her legitimate part? I am an advocate of Dominion Status and not an advocate of severance of the British connection. Therefore, I may legitimately appeal to Britishers here to join the Hindus, Muhammadans, Christians and Parsis in this country and do all they can to lead this country to the fulfilment of the goal of a self-governing, free and liberated India; and that can be done partly by improving the social conditions of this country. This measure is one of that nature, and I hope that Europeans and Indians will join hands not only in passing it but also in administering the measure for the benefit of this country. (Applause.)

THE HONOURABLE MR. P. C. DESIKA CHARI: Sir, I wish to be very brief. I feel it my duty to oppose the passage of the Bill. I raise my feeble voice of protest against the violation of religious sacraments and the liberty of conscience in socio-religious matters. I have made it perfectly clear that I do not take my stand, in opposing the Bill, on the Shastras or on the various arguments put forward by the orthodox section. My view is that under any circumstances we should not allow any violation of our religion; my zeal for social reform I will not allow to outrun my duty to my religion, and if the religion which my forefathers have had for centuries back has not been a good religion, it could not have survived to this day, as has been elaborately pointed out by my Honourable friend Mr. Khaparde. In any future constitution I think it must be made the basic principle that there ought to be no interference with religion, and if that is acceded to, then it is quite possible for the Eastern people to advance, to make satisfactory progress in political advancement.

If that principle is not accepted in any constitutional change, if it is not kept in view in enacting any legislative measures, then I think political progress is absolutely impossible. To an easterner, and I think to all people inhabiting all parts of the world, religion is dearer even than political liberty. That being the case, if you allow any, the least infringement of religious liberty and if you violate religious tolerance in any manner, then any further progress is impossible; and the object, which my friend the Honourable Mr. Ramadas Pantulu has so eloquently pleaded for in the interests of the Indian nation, will be frustrated if you tamper with religion.

Sir, I have got one word in reply to what my friend the Honourable the Leader of the House said this morning. He referred to something being in the blood, something being in the heredity of certain persons, who cannot rise to supreme occasion, who cannot think of any sacrifice, when the interests of the country demand it. Sir, I do not know what blood runs in his veins, but I may say this, that the same blood of my forefathers, which was able to resist all attempts, all the gentle methods of the Quoran or the sword which foreigners carried, runs in my veins; and I would not even at the risk of my life allow my religion to be tampered with; my friend the Honourable the Leader of the House may belong to that class of people, Indians, who have the blood which could not resist the propaganda of the Quoran or the sword and who have fallen a victim to the propaganda of conversion. Well, it is quite enough for the present purpose to tell him and to tell the other Members of this House that, whatever may be the condition to which we have been reduced by centuries of foreign invasion and foreign conquest, we still have that in our blood which will resist and resist to the last breath of our nostrils any attempt to tamper with or violate our religion and religious principles. I admire the grim determination of the supporters of social reform. I admire the grim determination of the combination of the social reformers and the Honourable Members on the Treasury Benches not to allow a semi-colon or a full stop or even the obvious faults which have been pointed out to them to be interfered with. They regard this Bill as sacrosanct and the decision of this House on the amendment of my friend the Honourable Saiyed Mohammed Padshah Sahib Bahadur, pointing out an obvious error, gave me an indication of the temper of the House. Not that I was under any delusion as regards the general attitude of the Treasury Benches or of the sponsors of the Bill. I was aware from the very beginning that we were fighting a hopeless battle. I was aware that we were only repeating what we on this side as well as some of those people who have joined hands with the Government have been doing all along—in other words, we are quite accustomed to playing what in tennis is called love sets. We have been repeatedly giving the Treasury Benches the pleasure of playing love sets and in these two days we have given them further pleasure in that direction. And the attitude of the House in not allowing any consideration for hard cases—even such hard cases as have been regarded as necessary in the most advanced countries where they have marriage laws—that mentality of the people who are in support of the Bill really indicates in what direction they are going to lead the people of this country. They are not in favour of social reform being carried out by evolution even to a limited extent. They are not even in favour of enforcing social legislation to some extent and allowing further time for social evolution to have free play. I

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think they have demonstrated to the people of India that they have got faith in social revolution. Well, that is one good thing gained. I do not know if this principle of revolution in social matters may not be taken up in other directions also. I do not know whether it is good or bad, but there it is. This is an object lesson to the public at large. Well, with the passage of the Bill, this combination ends here and the Government will be the sole surviving partner to reap a plentiful crop of trouble. They will be the persons who will be left this legacy and they will be in sole charge of it. I wish them joy of it.

With these words, I oppose the passage of this Bill.

THE HONOURABLE MR. SURPUT SING: Sir, when I find that none of the amendments which we who are in the minority in this House have moved has been accepted, I cannot but oppose the Bill as a whole at this stage. The country, excepting a small minority, is not yet prepared to accept such an abrupt measure which does not provide even for liberty of conscience and exceptional circumstances. The orthodox section are silently smarting under the wrong which is going to be perpetrated on them. Our country is yet a stronghold of great traditions and we cannot persuade ourselves to engraft upon our institutions western or American institutions. East is East, and West is West, and the two cannot meet. Let us have first compulsory education of the masses and independence in the matter of our own administration and then we can aspire to assimilate such legislation as is sought to be thrust upon us.

With these words, Sir, I beg to oppose the third reading of the Bill.

THE HONOURABLE MR. G. S. KHAPARDE: I also join my friends in opposing the passage of this Bill though I recognise that it is inevitable and it will pass, notwithstanding all that I have to say. I shall not repeat my arguments which I have already placed before the House, but circumstances compelled me to omit certain things and those I find are very useful and may be urged even at this stage. If they do not take effect at once, I believe they will gradually percolate into the minds of my opponents and eventually they will come to agree with me. The thing is that in the East and in the West there are certain principles which are common and which are well understood and I believe it is useful to draw attention to them, though I shall not delay the House nor argue them out at great length. Society in the West is now recognised as a sociological order; that man was descended from an animal and was first in the stages of an animal and then gradually like a gregarious animal came in and evolved in course of time. That is their theory. But that is not our theory and we believe, as also the Christians believe, that the first man, that is Adam, was the best of men. That Adam who was the first man was really a very great man. On that point I and the Christians and Muhammadans and every other person of any religion agree. In the West, however, evolution went on as they take it and I also accept the rules and the general canons that have been derived from evolution. As they say, society first was based entirely on force, then gradually some good notions percolated into it and gradually it attained the present stage. That is their belief. Our belief is

different. I can support it by texts but I prefer to put that plainly so that people may easily understand. Our idea is that the Aryan race, certainly when it began life, stood together somehow and then divided itself into four parts, to give them the present four castes that we depend upon. They selected the best and the wisest among them to form the Brahmins, the strongest amongst them to become the Kshatriyas, the fighting race, and the middling people having money and commerce as the Vaishya or trading class. Those who could not fall within any of these classes became the servants class, or Sudras. This is supported by well-known

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Vedic texts. There has been a complaint that I have been fighting without quoting any texts. This afternoon, I shall quote one text: "Brahmanosya Mukhamusit Babu Rajanyan Kritah". This is a well-known text. We know that this division that was originally made was one of the wisest and the best. The Brahmins were to strive to preserve religion and learning and make themselves better. The duties ascribed to them were of a peculiar character, more or less appropriate to the class that was set apart for them. That class was not to look upon life as a pleasant occupation or should not try to make life pleasant. Their life was to be of asceticism, of thinking, of contemplation and of doing everything good but seeking no pleasures. That class has specialised and from generation to generation this doctrine has been preached to them and to their children. Therefore, there are more restrictions upon a Brahmin than on anybody else in the whole society. One principle has been that power and wealth should be divorced from each other. The Brahmin who would have the greatest honour was bound to be very poor. He was wedded to poverty as it was. The other principle was that he who had a great deal of money should not have power in politics. Rather strange doctrine, as you would think, but it is true all the same. The Kshatriya class were to be the most powerful, very able in war, and very great men. They were to be the Kings. The Brahmin was not permitted to be a king. The powerful man was permitted to be a king. But that king had to take certain vows, that he will not beg, that he will not submit to foreign rule, and so on. They were also a specialised class. That class was permitted to marry at any age it liked and whomsoever it pleased. He was to get strong and travel and see how people fight. The Vaishya class was given great power to acquire as much wealth as it liked. They were to have all the goods of the world, land, cattle, etc. Except as jurors in a trial, they had no other power. When cases had to be decided, the Vaishya class used to be jurors. One principle.....

THE HONOURABLE THE PRESIDENT: I am afraid the Honourable Member will try the patience of the Council if he pursues the line that he is at present following. The speech that the Honourable Member is making is relevant only in so far as it would be relevant to any question in this Council affecting India as a whole. In no other sense is it relevant.

THE HONOURABLE MR. G. S. KHAPARDE: Is it permissible to point out the relevancy of what I am saying?

THE HONOURABLE THE PRESIDENT: If the Honourable Member would do so.

THE HONOURABLE MR. G. S. KHAPARDE: I will point out the relevancy of it. In India, as elsewhere, in every society, the King had no power to legislate. The King has no power of legislation even now in England. On that point we are agreed. The executive is merely the executive. Legislative power was given only to the learned, and to those who made a special study of it. On that point, for the present, the Hindu law and the Muhammadan law agree. Among the Muhammadans, the king was a limited monarch; he was not an absolute despot. He was restricted by *fatwas* and orders of the Ulemas. No one can claim that the king should have any legislative powers. The Ulemas are the learned persons who should be specially consulted in legislative matters. There also, I think, we are agreed. The great respect that is paid to experts in England is due to that. As regards persons having a great deal of money being allowed to accumulate as much wealth as they like, that is also conceded in the present policy. So, the ancient policy that I have been advocating and trying to bring before this Honourable Council is not in conflict with the ideas that are prevalent now. It was said that I could not get out of what was in my blood, and that I could not rise to the importance of the occasion. I cannot understand why this has been alleged. I humbly submit that, for myself at any rate, I have risen equal to the occasion and I have urged the things that appear to be necessary. I did not defend my case with Vedic texts nor did I try to interpret those texts. I defended my case on sociological grounds, on economic grounds and on political grounds. That being so, I submit that it is time that the British Government governing here should learn something of the ancient policy and adopt something of it to make it consonant with our ideas and our habits. It is not entirely right to borrow the whole of a body of law from a different country and put it into practice here. The Council will remember that I moved an amendment to-day saying that Brahmins and Muhammadans should be excluded from the operation of this law. That was lost and it was believed that I had some sinister object behind it. There was nothing sinister. We are agreed that kings have no legislative power, also that the people who aspired to lay down laws should be wedded to poverty as the Fakirs and Brahmins were. These two points being common, and Brahmins being a special class, having nothing to do but to think and to philosophise and to assist in legislation.....

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: They should be placed above the law?

THE HONOURABLE MR. G. S. KHAPARDE: I do not think so. The Brahmin had to marry at an early age as a duty. The girl also had to be married early so that she might be brought up in the traditions of poverty and righteousness—as it is called now in England, plain living and high thinking. These were the specialities of the Brahmin. Therefore to him early marriage was made a duty.

(The Honourable Member here quoted a Sanskrit text.)

All these texts come in there. Then come the Kshatriyas and the Vaishyas. So, this law affected the Brahmins most, and my Muhammadan friends, who have a religious objection, come in with us here.

Another point is that legislation of this character would have to be debated considerably in the country and understood by the people. That point has been taken by the Muhammadans. Unfortunately, in this particular case, the Bill came in about 1927, and was published in the Gazette. But I confess I never read the Gazette before I came to the Council. There are many people who do not read the Government Gazette until they come to the Council unless they have some political case to argue. Therefore, it never reached the general public. It was discussed in the papers, but India is not a country where everybody reads a newspaper. So, the news of this legislation never reached those whom it would affect most. That objection has been taken, and I do not mean to re-argue it. I only refer to it. In the temper of this House—my friend has referred to it—they would not accept even the change of a comma. Even the amendment of an obvious error was not accepted. That being so, we have to fall back upon our own resources. They would not accept even the most reasonable explanation or amendment. What are we to do? Well, we have to consider these things ourselves and see what can possibly be done in the circumstances. And what appears to me to be possible under the present circumstances is to sit quietly and let these things happen and let the people who have taken part in it take the consequences. That appears to be the only way out of it and I propose to take that way, to say nothing, let those who have embarked upon this tremendous adventure take what is coming. I suppose in course of time they will learn and I shall be very glad if they succeed and do not come to grief. If they do, I shall get up and say, "I told you so".

The other point which I wish to lay stress upon and which I specially depend upon is that this legislation having been begun in one direction has been carried into another direction. Originally intended to be purely social, it has been changed into a penal and criminal law. But that has been held by the Council to be right, and I have no justification in arguing that and do not mean to. But I may say at the same time that we feel that it is rather an insult added to injury. Notwithstanding these obvious mistakes and obvious changes in principle, that has not been acknowledged and no concession made to us.

The third point which I have to take is that the orthodox community has been entirely ignored. That point was taken by me and argued. We were not on the Committee, we had nothing to do with it at all, and yet we are the persons who are to endure the consequences of this legislation. That point has already been taken and I only mention it in this last stage so that Honourable Members may remember it when they vote for the passing of this Bill.

Last of all, I know that this Bill will be passed. I shall give it a blessing, the same blessing which Desdemona's father gave her when she decided to marry Othello. And that blessing I shall give because they are not enemies; after all they are my friends and countrymen, who think one way while I think another way. After all the good intention is common to both, and so far as it is intended to be good, let us all believe that everybody is honest and willing to do his best for the country. I am quite willing to believe that.

[Mr. G. S. Khaparde.]

Therefore there is no private malice in this matter; there is only this different view. I think that if this matter could be adjusted more in consonance with custom as it has existed it would be better. There are others who think that this House should be pulled down and a new one built. They have their view; I have mine; I would like things to be brought back into some kind of accordance with the traditions of my people and in consonance with the sentiments of our forefathers. I do not want to labour the question, beyond saying that nothing of the old law now remains; inheritance has gone, marriage has gone; property has gone; crimes have gone; procedure has gone. What is left to me is to fall back upon myself and believe that God is doing everything for the best, and if He is taking away everything, kind Providence will continue to take care of us and will provide a way out. And if things do not fall out as is expected, I cannot help it. I have done what little lay in my power to restore the old as far as it could be restored. That being so, with this blessing of Desdemona's father to Desdemona I shall close. (Applause.)

THE HONOURABLE SIR MANECKJI DADABHOY: Sir, I rise to give my warm and whole-hearted support to the passage of this Bill on behalf of minority communities in India, and particularly on behalf of my small community which has always led the way of progress in this country. Sir, if this Bill is passed, it will be acknowledged that it is a Bill of an epoch-making character. It will be a definite milestone in the evolution of the social, economic and intellectual progress of this country. It will raise India to a new status; it will enable her to take her rightful place among the other nations of the world; it will enable her to march on the road towards self-government, because I believe no country is ripe for self-government which is not up-to-date in the matter of social reform.

Sir, the wisdom of a marriage law, as also its necessity, has been questioned by many of the Honourable Members here as well as in the other House, and by a certain section of the public. I must concede that there is some truth and reason in the position which is taken up by a section of the people that what we were concerned with in this country was to make an advance in the age of consent and it has happened that the age of consent has remained stationary while a marriage law has been introduced into this country. We have only to look at the brief history of the legislation in this matter. The age of consent was first fixed by the Indian Penal Code at 10 and it did not make any difference between marital and extra-marital rights. That state of the law continued for 31 years till the case of Harimohan Matti, which is reported in 18 Indian Law Reports, brought to light many deficiencies in our law, and so much public attention was directed to the subject on that occasion that in 1891 the Government thought fit to bring in a measure to increase the age of consent from 10 to 12. In introducing that measure Sir Andrew Scoble said that it is the right and duty of the State to interfere for the protection of any class of its subjects where proved necessity exists. The law was then modified and the age was raised to 12 years, but it was not extended to extra-marital cases. The law then continued the same for 34 years, when in 1922 some Honourable Members in the Assembly brought in private Bills which did not receive approval and support for some reason or another. Then, in 1925, Sir Alexander

Muddiman brought forward a measure for the amendment of section 375 and to increase the age of consent from 12 to 13 in marital cases and from 13 to 14 in extra-marital cases. That measure was passed by a very large majority in the House. Two years afterwards Sir Hari Singh Gour brought in a measure for the further extension of the age of consent from 12 to 14 in marital cases. But that Bill was withdrawn at the request of the Government of India who had decided to appoint a talented committee to enquire into the question of the age of consent both in marital and in extra-marital cases. On that assurance the motion was withdrawn, with the result that this committee was appointed to investigate the question of the age of consent. That committee after recording evidence came to the conclusion that we had in the past progressed on a wrong basis; that in the past we had only tried to increase the age of consent, and any law regarding the age of consent could not be successful on account of the very nature of the offence of early consummation before puberty and after, which was generally committed in secrecy, and the unwillingness of guardians and parents to expose their children to any criminal law. It was for that very reason that this matter was carefully considered and the Committee was of opinion that unless some supplementary or auxiliary legislation was brought forward in the shape of a marriage law, protecting the age of marriage and penalising marriages under a certain age, no measure of age of consent would ever be effectual in this country. It was for this very reason that they recommended the passing of a marriage law in order that such marriage law might attain more effectually and quickly the object which we all have in view; and it was therefore that this Marriage Bill has been brought forward, to which so much opposition has been raised. Sir, that being the history of the case, I should think every reasonable man ought to welcome this measure. I do not wish to repeat the stories of the atrocities perpetrated on young child wives. I do not wish to go into the history of this matter. Anybody who reads the five chapters devoted to this subject by the Committee will shed tears regarding the misery and the injury sustained by poor, innocent, immature girls at the hands sometimes only of boy husbands, but in a majority of cases of husbands of riper years, men of 40 and 50 who marry girls of 10 and 12 and consummate their marriages at these ages. Sir, I may say this Council has always been ready and willing to respect the feelings and sentiments of opponents. In passing this measure we are not acting against the feeling of any religious community or trying deliberately to injure them. Some of our countrymen look at this question from a different point of view, but I have not the slightest doubt that this measure, when passed and placed on the Statute-book, will justify its existence, and our friends who have to-day warmly opposed this measure on various grounds will thank us for this legislation—brought forward by a private individual and supported and passed in this House. In a matter of this character, there is always a certain amount of dissatisfaction and discontent. No measure of any character affecting the social condition of any community can be passed or brought forward in this House without causing a certain amount of dissatisfaction and agitation in the country. But we have to look to the fact that that agitation will always be of a perennial character, and when better counsels prevail and when the community is educated and realises the fact that this legislation which we are now about to embark on is of a parental character and for the benefit

[Sir Maneckji Dadabhoy.]

of the community, for the growth of healthy children, for healthy progeny, for the benefit of generations that will succeed us and who will take part in the comity of nations, it will be realised that we are not enemies, as my friend on the right has said this afternoon. The Honourable Mr. Khaparde has given us the same blessing that Desdemona's father gave her. I hope he will live to see the realisation of the progress made in this country and for the social evolution that will take place.

Sir, this is an Act which, when passed, will cause no hardship. Provision has been made for cases to be tried by District Magistrates or Presidency Magistrates. The offence is made non-cognisable; it is made bailable; it is made compoundable when the girl is over 12 years of age and non-compoundable when the girl is under 12 years of age. Therefore, in the administration of this Act I have not the slightest fear that any serious hardship will be caused. My friend has spoken of the hardships that will be caused, but I have not the slightest doubt that the Government, when this Bill is passed, will issue executive instructions that this Act, for the first 12 months or two years, should not only be applied with justice, but also with clemency, and that they will take every measure in their power to educate public opinion. Sir, I shall not take up the time of the Council any further. I give this measure my blessing and I only hope that when this Bill is passed, it may prepare India for still larger measures of progress on which the glory of this country alone depends.

THE HONOURABLE SAIYED MOHAMED PADSHAH SAHIB BAHADUR : Sir, if I rise to take part in the debate, I do so merely to enter my emphatic protest against the passing of this Bill on my own behalf and on behalf of my Honourable friends, the Mussalman Members of this Council, who this morning voted for the exemption of Mussalmans from the operation of the Bill. Sir, at this belated hour, I do not propose to speak at any length. I do not wish to cover the ground which has already been traversed by my Honourable friends who have been labouring to induce my other friends to be a little more careful and considerate. All that I wish to say is that this Legislature or, for the matter of that, any Legislature has no power to legislate in matters which come entirely within the purview of religion and personal law. As has already been observed by my Honourable friend Mr. Khaparde, even in the olden days the Mussalman Kings too had no such powers. In all matters which affected religion, it was only the Muftis who were empowered to issue *fatwas*. The rules were so rigorous that not even every Maulvi or priest was competent to issue *fatwas*; it was only such of them as had made a critical study of Islamic laws and had earned the distinction of Muftis who were empowered to issue those *fatwas* on matters religious.

Now, Sir, in spite of all that has been said and done here on behalf of the Government, I think it would have been very much better if the official block had remained neutral in this matter. Though I refuse to concur with his views, I tender my congratulations to the Honourable the Leader of this House for the able speech which he made this morning. But I am constrained to say that, in spite of his eloquence, in spite of the powers of advocacy which he pressed into his service, and in spite of the fact that he put the case for the Government as strongly as it could possibly be put, he has failed to convince us. Sir, I cannot

but say that it would have better behaved this House, which is the revising Chamber, to have taken some time coolly to consider this matter. Sir, it cannot be denied that the measure proposed is full of flaws and defects. Even in spite of the fact that all my Honourable friends here refused to allow any of the amendments moved in the House to be passed, they had to admit that they realised the defects in the framing of the Bill but they pressed that the measure should be passed here and at this moment only because all these defects could be corrected by a supplementary Bill. This fact and also the fact that all the amendments proposed in the other House were defeated, go to show that the Bill which has received the blessing of so many of my Honourable friends here is not of the kind which could be claimed to be perfect and exhaustive. Sir, there are a number of things which require to be corrected if the Bill is really intended to be put into operation. To point out one of the many defects, there is nothing said here as to how the age of the parties concerned is to be proved. And the very fact that the offence is not made cognizable and the courts are empowered to take action only if a complaint is made goes to show that there is an inherent defect in the law. Another thing, Sir, this is a matter which has taken nearly three years for the Legislative Assembly to dispose of. Is it fair that this House, which is considered to be a revising Chamber, should have thought of disposing of it in three days? Well, Sir, as I do not wish to detain the House any longer, all that I wish to say is that this measure is not at all necessary and justifiable and that whatever reforms we propose to introduce should be by way of education and the influencing of public opinion.

THE HONOURABLE SIR DINSHAW WACHA (Bombay : Nominated Non-Official) : Sir, I will only detain the Council for two minutes. During the eight years' existence of the Central Legislature, I believe that no Bill has been brought before it of such vital interest from all points of view, specially social and moral, for the welfare of the whole population of this country, than the one which has occupied its attention for many a long hour. It is a great satisfaction to me as well as to the whole of the Legislature that the Assembly has achieved signal success by passing this Bill by an overwhelming majority. It was very wise on the part of the Assembly to have done so, and it is really creditable to them that they have asserted commonsense and also discharged their responsibility. In this House, you, Sir, have, with your stern judicial impartiality, given almost every Member of the House, of every shade of opinion an opportunity to express themselves fully and frankly. I have not known in my long experience such an expression of opinion as that expressed in this House to-day. But apart from that, what I most appreciated was that the Honourable the Leader of the House was able to expound to us the many marital provisions of the Islamic law, and at the same time express his own views and criticisms thereon on the statements made by some of our friends here. I fully believe that all the Members have, too, appreciated it. We are very grateful to the Leader of the House, the Honourable Sir Fazl-i-Husain, for having so lucidly and so admirably expounded the whole of the Islamic law on this special subject. It was a very great pleasure to us to hear him. I hope that this House will unanimously pass this Bill without any contradictory assertion on the subject. This House has been considered the house of "elderly statesmen" of sound practical statesmanship. As such not only should they maintain their reputation but greatly enhance it by passing unanimously to-day this

[Sir Dinshaw Wacha.]

Bill, which is a strong monument of British tolerance and British sense of justice as well as of British civilization. This is all that I have to say. I repeat that this Council will unanimously pass this Bill.

THE HONOURABLE MR. V. RAMADAS PANTULU : Sir, I shall not detain the House for more than a couple of minutes. I have reserved to the last the discharge of an obvious duty which I owe to the introducer of this Bill in the other House, Rai Sahib Harbilas Sarda, to whom the Indian community should be really grateful. He belongs to the past generation as my friend the Honourable Mr. Khaparde does. It shows that, even among those belonging to the generation which is passing away there are men who can take a far-sighted view of things and adopt a national outlook. It is inevitable that the past which is gliding away slowly into the future through the present should have its mourners, and Mr. Khaparde has performed the part of a mourner very admirably in this House yesterday and to-day. Sir, that the objections advanced by my friend, Mr. Khaparde, are not those which are shared by enlightened orthodox people in this country is borne out by the fact that the pillar of orthodoxy in the other House, Pandit Madan Mohan Malaviya, did not raise any objection to the principle of the Bill or did not take any objection to the competency of the Legislature to enact a measure of this sort. On grounds of expediency he pleaded that the age might be fixed at 12 instead of 14. That is a sufficient answer, I think, to the fundamental objections sought to be raised by my friend, Mr. Khaparde. With regard to my friend, Mr. Chari, he characterised the measure as one of social revolution. I admit it in the sense that the change is of a revolutionary character, but it is not going to lead to any revolution. The country by a slow process of evolution, economic, social and political, has been fully prepared for the reception of a measure like this, and the only thing that there is for us to do is to give the necessary moral stimulus to make the evolution more complete, rapid and perfect. Therefore, in that sense the revolutionary change will permeate society by a silent process of motion. I do not wish to dwell upon the other objection that the Bill has raised. Without any sense of egotism I can claim for myself and for my friends, Dr. Rama Rau and Mr. Natesan, that we all belong to an orthodox community who have the highest reverence for the Hindu tradition, culture and religion, and we all belong to the Brahmin community. We assert from our experience that there will be no great discontent among the orthodox community. There may be a small ripple on the placid surface of orthodoxy—orthodoxy which is unfortunately in a state of pathetic contentment with regard to national progress. Nothing more than that. Why the advocacy of men like Mr. Khaparde and Mr. Chari will not go home to the thinking population of this country is that, while they themselves have got all that is best in India to-day, all that civilisation, education and foreign contact have given to them—I believe Mr. Khaparde's sons are in the Indian Civil Service—they want to see that these poor girls should be regulated by the ancient laws and custom and they should be denied all the benefits of a fuller and higher life which India offers them to-day. This cannot carry conviction, for the poet Morsel says :

“Thou must be true to thyself if thou another would teach :
Thy soul must overflow if thou another would reach.”

I therefore hope that my Honourable friends, Mr. Khaparde and Mr. Chari and those who have supported them, will reconcile themselves to the proposed reform. Nothing can stop the progress of this country. I hope they will not only reconcile themselves to this measure but give due publicity to its provisions and prepare the country for accepting it. With these few words I move that the Bill be passed.

THE HONOURABLE THE PRESIDENT : The question is :

“That the Bill to restrain the solemnisation of child marriages, as passed by the Legislative Assembly, be passed.”

The motion was adopted.

THE HONOURABLE THE PRESIDENT : In the absence from the House, at the moment, of the Honourable the Leader of the House, I take it I am justified in assuming that the Government have no further business to bring before the Council in this current Session.

THE HONOURABLE MR. L. GRAHAM : That is correct, Sir. Government have finished their programme.

THE HONOURABLE THE PRESIDENT : That being so, I am not called upon to fix a date for any future meeting.

The Council will now adjourn.

The Council then adjourned *sine die*.

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