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COUNCIL OF STATE DEBATES

VOLUME II, 1936

(21st September to 17th October, 1936)

TWELFTH SESSION

OF THE

THIRD COUNCIL OF STATE, 1936



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619

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CORRIGENDA.

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Page 161.—In the statement appended to the answer to question No. 76, *against* the province of the Punjab, in the column "Europeans" for the figure "1" substitute the figures "16".

Page 171.—In the "List of Units" appended to the answer to question No. 103, under "Indian Infantry", for "8th Punjab Regi-

ment, 2nd and 5th Battalions" read "8th Punjab Regiment, 2nd and 4th Battalions"; and for "13th F. F. Rifles, 1st and 5th Battalions" read "13th F. F. Rifles, 1st and 6th Battalions".

Page 254.—In the second paragraph, 22nd line, for "further" read "farther".

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THE
COUNCIL OF STATE DEBATES.

(OFFICIAL REPORT OF THE TWELFTH SESSION OF THE THIRD
COUNCIL OF STATE.)

VOLUME II—1936.

COUNCIL OF STATE.

Monday, 21st September, 1936.

ADDRESS BY HIS EXCELLENCY THE VICEROY TO THE MEMBERS
OF THE COUNCIL OF STATE AND THE LEGISLATIVE ASSEMBLY.

HIS EXCELLENCY THE VICEROY: Gentlemen,—I wish on this, the first occasion on which as Governor-General I address the Indian Legislature, to say how great a pleasure it is to me to extend my greetings to the Members of that Legislature, and in particular to the distinguished Presidents of the Council of State and of the Legislative Assembly, both of them, I am glad to say, well known to me.

It has, I think, in the past been the custom of my predecessors, in addressing the Legislature, to deal in some detail with the various measures from time to time under the consideration of the Government of India. The occasion on which I now address you is, however, one of a wholly special character and significance. Not only is it the last occasion on which this Legislature will meet as a whole; but my words today are spoken at a time when the elections for the Provincial Legislatures are close upon us, and when we are within a very short distance of the inauguration of Provincial Autonomy. It is my intention therefore to make only a relatively brief reference to those questions which have come under the direct consideration of the Legislature or of the Departments of the Government of India, and to lay before you at somewhat greater length than might otherwise be appropriate the reflections of a general character that suggest themselves to me at this critical juncture in the political development of India.

But before I pass to those matters, since the session now about to begin will be the last session of the present Council of State, I would like to take the opportunity to pay a tribute to the invaluable work which the Council of State

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has done under the sage and experienced guidance of its President, Sir Maneckji Dadabhoy. Consisting as it does of Members of proved experience in many walks of life, its balanced judgment on the problems that have come before it and the pains which it has invariably taken to reach a just and objective decision on the many controversial issues with which it has been faced, entitled it in a high degree to our gratitude and our esteem.

I do not, in the circumstances to which I have already referred, propose to do more than touch on one or two of the more important matters which are at present under the consideration of my Government, and my reference even to these will be brief. The first in importance among these matters is unquestionably the problem of middle-class unemployment. I have spared no effort since I assumed office to familiarize myself with the various aspects of this problem and with the possible methods of grappling with it. It is one with the complexity and the difficulty of which you are familiar. My Government are actively investigating the avenues opened up by the very valuable Report of the Sapru Committee, and they are leaving nothing undone to devise methods of dealing with what is one of the fundamental issues of the present day in most countries of the world.

The position and the difficulties of Indians overseas have always been matters in which Indian public opinion and this Legislature have shown the keenest concern. The past months have been marked by several developments of interest and importance. Representatives of the Government and the Parliament of South Africa are already in India, and I take this, the first public opportunity that has presented itself, of extending to them the warmest of welcomes on behalf of India as a whole. My Government have, I am glad to say, been able to afford Indians in Zanzibar the expert guidance and advice of one of my officers in connection with the difficulties which they have been experiencing. The question of the reservation of the Kenya Highlands has been settled on a basis which represents the admission of a principle for which India has consistently contended. The decisions taken as to the future composition of the Legislative Council in Fiji may be regarded as satisfactory from the Indian standpoint. The Transvaal Asiatic Land Tenure Amendment Act of 1936 will be of material benefit to Indians in the Transvaal. It is but natural that India should display a continuing and active interest in the problems affecting her citizens overseas. And it is a source of keen satisfaction to me on this, the first occasion on which I address the Legislature, that the recent record of achievement in safeguarding those interests should have been so encouraging.

Negotiations, as you are aware, are in progress with Representatives of the Japanese Government for the conclusion of a new commercial agreement. It is my earnest hope that those negotiations may in the very near future reach a fruitful outcome. You will, I am sure, welcome the decision which my Government have taken to appoint in the near future an Indian Trade Commissioner to Japan, and, with a view to assisting the development of Indian trade with East Africa, to Mombasa.

The separation of Aden from India will coincide with the inauguration of Provincial Autonomy. The association has been a long one, and I am glad to think that, on its determination, His Majesty's Government have given full weight to Indian feeling in the matter of safeguards for the special Indian interests connected with the Aden Settlement.

As you are I think aware, two problems to which I attach the utmost importance are that of public health, and the problem of nutrition as affecting human beings and animals alike. The problem of nutrition is at all times one of vital concern to any country, and on its solution hinges essentially the future of India as a whole. No effort that can be made to ameliorate conditions and to assist in the solution of this problem can be too great; and you may rest assured of my own continued and abiding personal interest in it. Hardly less material in its relation to the development and progress of India is the problem of Public Health. In this field, in particular, co-operation and the maximum degree of continued and co-ordinated effort between the Central and the Provincial Governments is essential. I am most anxious that all possible assistance should be available to those concerned with the investigations of the many difficult issues that arise, and with the practical application of such remedial measures as may be required. I am accordingly taking active steps for the establishment of a Central Public Health Advisory Board which, in collaboration with the Provincial Governments, and with a constitution somewhat analogous to that of the Central Advisory Board of Education shall apply itself to the realisation of this ideal.

I have, since I assumed my present office, done all that lies in my power to stimulate and encourage rural development, and the response after even so short a time has in my judgment been most encouraging. But in devoting my attention to agriculture and its problems, I have not ignored the legitimate claims of Industry, and I am taking a close interest in the problems of Industry and in particular in the co-ordination and development of industrial research. In this connection I cannot but affirm my conviction that no steps can be taken which will be more effective in promoting the expansion of commerce and industry than those designed to enhance the purchasing power of the rural population.

Before I pass to a consideration of the great constitutional developments which lie before us, it is proper that I should take the opportunity to mention the debt under which we labour to Sir Laurie Hammond and his Committee, and to Sir Otto Niemeyer. The investigations of Sir Otto Niemeyer have left us fully siezed of the financial position of the Centre and the Provinces alike, a state of things essential to the introduction of Provincial Autonomy and of Federation. To Sir Laurie Hammond and his Committee we owe the well-balanced and carefully considered recommendations on which the constituencies for the future legislative bodies will essentially be based.

The stage is now set for Provincial Autonomy, and on the 1st April 1937 that fundamental constitutional change will come into being. With its inauguration takes place the first of the stages in the transmutation of the Indian constitutional position. The second stage, the stage of Federation

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lies ahead of the stage of Provincial Autonomy. But, as I have endeavoured on various occasions to make clear, I am myself of opinion that the interval between Provincial Autonomy and Federation must inevitably be a very short one. I am not blind to the difficult and delicate problems which arise in connection with the inauguration of the Federation, and in particular with the accession to it of the Ruling Princes. But I am taking all possible steps to expedite the investigation and disposal of those problems, and to lighten the burden of those on whom there falls the responsibility of a decision so important as that which accession to the Federation constitutes. The question, in all its aspects, is receiving day by day my own close personal attention, and you can rely upon me, Gentlemen, to leave nothing undone that lies within my power, to remove any misunderstandings or misapprehensions which may exist, and to facilitate the task of those on whom there fall the momentous responsibilities involved.

Of the intricacy of the problem I am, in the light of my own experience, fully conscious. Indeed I am moved on occasions to ask myself whether those of us who have laboured in India and in London, upon the three Round Table Conferences, upon the Joint Select Committee, or in Parliament itself, as supporters or as critics of the great scheme of constitutional reform enshrined in the Act of 1935, whether we are not in some danger of finding ourselves so engrossed in the multifarious details of the plan as to lose sight of the essential outlines of the structure and, at times, even of the splendid vision that has moved and inspired its inception. And in truth the moment has come for a due appraisal of the fabric as a whole, for we may number by weeks the time that now separates us from the commencement of Provincial Autonomy, while the strong probability is that the transitory period between the achievement of Provincial Autonomy and the inauguration of the Federation of India, will be of short duration.

As we attempt such an appraisal, the spectacle that confronts our eyes is rendered the more impressive by reason of its contrast with the dark and ominous background of contemporary world events. In Europe we see an array of dictatorships risen from the ashes of those liberal systems of government which preceded them, each arming feverishly against a possible crisis that all fear and none desire; while civil war, in its cruellest and most destructive shape, despoils a nation once supreme alike in the Old World and the New. Again, in many parts of the world, we become aware of the recrudescence of the rule of force, and in one guise or another, of the exploitation of the weak by the strong.

These are the world conditions in which, by the joint statesmanship of Britain and India, there is about to be initiated in this country an experiment in representative self-government, which for breadth of conception and boldness of design is without parallel in history; these the circumstances in which the British People and Parliament have seen fit to offer to India a constitution which by its liberal principles, stands in such impressive contrast to those political tendencies which are evident over wide areas of the World. And if the constitutional changes now impending predicate the remarkable

growth of Indian political consciousness in terms both of the desire for self-government and of a growing realisation of the essential unity of India, so also those changes connote a profound modification of British policy towards India as a member of the Commonwealth. For indeed by their very nature they involve nothing less than the discarding of the old ideas of Imperialism for new ideals of partnership and co-operation.

In April of next year there will come into being eleven autonomous Provinces, some of them as extensive in area and with populations as large as many European countries. Over these great areas Indian statesmen will be called upon to bear the heavy burden of responsibility for the entire field of civil government in the provincial sphere. When the vast electorates, aggregating some 35 million persons, go to the polls to choose their representatives in their respective Legislatures, to which those Ministers will be responsible, the individual voter will have a new duty and a new opportunity. For by their choice the electors will be deciding not merely upon the person to represent them in the Legislature, but they will be contributing directly towards shaping the course of public policy in their Province. For the trend of government, legislative and administrative, must needs move in the direction indicated by the will of a majority of the electorate.

We are witnessing at the moment in every Province in India that which is an essential preliminary to the successful working of democratic constitutions, namely, the formation or development of political parties. Having myself had some share in party management in my own country, I am observing with no little interest the progress of events. My own experience suggests that it is easy, at such a juncture, to over-estimate the power of the party manager to influence the course of party evolution, and to fall into the capital error of forgetting that in these matters it is the electorate that shapes parties as well as policies.

I do not doubt that there will emerge, at the outset of the change, points of difficulty and uncertainty. That in all the circumstances is inevitable. But I am confident that such minor difficulties will early be surmounted. The essential fact is that upon the 1st of April next year we are destined to embark upon the first stage of this remarkable political adventure. From that moment these great political entities will move forward into the future, the objects—we may be sure—of intense local patriotism, proud of their history, confident in their future, determined, each one of them, to play a worthy part in that new India which is now taking shape before our eyes.

Such, then, are the eleven autonomous Provinces which, in union with such of the Indian States as may choose to accede, will constitute the Federation of India, that majestic structure which by the statesmanlike vision of the Indian Princes was transmuted in a moment from what was no more than a dim and uncertain outline into a project firm and practicable—a project which now appears as an essential part of the scheme of constitutional development. Here again, I feel doubt as to whether those of us in day-to-day contact with the complex problems attaching to the launching of such a project are able so far to detach ourselves as to envisage, in all its impressive mass, the mighty work upon which we are privileged to labour. The unitary system of government

[H. E. the Viceroy.]

for so long the supreme authority in India is disappearing as we watch. In its place great autonomous Provinces make their appearance; and finally comes the Federation, crowning the entire structure and embracing and unifying within its bold and ample scope the common life and aspirations of one-fifth of the human race, dispersed over a sub-continent as large as Western Europe. Such will be the structure of government in India which, when the task is completed, will meet the gaze of a watching world: a spectacle whose dignity and grandour will be not unworthy of this great and famous country.

One word more. It is axiomatic that the spirit in which a constitution is worked must in the long run count for more than the letter in which it is written. For myself I am able to assure you that, for such time as I may hold my present office, it is my intention to interpret my duty with a liberal and sympathetic mind. It has been my privilege, through a long and arduous period of work, to apply my mind to every aspect of the new constitution. I am well aware that there are those in this country who are dissatisfied with certain of its provisions. I accept the sincerity of their opinions even though I find myself unable to endorse their views. For my part I shall be found ready and anxious, when the time comes, to work to the best of my power, with any and every political party willing to work the constitution, that may succeed in winning the confidence of the electorates. My heartfelt plea to every man and woman of goodwill and public spirit is that they may give these Reforms a fair and reasonable trial, and that they will join with me and with the Governors of Provinces in an earnest endeavour to work the new Constitution in a spirit of tolerance and co-operation, for the honour and good of their motherland. (Applause.)

The Council met in the Council Chamber at Viceregal Lodge at Half Past Two of the Clock, the Honourable the President (the Honourable Sir Maneckji Dadabhoy, K.C.S.I., K.C.I.E., Kt., Bar.-at-Law), in the Chair.

MEMBERS SWORN:

The Honourable Mr. John Carson Nixon, C.S.I., C.I.E. (Finance Secretary).

The Honourable Mr. Hugh Dow, C.I.E. (Commerce Secretary).

The Honourable Diwan Bahadur Narasimha Ayyangar Gopalaswami Ayyangar, C.I.E. (Madras: Nominated Official).

The Honourable Mr. Charles Gordon Arthur (Bengal Chamber of Commerce).

DEATH OF KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Leader of the House): Sir, it is my melancholy task to ask Honourable Members to join

with me in recording our deep sense of loss at the death of one of the most distinguished Members of this House and one of its most successful Leaders, the late Mian Sir Fazl-i-Husain. He came to this House fully versed in the arts of managing popular assemblies, with an established reputation as a great administrator and as a far-sighted politician. When he laid down office less than 18 months ago, the tributes that were paid to him by all sections of this House bore eloquent testimony to the esteem and respect in which he was held. He was indeed one of the most remarkable figures of contemporary India. His courage, his tenacity of purpose, his shrewd judgment of men and events, his political insight, his gift of leadership, marked him out as one of the outstanding public men of his time. He accomplished much in spite of persistent ill-health, which, alas, cut short his life at a time when his province could ill-afford to lose him. I will not attempt this morning to appraise the work of my distinguished predecessor. That I must leave to the chronicler of the future. But of this I am confident that his name will be enrolled in that select company of illustrious men who have profoundly influenced the destinies of their country. It only remains to me to pay my humble tribute to the memory of a great man who filled with rare distinction many high offices of State and whose untimely death leaves a void which it will be difficult to fill. I would request you to convey to his family our deep sympathies in their bereavement and I would also ask you, Sir, as a mark of the special solemnity of this occasion to adjourn the House this afternoon without transacting any formal business.

THE HONOURABLE SIR PHIROZE SETHNA (Bombay: Non-Muhammadan): Sir, may I be permitted to add a few words to the tributes already paid to the memory of the late Sir Fazl-i-Husain, at one time the Leader of this House. He was a man with very considerable experience of Indian politics and that experience stood him in good stead, first, when he served as a Member of the Executive Council of the Government of the Punjab, and, later, in the same capacity with the Government of India. Were he alive today there is not the slightest doubt that he would have played a very prominent part in the history of the Punjab under the new Reforms. He did much for his own community and as well for the general advancement of India and the Indians. The happy possession of an intellect as flexible as it was strong enabled him to adapt himself with success to every new task as it presented itself. Packed with ability, knowledge and resolution, he was in spite of weak health a tremendous worker. He possessed those solid dependable qualities and virtues that the average man values most in those to whom he entrusts his larger interests, and that is the kind of statesman of which India is most in need today. Sir Fazl-i-Husain was one such and therefore we deplore his loss all the more.

THE HONOURABLE RAI BAHADUR LALA RAMSARAN DAS (Punjab: Non-Muhammadan): Sir, I rise to say a few words on this occasion. The late Mian Sir Fazl-i-Husain has been for many years the Leader of this House. I came into contact with him not only here in this House but I was also his colleague in the Punjab Legislative Council for over six years in pre-Montagu reform days. He was a gifted person and we all mourn his loss. He was undoubtedly a man of great abilities and he has been dominating the political life of the Punjab

[Rai Bahadur Lala Ram Saran Das.]

for the last 15 years or more. He was during this period of office able to do a lot for his community, both in the Provincial Government of the Punjab as well as in the Government of India. He knew very well the organisation of political parties and both his political friends and foes recognised him as a political leader of great capacity. It will be difficult to fill the place of such a person and I join in the tribute and in offering my heartfelt sympathy to the members of his family.

*THE HONOURABLE KHAN BAHADUR NAWAB CHAUDRI MUHAMMAD DIN (East Punjab : Muhammadan) : Sir, in the untimely death of Mian Sir Fazl-i-Husain India in general and the Punjab in particular has lost a great patriot and a great practical politician. I have known Sir Fazl-i-Husain since 1905 when he started practice at Sialkot which is my home district. By his industry and ability he steadily rose to be a Member of the Viceroy's Executive Council and Leader of this Honourable House, which position he held with conspicuous distinction. Sir Fazl-i-Husain conferred dignity on whatever position he held. His personality was one of the factors which made the Reforms a success in the Punjab, and in his passing away that province loses a great leader who could have made provincial autonomy also a great success.

THE HONOURABLE SAIYED MOHAMED PADSHAH SAHIB BAHADUR (Madras : Muhammadan) : Sir, I beg to join with my friends in the tribute which has been paid to the memory of the late Mian Sir Fazl-i-Husain. Sir, in his death India has lost a great and sincere patriot, a distinguished administrator and certainly the most capable and successful politician of the present day. Sir, Mian Sir Fazl-i-Husain represented a rare combination of qualities which are very seldom found together in any single individual. While he had his own dreams about the high and noble destiny which was in store for his Motherland he was in his politics a realist. Sir, while he yielded to none in his love for his Motherland and was anxious to accelerate the day when India would take her due place in the British commonwealth of nations, he did not lose sight of the stern realities and realised fully the necessity for grappling with these stern realities before the dream of the Indian patriots could ever be realised. It was for this reason, Sir, that, while he always tried to further the larger interests of the nation as a whole, he fought fiercely for the rights of the minorities. He realised, Sir, that freedom for our country would only continue to be a dream, unless the minorities were given a sense of security and were made to feel safe in the rule of the majority. As has been rightly observed by the Honourable Leader of the House he was a man of striking courage. It was his moral courage, his indomitable will that helped him boldly to stand up for the rights of the oppressed and the depressed while he was second to none in his desire and endeavour to further the interests of the nation. The result was, Sir, that, though at the outset he was very much misunderstood and bitterly criticised by people who could not see eye to eye with him, very soon his views came to be rightly understood and rightly appreciated. The result was that he soon came to command not only the unswerving loyalty of practically the whole of the Muslim community in India but also the respect and admiration of even his critics.

*Not corrected by the Honourable Member.

Sir, as he was the Leader of this Honourable House for five years every one of the Honourable Members here knows his views and work quite well and it is not necessary for me to say anything more about his activities. All I would say, Sir, is that even if I did attempt to recount a few of his activities it would not be possible for me to recount them in the brief compass of a speech on an occasion like this. He was a man of versatile genius as lawyer, as administrator, and as a politician he distinguished himself. He very soon elbowed his way to the front ranks. He did a lot for the advancement of education in the Punjab. It was during his time as Minister of Education there that a great impetus was given to education. Then, Sir, he was one of those who took a keen and abiding interest in our nationals abroad. We all know, Sir, how his policy in this respect was a striking success while he was one of the members of the Government of India. We know also how his negotiations in South Africa resulted in bringing about a substantial improvement in the condition of Indians abroad. Sir, it is impossible to do even the remotest justice, in a brief speech like this, to the great and good qualities of one who had been the dominating figure in the political and public life of India for nearly two decades.

*THE HONOURABLE MR. R. H. PARKER (Bombay Chamber of Commerce) : Sir, I feel that the late Sir Fazl-i-Husain would have been an ornament to any House, as he was of this, were it only for his gift of speech. But he was greater than that. As he showed in this House, he was a leader of men, and we can only deplore the loss of any leader of men in India. I wish to associate myself with this Motion.

THE HONOURABLE MR. MAHMOOD SUHRAWARDY (West Bengal : Muhammadan) : Sir, I rise to associate myself with the sentiments expressed so nobly by the Leader of the House, the Honourable Kunwar Sir Jagdish Prasad, and I support his Motion wholeheartedly. Sir Fazl-i-Husain was a distinguished figure and personality in the public and political life of India. His death is no doubt a national loss to the country, and particularly to the Muslim community in the Punjab. He had a long and distinguished career in the public services in India. He was a great judge of human character and he never spared himself in discharging his duties. Sir, we mourn the loss of a great leader and a patriot. I join in asking you to convey our condolences to the members of his bereaved family.

THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa : Muhammadan) : Sir, I rise to pay my tribute to the memory of a man who was bound to succeed in whatever walk of life he might have been ; a man who was a nationalist to the core, and yet not averse to helping his own community. He was an able administrator and at the same time he could appreciate the views of those who could persuade him ; a man who was loved, obeyed and almost worshipped, and also bitterly criticised. The reason for this was that being a realist, he always wanted to take the practical side. He was not so much influenced by sentiments as is usually the case with us. He was the greatest find of the Montagu Reforms. From the beginning, right up to his death, he was connected in one way or another with this reform movement

*Not corrected by the Honourable Member.

[Mr. Hossain Imam.]

and was always holding an honoured position in the scheme of things. Mian Sir Fazl-i-Husain was a man about whom a correct opinion can only be formed when history comes to be written. In the near perspective it is difficult to disentangle the different estimates which have been placed on his work. But when the historian takes up his pen, it will then be found that he was a nationalist to the core, and that he had the interests of India at heart, and no amount of criticism could deter him from advancing that cause as far as it was possible for him. A man like him is rare, especially in India, which is poor in leaders and in good statesmen. His death was a grievous loss which the whole of India, and the Muslim community in particular, has suffered, the more so because he combined in himself those qualities which make a leader of men. We are very grieved at his untimely death and we mourn the loss very much.

THE HONOURABLE MR. P. N. SAPRU (United Provinces Southern Non-Muhammadan): Sir, I rise to associate myself with the tributes which have been paid in this House to the memory of the late Sir Fazl-i-Husain. In the death of Sir Fazl-i-Husain, Sir, the country has lost a great Indian. He was, as this House knows, a Parliamentarian of great distinction and he was a man of outstanding ability and of great force of character. He achieved distinction in his profession, was at one time prominently associated with the nationalist movement in his own province and served the country in an administrative capacity for well over 15 years. He was a Member of the Punjab Government for about 10 years—one of the most outstanding figures that the Montagu scheme has thrown up. He was a Member of the Central Government for six years and I am not indulging in the language of convention when I say that he was one of greatest Indian Members that the Centre has ever had. No one was keener on Indianisation than Sir Fazl-i-Husain and Indian members of the Services could always look up to him for protection and for the safeguarding of their interests. He was the subject in his lifetime of many political controversies. But, Sir, whatever our differences at times might have been, there was never an occasion when we ever questioned his integrity. We may have questioned his judgment but we knew that in dealing with him we were dealing with a great Indian—an Indian who loved his country and who wanted this country to be free and self-governing. Sir, in his death the country has lost a leader of great dynamic force. It has lost a great Punjabi; it has lost an Indian who, had he lived, would have made a great contribution to the constitutional progress of this country in years to come. Sir, for 30 years he suffered from a cruel disease and the manner in which he bore this disease was really very, very brave. The manner in which he fought this disease showed that he was a man of very strong will and character. Sir, we mourn in the death of Sir Fazl-i-Husain an Indian of great dynamic force, of outstanding ability, of undoubted patriotism, and of the highest integrity. Sir, I join in the tributes which have been paid to his memory.

THE HONOURABLE KHAN BAHADUR SYED ABDUL HAFEEZ (East Bengal Muhammadan): Sir, as I rise here to speak on the condolence of the Mian Sahib, I see the portly figure of our late accredited Leader standing before my imaginary eyes with that peculiar bracing smile parting his lips which added

grace to his behaviour, and charm to his manners. Sir, we have not only lost an able leader, a thorough statesman, an out-and-out eminent Indian but a personal friend who shared commonly with us the joys and sorrows of life. The Punjab has not only lost one of her great sons, but we Indians have for ever lost a patron, a brother, an eminent Muslim.

It is needless to dwell on the manifold services that he rendered to India especially to his community. As the Honourable the Leader of this House he discharged himself creditably to the satisfaction of all. His strong sense of duty, his highly moral character, above all his winning manners endeared him to all who came in touch with him. By personal effort and true and sincere application he raised himself to high eminence and distinction, but he never for a moment forgot his colleagues, nor those who were under him.

Vast country as India is, there is no dearth of so-called leaders, but scarcely do we find that happy blending of the qualities of head and heart, and those of a true citizen, and an able administrator in one person. In Sir Fazl-i-Husain these things combined together, nay, were the outstanding features of his character, the special landmarks of his whole career.

Sir, I had occasion to come in touch with the late lamented Sir Fazl-i-Husain in my political life, and I feel proud to own, even on the floor of this House, that I always received from him a friend's advice, a patron's guidance, and a brother's sincere assistance. So, Sir, was the case with everybody who came in contact with him.

With these words, Sir, and with a very heavy heart, and a sullen mind, I support the Motion.

*THE HONOURABLE KUNWAR HAJI ISMAIL ALI KHAN (United Provinces: Nominated Non-Official): Sir, I wish to join in the remarks that have fallen from the lips of the previous speakers. Sir Fazl-i-Husain was a wonderful personality. I had the honour and privilege of working with him in many committees of the other House, and I can say from personal experience that the zeal with which he worked for them was almost fanatical. His outstanding ability as an administrator is well known throughout the length and breadth of this country, both in a provincial capacity and also as a Member of the Viceroy's Executive Council. Sir, he was an excellent captain of his team. By his death, the Government has lost a capable adviser and the country a good and sincere leader and shrewd administrator. It is no wonder, therefore, that I should like to join those who have already spoken in adding my humble tribute to the memory of such a talented man and patriot whose death has been mourned all over the country and whose loss has been a personal one to me. With these words, Sir, I join in asking you to convey our condolence to the relatives of the deceased.

THE HONOURABLE MAHARAJA JAGADISH NATH RAY OF DINAJPUR (Bengal: Nominated Non-Official): Sir, even if not for the great loss that the country in general has suffered, in the sudden death of Sir Fazl-i-Husain, feeling as I do it really as a personal one, I deem it my duty to join in the remarks that have fallen from my predecessors. I was privileged to be a

[21st SEPT. 1936.]

[Maharaja Jagadish Nath Ray.]

Member of this House in the autumn of 1933 and although it was only from that year that I came to be in direct touch with him, I had had the greatest admiration for him since the days his reputation spread throughout the length and breadth of India. It is not for me to refer here to all the qualities of his head and heart as some of my fellow-Members must have known him more intimately and for a longer period than myself. But from what I have seen of him during the short two and a half years, I can say without the least exaggeration that as a Leader of the House I received from him on more than one occasion most helpful advice and guidance and his very polite and courteous dealings added to his uncommon foresight and consummate shrewdness made me look upon him as a real leader of men. Not to speak of his own community, the whole of India must be beholden to him for the services he rendered to his King and country. His efforts to improve the lot of the Indians overseas, and particularly of those in South Africa, are a matter of history; and his many-sided activities to enrich the Punjab in various ways can never be treated lightly by any well-meaning Indian. Many of us here expected great things from him at this moment when our attention is being drawn in different directions in sight of the coming Constitution, and from the gentle hints that he had of late given we could well imagine that he had really an all-round vision.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN (West Punjab Muhammadan): Sir, I rise to pay my tribute to the memory of the late Sir Fazl-i-Husain. His loss has been mourned by Indians throughout the length and breadth of this country, but we in the Punjab, irrespective of our politics or parties or creeds, feel Sir Fazl-i-Husain's death as a personal loss. Sir, I had the honour to know Sir Fazl-i-Husain since 1920. I have seldom come across another Indian who combined the qualifications of the most eminent statesman, administrator and politician. Sir Fazl-i-Husain was a real and true nationalist, and I know, Sir, that whatever he did to advance the cause of his backward community, it was merely to make that community so advanced and so strong that they should be able to associate with their sister communities for the betterment of their country. His loss, Sir, is mourned by every Indian who considers that we are entering a period when the country needs such practical politicians and their advice very badly.

THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE (East Bengal: Non-Muhammadan): Sir, coming from Bengal I associate myself wholeheartedly with the Motion before the House and with the observations made by the different Members and the Leader of the House this afternoon. Sir Fazl-i-Husain was a great man, and a personality which neither this House nor the other could ignore. His last words in this House at Delhi were that he would exercise his spiritual and mental force for the benefit of the country and I feel that wherever he may be he will be exercising his spiritual force for the benefit of the country which he loved most.

THE HONOURABLE MR. V. V. KALIKAR (Central Provinces: General): Sir, I rise to associate myself with the remarks made by my colleagues in paying their tribute to the late Sir Fazl-i-Husain. When I came into contact with Sir Fazl-i-Husain in 1932 here, I found in him a practical politician. Before

that, when he worked in the Punjab and directed his energies on national lines in the cause of the country, I began to appreciate that he was a real leader in the Punjab who could wield a lot of influence over the Government and could serve India and the Punjab particularly. After I came in contact with him, Sir, I found that though sometimes we had an opportunity to disagree with him, we always agreed to differ and I always found in him a co-operator for the national cause. Sir, it is a great loss to India in general and to his community in particular and I think nobody will be able to fill the gap caused by his death. Sir, I join in the tribute paid by my Honourable friends.

THE HONOURABLE KHAN BAHADUR SHAMS-UD-DIN HAIDAR (Bihar and Orissa: Nominated Non-Official): Sir, I should not like to let slip the occasion of paying my share of tribute to the memory of the distinguished gentleman who passed away on the 9th of July last and a part of whose eminent career was so closely connected with this Honourable House. Sir Fazl-i-Husain, besides being an eminent lawyer, was an educationist of a very high order. During his career as an educationist, as a Fellow and as a Member of the Syndicate of the Punjab University, he made valuable contributions to the cause of education. Before coming to the Viceroy's Council as Member in charge of Education, Health and Lands, he was Minister in charge of Education and the Development Department in the Cabinet of his own province for two successive terms. In the discharge of his duties Sir Fazl-i-Husain brought an intelligence of the highest order that had been ripened by experience of the world. He had great knowledge of men and a personal charm that endeared him to all. Sir, the combination of these gifts enabled him during the space of five years that he was in the Viceroy's Council to leave a lasting mark upon the administration of the Department of which he held the portfolio and on this Honourable House where he will always be remembered as one of the outstanding figures and as a practical statesman.

Sir, with these few words, I beg to associate myself with the Motion of condolence so feelingly moved by the Leader of the House at the untimely death of the late Sir Fazl-i-Husain.

THE HONOURABLE THE PRESIDENT: Honourable Members, it is with profound sorrow that I join you all in the melancholy task of expressing our extreme grief caused by the death of one of the greatest sons of India. Sir Fazl-i-Husain's career has been reviewed since his death in so many newspapers and with much encomiums and you, Honourable Members, have added to that by your own personal contributions today, that it has left very little for me to say on this occasion. Sir Fazl-i-Husain was a most remarkable person; I may say that he was an outstanding figure in the political and official life of India. As a Minister in the Punjab when the 1919 Constitution came into operation, he was the first among those who accepted office with the avowed object of making the Constitution a great success and he achieved success in a great measure by his personal exertions and, as Mr. Sapru pointed out, despite the fact of his chronic illness he never spared himself in the discharge of his duties. Then, as the Revenue Member of the Punjab Government he was a tower of strength and he distinguished himself on many occasions by

[Mr. President.]

rendering useful services. During that interval of office he came into this House to act for a short period of three or four months when many of us first came into contact with him. Later on he was permanently appointed in the Government of India as Member in charge of Education, Health and Lands, and I must say that during the last two and a half years of his office here I came in close personal contact with him on account of my office as President and learnt to find out the real worth and greatness of that man and I came to regard him as one of the ablest and astutest men in India. In his death the Government have lost a most sincere friend and a true adviser and the country a great leader and a consummate statesman. We all remember—and you all are aware—the manner in which he comported himself in this House. He was a well read man, always came to the House prepared with his task and when he addressed this House, you will recall to your mind his quiet, unostentatious manner, his dignified deportment and his gentleness and natural and unstinted courtesy, which he extended towards all Members of this House. Even when he had to oppose most vehemently some of the measures, he did with such grace and sympathy that we could not help admiring and we then learnt also to recognise in him a real friend of the country. In the two great works which he did and which will be associated with his name,—one is the establishment and the expansion of the Imperial Council of Agricultural Research for development of rural uplift and everything connected with it, and you perhaps remember that the Medical Council Bill, which in the teeth of opposition was passed, was mainly due to his personal exertion and influence. His successful labours in the cause of Indians overseas will ever remain a memorable chapter in the history of this country.

The Honourable Leader of the House has referred to his indomitable courage; I wish also to refer to his indomitable determination and indefatigable industry. Once he took a matter in hand, once he accepted a particular principle, he stuck to it most faithfully and with a great determination fought out till his point was achieved. I will not detain you much longer. I shall convey to his sorrowing family the respect and tribute which you have paid to the deceased gentleman. It is not usual or customary to adjourn the House in the case of a non-sitting Member, but I propose to depart from that practice on this occasion and make it an exception on account of the deceased being the Leader of the House for a period of five years and the great esteem and respect in which he was held. I shall also convey to his sorrowing family what many of you have said today and I am very glad that so many Honourable Members have joined in paying tribute to his memory. I shall now adjourn this Council till tomorrow as a mark of respect to his memory. The Council will now adjourn.

The Council then adjourned till Eleven of the Clock on Tuesday, the 22nd September, 1936.

COUNCIL OF STATE.

Tuesday, 22nd September, 1936.

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

MEMBER SWORN:

The Honourable Mr. George Hemming Spence, C.I.E. (Legislative Secretary).

QUESTIONS AND ANSWERS.

THE HONOURABLE THE PRESIDENT: I propose to allow the questions fixed for yesterday to be answered today and then we will take today's question. The rest of yesterday's list of business will stand till the next official day.

IMPERIAL BANK OF INDIA.

1. THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE: (a) Are Government aware that the Imperial Bank of India in its different branches; particularly at Narayanganj, Bengal, has entered into unfair competition with the other indigenous banks of the locality since the establishment of the Reserve Bank of India?

(b) Are Government aware that the Imperial Bank has started indiscriminate rate-cutting in order to ruin the business prospects of smaller Indian banks which are working all over India and especially at Narayanganj, Dacca, a very big jute market?

THE HONOURABLE MR. J. C. NIXON: With the permission of the Honourable President I shall answer questions Nos. 1 to 4 together.

Government have no information. The matters referred to in the questions are within the powers of the Imperial Bank and Government have no power to interfere unless there is reason to believe that the provisions of the Imperial Bank of India Act are being contravened.

IMPERIAL BANK OF INDIA.

2. THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE: Will Government be pleased to state:

(a) How many branches have been opened by the Imperial Bank of India in Bengal since the establishment of the Reserve Bank of India?

(b) Are they regular branches of the Imperial Bank?

(c) Is it a fact that at Narayanganj, Bengal, the Imperial Bank of India has recently started a "Gudee" (a business shop of the old Indian style) at Netaiganj, the Indian business quarter, and has started rate-cutting in the sale of the Bank Drafts?

(d) Are Government aware that the establishment of the "Gudee" of the Imperial Bank at Netaiganj and at several other places is interfering with the usual business of the other local banks?

(e) Are Government aware that the rate-cutting by the Imperial Bank may end in the disastrous effect of ruining Indian banks and Indian business? If not, do they propose to make immediate enquiry into the matter?

(See reply to question No. 1.)

IMPERIAL BANK OF INDIA.

3. THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE: Are Government aware that the officers of the Imperial Bank of India have taken recourse to intensive canvassing and personal appeal from door to door among the Indian business people at Narayanganj, Mirkadim and other places?

(See reply to question No. 1.)

IMPERIAL BANK OF INDIA.

4. THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE: (a) Is it a fact that the Imperial Bank of India is not maintaining a uniform schedule of rates in all its branches? If not, why not?

(b) Will Government be pleased to lay on the table a detailed schedule of rates in force in the different branches of the Imperial Bank?

(See reply to question No. 1.)

PERCENTAGE OF APPOINTMENTS FIXED FOR MUHAMMADANS IN THE VARIOUS POSTS AND TELEGRAPHS CIRCLES.

5. THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE: (a) What is the percentage of Muhammadan appointments in the Postal Service throughout the different provinces?

(b) Will Government be pleased to state whether this percentage has been maintained in the Postal Service in Bengal?

(c) Is it a fact that in the different postal districts of Bengal appointments have been made on the basis of different communal ratios?

(d) Are Government aware that in the District of Dacca 71 per cent. of the appointments were given to Muhammadans till very recently?

(e) Is it a fact that to keep this communal ratio intact non-Muhammadans appointed not only temporarily but also permanently, were discharged to accommodate Muhammadan candidates in the vacancies created by their discharge?

(f) If the answer to the above be in the affirmative, will Government be pleased to state whether they contemplate taking any steps to rectify the situation?

THE HONOURABLE MR. A. G. CLOW: (a) I lay on the table a statement showing the percentage of appointments now fixed for Muslims in the various Posts and Telegraphs Circles.

(b) Recruitment has been made strictly on the percentage in force.

(c) Yes, appointments were so made previously, but under the revised orders since issued a separate set of percentages appropriate to each Postal Circle has been prescribed as indicated in the statement I lay on the table.

(d) Yes.

(e) Owing to his not having received the revised orders of Government, the Postmaster of Dacca made one appointment which was not in accordance with these orders, and the clerk so appointed was subsequently discharged.

(f) The Director General, Posts and Telegraphs, proposes to provide for the discharged employee when a suitable vacancy occurs.

Statement showing the percentage of appointments now reserved for Muhammadans in the various Posts and Telegraphs Circles referred to in part (a) of the reply.

Circle.						Percentages reserved for Muslims.
Bengal and Assam	..	..	..	..	..	41-2/3
Bihar and Orissa	..	..	..	..	..	16-2/3
Bombay	..	..	..	..	..	12-1/2
Central	..	..	..	..	..	8-1/3
Madras	..	..	..	..	..	8-1/3
Punjab and N. W. F.	..	..	..	..	..	50
United Provinces	..	..	..	..	..	16-2/3
Sind and Baluchistan	..	..	..	..	..	58-1/3

INDIAN HOSTEL AT JERUSALEM.

6. THE HONOURABLE KUNWAR HAJI ISMAIL ALI KHAN: With reference to my starred question No. 40, dated 7th September, 1931, in the Legislative Assembly will Government kindly state:

(i) What amount of contribution has been received by the Supreme Muslim Council of Palestine from India to construct the new blocks of the building of Indian Hostel at Jerusalem?

(ii) Whether it is a fact that the Indians in Jerusalem are not consulted in any way by the Supreme Council in connection with this new construction?

(iii) Whether it is a fact that Indians are not allowed to see the accounts of that building?

THE HONOURABLE SIR BERTRAND GLANCY: (i) £P (Pound Palestinian) 1179 302 Mills, the equivalent of which is Rs. 15,775-10-0 in Indian currency.

(ii) Responsibility for construction, including auditing of accounts, control of expenditure and issue of receipts has been entrusted to the local Awqaf Committee with whom is associated a Special Committee of local notables including the Sheikh of the Indian Zawieh, Hassan al Ansari.

(iii) No official Indian body is reported to have applied to see the accounts.

PROTECTION OF INDIAN INTERESTS IN PALESTINE.

7. THE HONOURABLE KUNWAR HAJI ISMAIL ALI KHAN: (a) Are Government aware that an Indian Association of Palestine has been formed by the Indians in Palestine which is also recognised by the Government of Palestine?

(b) Is there any representative of the "Indian Association" in the Supreme Council who can watch Indian interests?

(c) If the answer to part (b) is in the negative do Government propose to take measures for the protection of the interests of Indians at Palestine?

THE HONOURABLE SIR BERTRAND GLANCY: The information is being obtained and will be communicated to the House when received.

PREPARATION OF A MANUAL OF ELECTION, RULES, ETC., WITH REFERENCE TO THE NEW CONSTITUTION.

8. THE HONOURABLE KUNWAR HAJI ISMAIL ALI KHAN: When do Government propose to publish the new Election Manual under the new Government of India Act?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: So far as Provincial Legislatures are concerned the question of the preparation of such a Manual is one for the Provincial Governments themselves. As regards the preparation of a similar Manual for the Federal Legislature it can only be taken up after the electoral orders and rules relating thereto have been framed.

COMMERCIAL POSSIBILITIES OF THE MANUFACTURE OF POWER ALCOHOL FROM MOLASSES.

9. THE HONOURABLE MR. V. V. KALIKAR: Will Government be pleased to state:

(a) Whether it is a fact that the Imperial Council of Agricultural Research has turned down a suggestion of its Sugar Committee for starting an experimental factory to find out the commercial possibilities of power alcohol produced from molasses? If so, the reasons for the same?

(b) Whether the Committee of the Indian Sugar Mills' Association in a letter to the Secretary of the Council asserted that the conclusion arrived at

by the Council regarding the commercial possibilities of power alcohol industry is erroneous?

(c) Whether it is a fact that in Mysore a refinery is manufacturing power alcohol of 96 per cent. strength with great success?

(d) Whether it is a fact that in many countries the use of alcohol as motor fuel has been introduced under official regulations?

(e) Whether Government are prepared to make an experiment in the conversion of molasses into power alcohol? If not, why not?

(f) Whether Government propose to permit private concerns to make an experiment referred to in part (e)? If not, the reasons for the same?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: (a) Yes. Because a detailed examination of the question in the light of the more recent data available showed that the proposal was not economic and that power-alcohol could not compete with petrol extracted in India as a motor fuel unless it were subsidized.

(b) Yes.

(c) That is not power alcohol.

(d) Yes.

(e) No, for the reasons stated in reply to part (a).

(f) This question, which raises important revenue problems, is under consideration.

METALLED ROAD TO ROSHAN CHIRAG, DELHI.

10. THE HONOURABLE KUNWAR HAJI ISMAIL ALI KHAN: (a) Are Government aware that Roshan Chiragh, Delhi, is an important historical place at Delhi where many pilgrims go to pay their respect at the Tomb of Hazrat Nasiruddin?

(b) Is it a fact that the road to Roshan Chiragh, Delhi, is unmetalled and that no suitable conveyance can pass through this road?

(c) If the answer to part (b) is in the affirmative do Government propose to construct a proper metalled road to Roshan Chiragh, Delhi?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: (a) Yes.

(b) The tomb is connected with the Delhi-Mehrauli metalled road by a *kacha* path about two miles in length, which passes through several villages. Government have no information as to the suitability of this path for vehicular traffic.

(c) Government are not aware that any special inconvenience is caused to the public for want of a metalled road. The path referred to is private property and the cost of converting it to a public metalled road would be unduly high. Government do not therefore propose to take up this question.

THE HONOURABLE MR. HOSSAIN IMAM: To whom does this path belong?

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THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: I have said it is private property. I do not know the name of the owner. I must ask for notice of that question.

TELEPHONE EXCHANGE AT BULANDSHAHR.

11. THE HONOURABLE KUNWAR HAJI ISMAIL ALI KHAN: When do Government propose to open a Telephone Exchange at the headquarters of the Bulandshahr District, United Provinces?

THE HONOURABLE MR. A. G. CLOW: A telephone exchange will be opened at Bulandshahr when sufficient subscribers are forthcoming to justify the expenditure; so far only two have come forward in spite of canvassing.

TERMINATION OF THE LIFE OF THE PRESENT LEGISLATURE, ESTABLISHMENT OF THE FEDERAL LEGISLATURE AND HOLDING OF ELECTIONS TO THE COUNCIL OF STATE UNDER THE NEW CONSTITUTION.

12. THE HONOURABLE KUNWAR HAJI ISMAIL ALI KHAN: Will Government kindly state:

- (i) When the life of the present Indian Legislature will terminate?
- (ii) When the Federal Legislature will begin?
- (iii) When the election of the Council of State will take place under the new Federation?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: (i) On the establishment of the Federation.

(ii) and (iii). I am not at present in a position to furnish the information asked for by the Honourable Member.

THE HONOURABLE MR. HOSSAIN IMAM: Do I understand that until Federation comes there will be no election to the Council of State?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: I take it, Sir, that the term "Legislature" includes both the Legislative Assembly and the Council of State. The life of the present Council of State will terminate shortly as announced by His Excellency but I cannot say when the life of the Legislative Assembly will terminate. All I know is that, whenever Federation comes, whatever Central Legislature is in existence at the time, its life will automatically terminate.

THE HONOURABLE MR. P. N. SAPRU: Has any programme been made out in connection with the election to the Council of State?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: I think the matter is under correspondence with the Local Governments and I believe the dates will soon be announced.

CORONATION OF HIS MAJESTY THE KING EMPEROR.

13. THE HONOURABLE KUNWAR HAJI ISMAIL ALI KHAN: Will Government kindly state when His Majesty the King Emperor will visit India and when will the Coronation take place in Delhi?

THE HONOURABLE MR. M. G. HALLETT: No decision has yet been taken in the matter.

PAYMENT OF MUNICIPAL WATER AND DRAINAGE TAX IN RESPECT OF THE SOLAR PHYSICS OBSERVATORY BUILDINGS, KODAIKANAL.

14. THE HONOURABLE SIR DAVID DEVADOSS: (a) Have Government been paying municipal water and drainage tax in respect of the Solar Physics Observatory buildings in Kodaikanal and, if so, for how long?

(b) Are Government aware that the reservoir constructed by the Municipality for supplying the town with water is more than 150 feet below the level of the Observatory buildings and the houses of the Director, Deputy Director and staff?

(c) Is it a fact that the Municipal Council has made no attempt to supply water to the Observatory buildings for the last 25 years?

(d) Have Government objected to the levy of water and drainage tax?

(e) Is it a fact that some of the houses of the Observatory staff depend for their water supply upon wells which occasionally dry up during the hot season?

(f) Do Government propose to take any action in the matter and, if so, when, and what?

THE HONOURABLE MR. A. G. CLOW: (a) Yes, since 1911.

(b) The Observatory grounds are at a higher level than the municipal reservoir; I do not know the exact difference in height.

(c) It is a fact that municipal water has never been supplied to the Observatory buildings and quarters in the past. A scheme for supplying water was devised by the Municipality in 1932 but it involved a contribution by the Government of India, and the matter was not pursued owing to the financial stringency then prevailing.

(d) The reply is in the affirmative. A representation was made to the Madras Government in 1922. While regretting their inability to exempt from the water and drainage tax any of the buildings situated in the old municipal limits, that Government exempted from payment of water tax those buildings which were subsequently brought within the municipal limits.

(e) Yes.

(f) The Director, Kodaikanal Observatory, has again addressed the Municipality in the matter and their reply is awaited.

ARCHAEOLOGICAL EXCAVATIONS AT KORKAI, MADRAS PRESIDENCY.

15. THE HONOURABLE SIR DAVID DEVADOSS: (a) Are Government aware that Korkai was the capital of South India in the time of Alexander the Great and that Megasthenes, the Ambassador to the Court of Magada, visited it about 300 B.C.?

(b) Is the village of Korkai in the Tinnevely District on or near this site of the ancient Korkai?

(c) Are Government aware that excavations on the site of Korkai may throw considerable light on the history of South India?

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(d) Are Government aware that old coins are being picked up in and around Korkai after the surface soil has been washed away by heavy rains?

(e) Will Government be pleased to consider the desirability of making excavations on the site of Korkai in order to obtain valuable archæological information?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: (a) Korkai is said to have been the capital of the early Pandyas, but it is not known whether it was the capital of South India in the time of Alexander the Great or whether Megasthenes visited it about 300 B. C.

(b) Yes, the actual site is believed to be the village of Marumangalum near Korkai.

(c) This is possible, though it is understood that there are more promising sites.

(d) No, but they have made enquiries from the Local Government.

(e) Government will bear the Honourable Member's suggestion in mind. As he is aware, the excavation work of the Archæological Department has had to be greatly curtailed for financial reasons and is not likely to expand until the finances of the Government of India improve.

STEPS TAKEN BY GOVERNMENT FOR THE TAKING OVER OF THE ADMINISTRATION OF THE BENGAL AND NORTH-WESTERN RAILWAY.

16. THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: Will Government be pleased to state what steps are being taken to take over the administration of the Bengal and North-Western Railway in view of the decisions of the Legislative Assembly?

THE HONOURABLE SIR GUTHRIE RUSSELL: The question is still under the consideration of Government.

BRIDGES DAMAGED BY FLOODS ON THE BENGAL AND NORTH-WESTERN AND EAST INDIAN RAILWAYS.

17. THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: (a) How many bridges have been damaged on the Bengal and North-Western Railway and East Indian Railway owing to recent floods in the United Provinces?

(b) How long will it take to repair and renew them and at what cost?

THE HONOURABLE SIR GUTHRIE RUSSELL: (a) One bridge on the Bengal and North-Western Railway and two bridges on the East Indian Railway.

(b) The bridge on the Bengal and North-Western Railway was repaired in six days at a cost of approximately Rs. 28,000 and the two bridges on the East Indian Railway will take about nine months to renew and will cost approximately Rs. 12,000.

THE HONOURABLE MR. HOSSAIN IMAM: Does that include the recent floods on the Grand Chord?

THE HONOURABLE SIR GUTHRIE RUSSELL: No, this was over three weeks ago.

FLOODS IN THE UNITED PROVINCES.

18. THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: (a) Is Government aware of the unprecedented floods in the United Provinces, causing destruction of crops, animals and men and collapse of thousands of houses?

(b) Do Government propose to allot Rs. 50 lakhs towards the relief of flood-stricken people?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: (a) There have been severe floods in the United Provinces.

(b) Government's position will be explained in connection with the Resolution which is to be moved on the same subject today.

EXCISE DUTY COLLECTED ON KHANDSARI SUGAR.

19. THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: (a) Will Government be pleased to state the amount of excise duty collected on Khandsari sugar during the year ending 31st March, 1936?

(b) Is it a fact that excise duty was collected on about 4,600 tons only against a total estimated production of over a lakh of tons?

(c) Is Government aware that a few pan factories in the United Provinces were caught red-handed by Sugarcane Inspectors and prosecutors but were let off with only a warning? If so, why?

(d) Will Government be pleased to state how many such factories were prosecuted and let off by warning and how many were required to pay excise duty?

THE HONOURABLE MR. J. C. NIXON: (a) Rs. 60,000.

(b) Yes.

(c) and (d). Enquiries are being made and replies to these parts of the question will be laid on the table in due course.

SUPPLY OF WAGONS FOR THE TRANSIT OF MOLASSES AND SUGARCANE BY THE BENGAL AND NORTH-WESTERN RAILWAY.

20. THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: (a) Will Government be pleased to state what steps have been taken for the supply of molasses tank wagons and of trucks on the Bengal and North-Western Railway for transit of sugarcane to sugar factories?

(b) Is Government aware that there are no molasses tank wagons on the Bengal and North-Western Railway except those owned by Molasses Export Company?

(c) Do Government propose to remove the above disadvantages of the greatest number of sugar factories situated on the Bengal and North-Western Railway?

THE HONOURABLE SIR GUTHRIE RUSSELL : (a), (b) and (c). In order to assist the sugar industry to dispose of its surplus molasses and as an inducement to the Indian Molasses Company to operate in this part of India, the Bengal and North-Western Railway agreed to the purchase of 150 second-hand underframes which were available in Java. These underframes were fitted with molasses tanks or containers which were, and remain, the property of the Indian Molasses Company. These tanks are available for traffic between factories and storage tanks at Paleza Ghat, Samaria Ghat and Mokameh Ghat.

Two hundred wagons suitable for the carriage of sugarcane were ordered last year and an additional 400 have been ordered this year.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : Are Government aware that this Company has established a kind of monopoly and dictates its own prices to the mills?

THE HONOURABLE SIR GUTHRIE RUSSELL : The Indian Molasses Company started this traffic and unless some other company comes in with a similar offer to the Bengal and North-Western Railway, so far as I can see the Indian Molasses Company must have a monopoly.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : Will the Government be pleased to draw the attention of the Bengal and North-Western Railway to the necessity of having their own wagons to supply for transit of molasses so that the monopoly should not be with this Company?

THE HONOURABLE SIR GUTHRIE RUSSELL : A copy of this question and the Honourable Member's supplementary questions will be sent to the Bengal and North-Western Railway.

RESULTS OF GOVERNMENT'S EXPERIMENTS OF MANUFACTURE OF ALCOHOL FROM MOLASSES.

21. THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : What are the results of Government's experiments of manufacture of alcohol out of molasses and how much longer will it take for them to come to a definite conclusion?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : No experiments have been made by Government for the reasons explained in reply to part (a) of the Honourable Mr. Kalikar's question No. 9 of today's date.

FREE SUPPLY OF MILK TO SCHOOL CHILDREN.

22. THE HONOURABLE RAJA SIR RAGHUNANDAN PRASAD SINGH : Will Government be pleased to say :

(a) What steps do they propose to take for giving effect in India to His Excellency the Viceroy's advice for the free supply of good milk to school-children in municipal areas?

(b) How many dairy farms, under Government control or otherwise, are there in each province in British India and where each is located? and

(c) What steps, if any, have they so far taken to prevent the slaughter of good cows and she-buffaloes throughout British India with a view to increasing the supply of pure milk and ghee?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : (a) The Honourable Member will understand that the supplying of milk to children in municipal areas is a matter within the discretion of the municipal bodies themselves and that the great majority of municipal bodies in India lie within provincial limits. The main directions in which effect can be given by the Government of India to His Excellency's advice is, therefore, by doing whatever is possible to increase and improve the milk-producing breeds of cattle. Both of these are being pursued.

(b) According to information available there are 484 dairies in India, and a list in which the location of each is given has been placed in the Library of the House. Many of these so-called dairies, however, do not keep cows and merely act as retailers of milk and milk products.

(c) The slaughter of cows and she-buffaloes is a problem primarily in our big cities and is, therefore, municipal. In Bombay, Calcutta and Madras for example, it is understood that the following action is being taken.

The milk supply in Bombay is almost entirely from buffaloes and in view of the expense and difficulty of obtaining high-yielding buffaloes, more and more are being taken back to grazing areas by their owners or dealers. The movement is being assisted by a charge of Rs. 15 which is now being made on every buffalo slaughtered at Bandra slaughter house and by the reduction in railway freight for the transportation of dry cow-buffaloes to breeding areas. Attempts are being made in Bombay to allot an area outside the city for dairying and fodder production and for the development of a milk supply from outside areas where normal dairy farming can be carried on, the cows being regularly bred from, as long as they will breed, and the calves reared under normal healthy conditions. Action on the same lines in respect of Calcutta is under consideration. Most of the milk consumed in the Madras City is obtained from cows, many of which are maintained in city byres, but a considerable number of these are now taken back to Nellore for breeding purposes under a concession rate of Rs. 10 per cow.

STANDARDIZATION OF WEIGHTS AND MEASURES.

23. THE HONOURABLE RAJA SIR RAGHUNANDAN PRASAD SINGH : Will Government be pleased to say what steps they have taken towards standardization of weights and measures throughout British India? What are the standard weights and measures at present in vogue in the different provinces?

THE HONOURABLE MR. H. DOW : The Honourable Member is referred to the Report of the Weights and Measures Committee, 1913-14, a copy of which is in the Library, and to the Resolution of the Government of India No. 9, dated the 3rd January, 1922, published in the Supplement to the Gazette of India of the 7th *idem*, embodying the conclusions of the Government

of India on the Committee's recommendations. The Honourable Member will see from that Resolution that, generally speaking the Government of India left it to the Local Governments to take such action as they thought advisable for the standardization of weights and measures. From the enquiries made by them in 1927, the Government of India found that considerable progress had been made by the Provincial Governments in this direction. Some of the Local Governments, *e.g.*, Bombay, the Central Provinces and Coorg, have enacted legislation for the standardization of weights and measures, while most of the other Local Governments have taken executive action for the standardization of weights based on the Indian Railway standard.

As regards the latter part of the question, Government have no more complete and up-to-date information than I have just given and what is contained in the documents to which I have referred.

MAINTENANCE BY THE POSTMASTER GENERAL OF THE BENGAL AND ASSAM CIRCLE OF A LIST OF APPROVED CANDIDATES FOR CLERICAL APPOINTMENTS.

24. THE HONOURABLE MR. MAHMOOD SUHRAWARDY : (a) Will Government please state whether the Postmaster General of the Bengal and Assam Circle maintains a list or lists of approved candidates for clerical appointments for recruitment by all the Postal Superintendents of his Circle ?

(b) Will Government please lay on the table of this House statements showing separately the names of approved candidates for clerical appointments as they stood at the end of the official year 1934-35 in the registers for such candidates in the Postal Divisions of

(i) Rangpur, (ii) Mymensingh, (iii) Jalpaiguri and (iv) Midnapore ?

THE HONOURABLE MR. A. G. CLOW : (a) No.

(b) As I have stated in answer to part (a), no such list is maintained even by the Postmaster General and neither my Department nor the Director General's Office has these particulars. I understand, however, that the Director-General is taking steps to collect the information and if the Honourable Member desires to see the names, that officer will be prepared to show the lists when they have been received.

DEPUTATION OF APPROVED CANDIDATES TO THE CENTRAL TELEGRAPH TRAINING CLASS, CALCUTTA, FOR TRAINING IN TELEGRAPHY.

25. THE HONOURABLE MR. MAHMOOD SUHRAWARDY : (a) Is it a fact that the Postmaster General of the Bengal and Assam Circle asked the Postal Superintendents twice during the official year 1935-36 to depute approved candidates for training in telegraphy in the Central Telegraph Training Class of Calcutta ? If so, will Government please state whether the Superintendent of Post Offices of Rangpur, Mymensingh, Jalpaiguri and Midnapore Divisions deputed the required number of candidates from the register of approved candidates maintained in their respective Divisional Offices ?

(b) Is it a fact that the Superintendent of Post Offices, Jalpaiguri Division, deputed to the Telegraph Training Class, Calcutta, six candidates at the first time and four candidates at the second time ?

(i) How many of these ten candidates were from the register of approved candidates of his division ?

(ii) How many were outsiders ?

(iii) How many in each batch of candidates were Hindus ? And

(iv) How many were Muslims ?

(c) Is it a fact that of the six candidates deputed to the Telegraph Training Class, Calcutta, by the Superintendent of Post Offices of Jalpaiguri Division there was not a single Muslim candidate or a candidate from the other minority communities ? If so, why ?

(d) Is it a fact that two Hindu candidates were again deputed at the second time when four candidates were sent to the Telegraph Training Class ?

(e) Will Government please state whether the selection of candidates made by the Superintendent of Post Offices of Jalpaiguri Division was in conformity with the Government Order regulating recruitment of candidates for clerical appointments in the Rajshahi Revenue Division ? If not, why not ?

(f) Will Government please state whether the approved candidates whose names were borne on the register of approved candidates of the Jalpaiguri Division prior to the deputation of ten candidates for the Telegraph Training Class, Calcutta, will have priority in getting appointments in the clerical cadre ?

(g) Will Government please state how many of the senior candidates mentioned above officiated or acted as clerks in postal service and for what period ?

THE HONOURABLE MR. A. G. CLOW : (a) The answer to the first part is in the affirmative. Government have not the particulars referred to in the second part.

(b) Yes.

(c) to (g). Government have no information, but a copy of the question has been sent to the Director General for such action as he may consider suitable. As it would seem that these parts of the question are based on a misunderstanding regarding the position, I might add that the deputation of a candidate to a telegraph training class does not constitute his appointment to Government service and consequently is not governed by the rules relating to recruitment for employment in Government service on a communal basis. The appointment of trained candidates to vacancies in the Department is subject strictly to the rules relating to recruitment on a communal basis.

THE HONOURABLE MR. MAHMOOD SUHRAWARDY : With regard to the answer to question No. 25, part (e), will the Government please state if the Home Department orders for appointment can be operated if recruitment of candidates is not made according to the rotation prescribed by the Home Department ? Who is responsible for this disregard of the Home Department order ?

THE HONOURABLE MR. A. G. CLOW : So far as I am aware, there has been no disregard of Home Department orders. In my answer to that part

of the question, I tried to explain the difference between sending approved candidates who are not in Government service for a training class and actual recruitment. When the actual recruitment takes place, the communal orders apply, and those are strictly observed.

THE HONOURABLE MR. MAHMOOD SUHRAWARDY : As I understand the Home Department order as prescribed has been misconstrued.

THE HONOURABLE THE PRESIDENT : Order, order. You are not to argue. If you have any question to ask, do so.

THE HONOURABLE MR. HOSSAIN IMAM : Is there any cost to Government for training these people ?

THE HONOURABLE MR. A. G. CLOW : Yes.

THE HONOURABLE MR. HOSSAIN IMAM : Then if approved candidates are not available according to the communal proportion will not that have the effect of stopping recruitment ?

THE HONOURABLE MR. A. G. CLOW : In order to obtain approval you don't need to attend this training class. You are put on the list of approved candidates before being sent to the training class, and I believe attendance at the training class is optional and the qualification obtained there does not affect the recruitment at a later stage.

THE HONOURABLE MR. HOSSAIN IMAM : Am I to take it that appointments can be made of untrained men ?

THE HONOURABLE MR. A. G. CLOW : Yes, untrained in this particular matter. The test on which recruitment is based does not, I understand, comprise this particular element of the training.

RECRUITMENT OF CANDIDATES FOR CLERICAL APPOINTMENTS IN THE POSTAL DEPARTMENT AND PREFERENCE ACCORDED TO RELATIONS OF DEPARTMENTAL OFFICIALS, ETC.

26. THE HONOURABLE MR. MAHMOOD SUHRAWARDY : (a) Is it a fact that there was a Government Order that in making recruitment of candidates for clerical appointments in the Postal Department preference should be given to the relations of departmental officials, pensioners or deceased employees ?

(b) Is it not a fact that two of the four candidates deputed to the Telegraph Training Class at the second time by the Superintendent of Post Offices, Jalpaiguri Division, were relations of the two clerks of his own office at Jalpaiguri ?

(c) Will Government please state whether there were other candidates being close relations of the postal employees of the Jalpaiguri Division working outside the Superintendent's Office ? If so, why were they not selected ?

THE HONOURABLE MR. A. G. CLOW : (a) Yes, subject to the fulfilment of the conditions regarding the fitness of the candidate and the adjustment of communal inequalities. The order is still in force.

(b) and (c). I have no information regarding the relationships of the candidates, but a copy of the question will be sent to the Director General for such action as he may consider necessary. I would add, however, that the order referred to in the first part of the question has no bearing on the deputation of candidates to a telegraph training class as such deputation does not constitute recruitment to an appointment.

LEGISLATION FOR THE STATUTORY RAILWAY BOARD.

27. THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : Will Government be pleased to state when the legislation for the Statutory Railway Board will be brought forward before the Indian Legislature ?

THE HONOURABLE SIR GUTHRIE RUSSELL : Such legislation can only be undertaken after the Federal Railway Authority has been set up.

PROBABLE DATE OF THE INAUGURATION OF THE FEDERATION.

28. THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : (a) Will Government be pleased to state the approximate time for the introduction of the Federal Legislature under the Government of India Act ?

(b) Is it likely to be introduced in 1938 ?

(c) If the answer to part (b) is in the affirmative, will Government be pleased to state whether the Council of State elections are being held for the sake of a year and a half only ?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : (a) and (b). It is impossible to forecast at this stage the probable date of the inauguration of the Federation.

(c) Does not arise.

APPOINTMENT OF INDIANS TO SUPERIOR POSTS IN THE FOREIGN AND POLITICAL DEPARTMENT.

29. THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : (a) Will Government be pleased to state whether Indians will be appointed to posts of responsibility and power in the Political Department when it is separated from April, 1937 ?

(b) If the answer to part (a) is in the affirmative what will be their ratio in comparison to non-Indians ?

THE HONOURABLE SIR BERTRAND GLANCY : (a) Indian members of the Foreign and Political Department are eligible for all appointments on the cadre of that Department. No change is anticipated from April, 1937.

(b) Does not arise.

INDIAN EDUCATION IN KENYA AND FIJI.

30. THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : Will Government be pleased to state what percentages of the

expenses on education are spent on Europeans and Indians by the Kenya and Fiji Governments?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : In Kenya, 28.5 per cent. of the provisional allotment for education in 1933 was for European education and 20.8 per cent. for Indian education. In Fiji, 15.5 per cent. of the net cost to Government on education in 1934 was incurred on European education and 29.8 per cent. on Indian education. These are the latest years for which information is available.

INDIANS IN KENYA AND FIJI.

31. THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : What is the proportion of Indian and European inhabitants in Kenya and Fiji?

(b) Is it a fact that the Governments of the above Colonies have given definite assurances of equality of treatment?

(c) If the answer to part (b) is in the affirmative has Government pressed this point? If not, do they propose to do so now?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : (a) In Kenya, Europeans formed 0.57 per cent. and Indians 1.13 per cent. of the total estimated population as on the 31st December, 1934. In Fiji, Europeans formed 2.41 per cent. and Indians 42.18 per cent. of the estimated population on the same date.

(b) No.

(c) The ideal of the Government of India is that Indians in the Dominions and Colonies should have equality of status with other classes of His Majesty's subjects, and it is their constant endeavour to ensure realisation of this ideal where such equality does not exist.

Manchester Guardian's REPORT ABOUT COTTON PIECEGOODS TRADE POSITION.

32. THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : Has the attention of Government been drawn to the following passage of the report published in the *Manchester Guardian* :

"Almost without exception, shippers to India have had a doleful tale to tell. The few telegrams that have been received have contained offers that have been hopelessly out of range. Unimportant lots of dyed goods, medium mulls, prints, and fancies have been booked, generally at cut prices, and mostly for the Karachi and Amritsar Markets, but the total has been negligible.

It cannot be said that the Indian situation is viewed with any degree of confidence."

THE HONOURABLE MR. H. DOW : The answer is in the negative. The Honourable Member has not given particulars of the date of publication of the report referred to by him and Government are unable to trace it.

RETRENCHMENT ON RAILWAYS.

33. THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : (a) Is it a fact that proposals for the retrenchment of personnel on the railways are under contemplation?

(b) If so, do Government propose to keep in view the recommendations of the Retrenchment Committee about five years back, specially the principle of "equality of sacrifice" enunciated therein?

(c) Is it the intention of Government to make 10 per cent. cut on the salaries of higher staff and to withdraw Lee concessions side by side with retrenchment of lower staff on the principle of "equality of sacrifice"?

THE HONOURABLE SIR GUTHRIE RUSSELL : (a) and (b). Adjustment of the numerical strength of categories in establishments to current requirements is proceeding involving in some cases the discharge of surplus staff.

(c) No.

GRANT TO PROVINCES FOR EDUCATION.

34. THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : Has the attention of Government been drawn to the following passage in his address to the Convocation of Bombay University by the Acting Governor His Excellency Sir Robert Bell :

"Society and the State want more than proficient members of the professions, they want more than scholars, they want intelligent members of Society, well qualified to take their places in public life and to supply it with its leaders."

(b) What steps do Government propose to take to develop education in India for fulfilling the principle enunciated by His Excellency in the above passage?

(c) Are Government prepared to give substantial grants to the provinces for diffusion of education?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : (a) The text of the address referred to has not been received but Government have seen press reports.

(b) The attention of the Honourable Member is invited to the resolution of the Central Advisory Board of Education on unemployment and educational reconstruction, a copy of which I lay on the table. The resolution was forwarded to Local Governments, and with regard to (6) of the resolution they were asked whether expert advice in organising the scheme of reconstruction recommended by the Board was desired. Practically all Local Governments have asked for such assistance and the Government of India are trying to secure it.

(c) The Honourable Member is no doubt aware of the constitutional position. Education is a provincial subject.

CENTRAL ADVISORY BOARD OF EDUCATION.

RESOLUTIONS PASSED AT THE FIRST MEETING OF THE CENTRAL ADVISORY BOARD OF EDUCATION HELD IN NEW DELHI ON DECEMBER 19TH AND 20TH, 1935.

(i) Unemployment and educational reconstruction.

(1) While conscious of the great debt which is due to the education hitherto provided in India and of the part played by universities in promoting higher study and research and in training men and women for the service of India, the Board is of opinion that the following considerations, among others, necessitate a new attitude towards educational problems :

- (a) the increasing desire among educationists and others to bring about changes in the educational system in view of the altered conditions of life ;
- (b) the growing volume of unemployment among the educated classes ;
- (c) the emphasis laid on a purely literary form of instruction in schools ;
- (d) the inadvisability of too frequent examinations ;
- (e) the large number of ' over-age ' pupils in the senior classes of high schools ;
- (f) the increasing number of students in universities, who are unable to benefit by university instruction and, in consequence, the difficulty in making satisfactory provision for the better qualified students and for research ;
- (g) the need of developing training of a more practical type than at present and of making provision for such training, especially for those with little or no literary bent, and of adjusting it to the scheme of general education ;
- (h) the advisability of developing a suitable scheme of rural education, by which boys and girls in rural areas shall be given such training as would develop in them a capacity and desire for the work of rural reconstruction ;

(2) The Board is of opinion that a radical readjustment of the present system of education in schools should be made in such a way as not only to prepare pupils for professional and university courses, but also to enable them, at the completion of appropriate stages, to be diverted to occupations or to separate vocational institutions.

(3) These stages should be :

- (a) *The primary stage*, which should aim at providing at least a minimum of general education and training and will ensure permanent literacy.
- (b) *The Lower secondary stage*, which will provide a self-contained course of general education and will constitute a suitable foundation either for higher education or for specialised practical courses.

In rural areas, the courses at this stage should be attuned to rural requirements. Some form of manual training at this stage should be provided, which would aim at the development of practical aptitudes, and be made compulsory.

- (c) *The higher secondary stage*, in which would be included institutions with varying length of courses ;
 - (i) preparing students for admission to universities in arts and science ;
 - (ii) for the training of teachers in rural areas ;
 - (iii) for agricultural training ;
 - (iv) for clerical training ; and
 - (v) for training in selected technical subjects which should be chosen in consultation with employers.

Where separate institutions are not possible for the diversified courses, some of them might be incorporated in a higher secondary course of enlarged scope which would permit a choice of alternative groups of subjects and would end in leaving certificates.

(4) At the end of the lower secondary school course there should be the first public examination.

(5) Candidates desirous of joining the subordinate clerical services of Government and of local bodies should pass such qualifying examinations as might be prescribed by proper authority and should not be more than 19 years of age at the date of their examination.

The certificates granted to pupils completing other specialised courses should receive Government recognition.

(6) Expert advice would be of value in organising the scheme of reconstruction outlined above ; and also for suggesting methods of training masters who would assist pupils and parents in the selection, by the pupils, of courses of study with due regard to their aptitudes.

(7) Each province should organise Employment Bureaux for the purpose of advising students and of eliciting support and guidance of employers interested in the problem.

(8) Every local Government should actively explore the possibility of finding new avenues of employment and occupation.

CONVENIENCES OF THIRD CLASS PASSENGERS AT HARDWAR STATION, EAST INDIAN RAILWAY.

35. THE HONOURABLE MR. P. N. SAPRU : (a) Is Government aware that Hardwar is one of the most important centres of pilgrimages in India ?

(b) Is Government aware that the Advisory Committee, appointed by the United Provinces Government, for the improvement of Hardwar has made, from time to time, several representations in regard to the conveniences of third class passengers ?

(c) What action, if any, has been taken to implement the recommendations of the Advisory Committee ?

THE HONOURABLE SIR GUTHRIE RUSSELL : With your permission, Sir, I propose to reply to this and questions Nos. 36 to 39 together.

The question of accommodation at Hardwar was discussed by the Divisional Superintendent with certain gentlemen, among whom was a representative of the Improvement Advisory Committee. Certain proposals were made, and these were considered on the spot by the Chief Operating Superintendent, as a result of which improvements are to be started this year.

Government are not aware of the situation regarding the inter class waiting room, but this was, no doubt, considered at the time when the whole question was discussed. It is proposed to widen the down main platform and turn the existing goods shed platform into an island platform, after which the existing island platform will be removed. These alterations will necessitate the provision of a new overbridge.

The question of providing shelter on the platform and overbridge is under consideration. It is also proposed to improve the entrance to the station.

Owing to the considerable cost of these proposals it is proposed to carry them out gradually.

REMODELLING OF HARDWAR STATION, EAST INDIAN RAILWAY.

36. THE HONOURABLE MR. P. N. SAPRU: (a) Will Government please state whether the East Indian Railway do not propose to spend any sum of money on the remodelling of the Hardwar station? If so, what are the reasons for not providing a station for Hardwar?

(b) Do Government now propose to undertake to make the necessary improvement of the present station? If not, why?

(See reply to question No. 35.)

INTER CLASS WAITING ROOM, HARDWAR STATION, EAST INDIAN RAILWAY.

37. THE HONOURABLE MR. P. N. SAPRU: (a) Is Government aware that the stationmaster's house has been converted into an inter class waiting room at Hardwar and that this waiting room is at a considerable distance from the station platform?

(b) Are Government aware that this causes great inconvenience to the inter class passengers entraining and detraining at this station?

(c) Will Government state whether they propose to build a suitable inter class waiting room for ladies and gentlemen at this important station?

(See reply to question No. 35.)

PLATFORM AND OVERBRIDGE AT HARDWAR STATION, EAST INDIAN RAILWAY.

38. THE HONOURABLE MR. P. N. SAPRU: (a) Is Government aware that both the platform and the overbridge are unprotected at Hardwar and that all classes of passengers have to go over the island platform and the overbridge to the exit, and that this causes great inconvenience to them during the rainy season?

(b) Do Government propose to provide any suitable protection on the platform and overbridge?

(See reply to question No. 35.)

PARKING SPACE FOR MOTOR CARS, ETC., AT HARDWAR STATION, EAST INDIAN RAILWAY.

39. THE HONOURABLE MR. P. N. SAPRU: (a) Is Government aware that there is no place in the station limits at Hardwar for the halting of tongas, lorries and motor cars?

(b) Is Government aware that as a result of this passengers have to walk long distances through congested roads?

(c) Will Government be pleased to consider the provision of a suitable circulating area for the convenient movement of passengers inside the station limits?

(See reply to question No. 35.)

HARDWAR STATION, EAST INDIAN RAILWAY.

40. THE HONOURABLE MR. P. N. SAPRU: Will Government be pleased to state:

(a) The date when Hardwar station on the East Indian Railway was built, together with its cost?

(b) The date when alterations and additions were made together with the cost for each alteration or addition?

(c) The average number of passengers per day during the first year of the opening of the Hardwar station?

(d) The average earning of the station during the first year?

(e) The average number of passengers per day during 1934 and 1935?

(f) The average earning during 1934 and 1935?

(g) The particulars of alterations and additions made to the station building during the days of *melas* along with cost per *mela*? and

(h) The earnings of the station from *melas*.

THE HONOURABLE SIR GUTHRIE RUSSELL: (a) Hardwar station was built in 1886. The cost is not available.

(b) to (d). The information is not available.

(e) Figures are available only for the financial year 1934-35 and are as follows:

Daily average inwards passengers		1,200
Daily average outwards passengers		1,100

(f) Only the earnings of local outwards traffic from Hardwar during the financial year 1934-35 are obtainable and amount to Rs. 3,26,391 or an average of Rs. 894 per day.

(g) and (h). The information is not available.

THE HONOURABLE MR. HOSSAIN IMAM: Is it a fact that this Railway is giving a return of 9 per cent. on its invested capital?

THE HONOURABLE SIR GUTHRIE RUSSELL: I am afraid I must ask for notice of that question. I do not know.

MESSAGE FROM HIS EXCELLENCY THE GOVERNOR GENERAL.

THE HONOURABLE THE PRESIDENT: I have a Message to give to you from His Excellency. The Message runs thus:

PANEL OF CHAIRMEN.

"In pursuance of the provisions of sub-section (2) of section 63A of the Government of India Act, I, Victor Alexander John, Marquess of Linlithgow, hereby nominate the following Members of the Council of State to be on the Panel of Chairmen of the said Council of State:

In the first place, the Honourable Sir Phiroze Sethna; in the second place, the Honourable Rai Bahadur Lala Ram Saran Das; in the third place, the Honourable Saiyed Mohamed Padshah Sahib Bahadur; and lastly, the Honourable Sir David Devadoss.

LINLITHGOW,

SIMLA,

The 18th August, 1936.

Viceroy and Governor General.

(The Message was received by 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 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 Raja Charanjit Singh and as Members, the Honourable Khan Bahadur Syed Abdul Hafeez, the Honourable Sir David Devadoss, the Honourable Mr. Satyendra Chandra Ghosh Maulik, and the Honourable Rai Bahadur Lala Jagdish Prasad.

CONGRATULATIONS TO RECIPIENTS OF HONOURS.

THE HONOURABLE THE PRESIDENT: Honourable Members, it is the customary privilege of the President of the Council to offer on behalf of Honourable Members their congratulations and his own to Honourable Members who have been the recipient of Honours in the last Birthday Gazette. You are aware that the honour of Knighthood has been conferred on our Honourable friend Raja Sir Raghunandan Prasad Singh. (Applause.) He is well known to all of you as a comparatively old Member of this Council which he joined in 1930, that he is a highly respected Zemindar in Bihar and his munificence has been on a very large and liberal scale. His charity in his Province has been exemplary and this great honour of Knighthood has been conferred on him by His Majesty on account of the appreciation of his good work and his munificence.

The next person to whom I wish to refer is the Honourable Mr. J. N. G. Johnson. (Applause.) You are all aware that the honour of C. S. I. has been conferred on him by His Majesty. He is the Chief Commissioner of Delhi and those who have watched the progress of Delhi during the last five years will be unanimously of opinion that Mr. Johnson has been one of the best Chief Commissioners of that province. (Applause.) He has laboured hard for the improvement and betterment of the Province and particularly of the old city of Delhi. He has identified himself with the aspirations of the citizens of Delhi and on all sides we have heard encomiums about his liberal and well-organised administration. Moreover, he has become exceedingly popular in Delhi and only eight days ago probably you have heard that he gained extra popularity by refusing to agree with the Municipality and others to raise the franchise in that city from Rs. 3 to Rs. 5. I congratulate on behalf of all of you the Honourable Mr. Johnson. (Applause.) The bestowal of this high honour is I think only a precursor of many other honours to follow.

The next name to which I wish to refer is the name of Mr. J. C. Nixon. (Applause.) He has also received the distinction of C. S. I. this year. He was in our Council for a few months some time ago and we have the good fortune of seeing him back here. He is a man who prefers to work quietly behind the scenes and many of you do not know what good work he has been actually

doing. He has been one of the financial pillars of the Government of India and it is a matter of common knowledge that the Niemeyer Report was based on the spade work which Mr. Nixon did in the Finance Department. (Applause.) It was his collaboration of facts and figures that enabled the Niemeyer Report to be at once so satisfactory and successful. I heartily congratulate him on behalf of the Council and on behalf of myself for the great distinction which has been bestowed on him and which he richly deserves.

The last name which I have to refer to is that of Rai Bahadur A. L. Banerjee, our Assistant Secretary. (Applause.) He has received the high distinction of the Imperial Service Order. He has been nearly 32 years in the Legislative Department of the Government of India. He is the repository of all knowledge, rules and regulations pertaining to the Legislative Department. It is an honour well earned by the Rai Bahadur and we are all very gratified that this distinction has been conferred on him. (Applause.)

THE HONOURABLE RAJA SIR RAGHUNANDAN PRASAD SINGH: (Bihar and Orissa: Non-Muhammadan): I thank you, Sir, and the House for so kindly congratulating me on the honour of Knighthood conferred on me. I value the appreciation of my friends and colleagues much more than the honour itself.

THE HONOURABLE MR. J. N. G. JOHNSON (Chief Commissioner, Delhi): Sir, I am most grateful both to you for the kind sentiments you expressed and to the Council for the manner in which they have received it.

THE HONOURABLE MR. J. C. NIXON (Finance Secretary): Sir, I cannot do better than ask you to take what the Honourable Mr. Johnson said as applying also to myself.

RAI BAHADUR A. L. BANERJEE: Sir, I feel greatly honoured by your kind reference to my honour and I thank you and the Honourable Members of this House for this reference and the way in which it was received.

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, 1936, namely:

- The Italian Loans and Credits Prohibition Act, 1936.
- The Salt Additional Import Duty (Extending) Act, 1936.
- The Parsi Marriage and Divorce Act, 1936.
- The Payment of Wages Act, 1936.
- The Decrees and Orders Validating Act, 1936.
- The Cochin Port Act, 1936.
- The Indian Aircraft (Amendment) Act, 1936.
- The Factories (Amendment) Act, 1936.
- The Indian Lac Cess (Amendment) Act, 1936.

[Secretary of the Council.]

The Indian Tariff (Amendment) Act, 1936.

The Indian Mines (Amendment) Act, 1936.

The Indian Tariff (Second Amendment) Act, 1936.

RESOLUTION RE RELIEF TO FLOOD-STRICKEN AREAS OF THE UNITED PROVINCES.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA (United Provinces Central: Non-Muhammadan): Sir, I beg to move:

“That this Council recommends to the Governor General in Council to allot Rs. 50 lakhs towards the relief of flood-stricken people of the United Provinces.”

The Resolution does not require much elaborate dealing from me, because Honourable Members of the House have been reading in papers what has happened in the United Provinces by the floods. Before I go into the details of the Resolution, I would like to submit that when I sent notice of the Resolution the floods in Bihar and the Punjab had not occurred, and therefore I confined my Resolution to the United Provinces alone. I notice an amendment from my colleague hailing from Bihar and I welcome it. Considering the financial aspect of the question, if the Government is prepared to distribute proportionately out of this Rs. 50 lakhs to the United Provinces, Bihar and the Punjab according to the losses incurred in those provinces I shall have no objection.

Now, Sir, I leave Bihar and the Punjab to the Members hailing from those provinces to deal with in connection with this Resolution. I will confine myself to what has happened in the United Provinces. The extent of damage caused by floods in the United Provinces is unprecedented. Thousands of lives have been lost by being swept away by the currents or buried under debris by the collapse of houses. Millions of livestock perished for want of food. Thousands of houses have collapsed, burying people with their belongings. Tens of millions of acres of land have become uncultivable and reduced to practically waste land with the destruction of the total crop on it. *Kharif* has been totally destroyed and as the water is still found in some of the fields and others are very wet, no preparation can be made for *rabi*. So the poor agriculturists have lost both *kharif* and *rabi* for the year. People have lost every belonging and been reduced to paupers in this area, without money, food or even clothing, and they cannot shortly rebuild their houses or arrange for ploughing their fields or sowing their seeds for the next crops. They are practically living on the bounty and generosity of public-spirited men and have nothing of their own to fall back upon. There can be no greater work of humanity at present than to give relief to the flood-stricken people of the United Provinces. Sir, I have got a number of photos with me from which Honourable Members can see that villages have been reduced to islands or submerged under water and boats are plying in the well-populated streets and lanes of the cities. Important lanes have become bathing

places and people cross the roads in boats when they go to the Lucknow University. The Chief Court of Lucknow was surrounded by water and a boat was provided at one of its corners. The Agra Province Zemindar Association, Allahabad, was surrounded by water kneedeep, and so were many other buildings in Allahabad, Jaunpur, Lucknow, and several other districts. Sir, the greatest damage was done in Gorakhpore where out of six tehsils five were in flood. About 1,500 villages were under water with 25,000 square miles of land affected by the flood in that district. I am giving most of the figures from the communiques issued by the Collectors and Commissioners of these districts. In Ballia 400 villages were affected by the floods with about 100 square miles of land. In Lucknow we find from the Deputy Commissioner's communique that 5,000 houses collapsed in the city alone excluding the suburbs and about 130 villages were affected with 30,000 acres of land. In Unao, according to the Deputy Commissioner's communique, 423 villages and 153,384 acres of land were under water. In the Kumaon Division, the floods came late owing to a heavy fall of rain and swept away the Harijan colony of Bamroli altogether and there is no trace of the colony in that place. The roads have been converted into ravines and many other villages have been swept away owing to landslides. Other districts affected were Ballia, Shahjahanpur, Sitapur, Benares and Mirzapur. In Mirzapur there was 22 inches of rain in 12 hours, and in a part of Benares 18 inches of rain in 12 hours and you will feel pity to hear that one primary school in my district collapsed with about 22 children and the teacher who was taking classes. In my town, Sir, the normal rainfall is 38 inches but this year we have had 50 inches above the normal rainfall. This is the condition in the United Provinces owing to the floods which I have briefly described. It is the bounden duty of the Government of India to set up a committee of inquiry of experts to find out the causes and remedies for the floods as they have done in the case of famine. In the case of famine, by better irrigation, more introduction of railways, co-operative societies, development of lands, they have greatly helped to reduce their occurrences. Now famines have been converted into floods and it is up to Government to set up an inquiry committee and devise means and discuss and inquire into such questions as soil erosion, buildings on a better plan and on a higher site, making embankments on low lands by the side of rivers, and a study of the history and economics of floods on the lines of that on famines, and so forth.

Before I proceed to the next point, I would like to acknowledge with thanks the help rendered by officials and non-officials in support of the flood-stricken areas in saving thousands of lives in villages. Official and non-official agencies combined on this occasion and rendered all possible help to save lives and livestock. Private organisations like the Gita Press at Gorakhpore and the Boy Scout and the Seva Samiti volunteers opened numerous relief centres and distributed food and clothes to thousands of flood-stricken people. The Gita Press, to its great credit, was distributing food for days together to 10,000 people every day at the centre and sending food into the interior for about 20,000 people. The public has also generously contributed to the Flood Relief Fund formed in these districts. Many zemindars have come forward to take up the task of rebuilding the houses in their own villages. All possible

[Rai Bahadur Lala Mathura Prasad Mehrotra.]

efforts have thus been made locally both by the public and the Government of the United Provinces. The Government also gave Rs. 30,000 on this critical occasion for immediate relief and they are making inquiries to find out the extent of the damage done to crops so that they may give remissions in rent and revenue, and also distribute *takavi* loans. All this is not enough in the face of this disaster. Therefore, I, as representing the flood-stricken province, have come up to the Government of India to seek their help also. A pertinent question may be asked, "Why should the Government of India come forward to help a Provincial Government in such a matter?" I submit that the United Provinces Government had a deficit budget last year and they are expecting a greater deficit this year as stated by the Honourable the Finance Member of the United Provinces. If you add losses on account of floods, the deficit will be greater, because they will have to remit land revenue to the extent of several lakhs. Therefore, it is not possible for the United Provinces Government to shoulder all the expenses in such a calamity. The public have already contributed generously and the zemindars and business men are expecting very little income this year because their source of income has been stopped. Therefore, I am afraid that they will not be able to contribute as much as is demanded by the situation.

Now, let us examine the position of the Government of India whom I am requesting to contribute Rs. 50 lakhs for this purpose. It is the primary duty of every civilised Government to help its people at times of such calamities. Secondly, Sir, the Government of India had a surplus budget during the last two years, and according to the statement of the Honourable the Finance Member, they are expecting a surplus this year.

THE HONOURABLE THE PRESIDENT: Where did the Finance Member make that statement?

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: During the last Budget speech, Sir. Besides, what is Rs. 50 lakhs to the Government of India when they budget for about Rs. 90 crores and when they can well afford to spend crores on objects of lesser importance in comparison to such calamities? I think there is absolutely no reason why the Government of India should not help our province at such a critical juncture. We all know, Sir, that the Pusa Institute was transferred in the teeth of opposition at the cost of lakhs. We all know, Sir, that last year, about Rs. 90 lakhs—I speak subject to correction—was set apart for Civil Aviation. For so many unimportant objects they spend lakhs and crores. I submit that this calamity of the United Provinces is more important than some of the objects I have related. I would even submit that the money can come from the Rural Development Reserve Fund established by the Government of India. I think there is still more than a crore in that Fund. If the land has become a waste, what will there be to develop? What will the Public Health Department do in recommending these homeless creatures to have ventilators in their houses when they have no houses, and to have mosquito curtains, etc.? That money can very well be utilised in the development of the land, in providing these helpless creatures with houses,

with capital, with seeds and with manures, and after that, the question of development on the lines laid down can be thought of. I will go further and request the Government to borrow money and help these flood-stricken people if they cannot find money anywhere else. The present necessity is greater than many others. Money is very cheap nowadays. It was only the other day the United Provinces Government floated a loan of Rs. 2 crores at 3 per cent. at par, and in about half an hour applications to about Rs. 5 crores were received. So, if money cannot be found from any other source, it can be borrowed and these people can be helped out of it.

Now, Sir, the floods are subsiding but there is a still greater danger ahead in the spread of malaria and cholera in epidemic form. If adequate measures are not taken, and they require money, I am afraid that these diseases will again levy a heavy toll on humanity in the flood-stricken areas. Moreover, the winter season is setting in and what will these creatures with no houses and no clothes do?

THE HONOURABLE THE PRESIDENT: Please confine yourself strictly within the four corners of your Resolution, which refers to flood-stricken people only, and do not deal with malaria and other subjects.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: Malaria and cholera are likely to come out of these floods.

Thousands will die in the winter season if they are not provided with adequate shelter and clothing. So money is required for those objects very urgently. The floods in this respect are a greater calamity than earthquakes.

THE HONOURABLE THE PRESIDENT: You have said all that before.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: I am developing the point, Sir. In earthquakes people lose their lives all at once, but in floods people are dying a miserable and slow death from starvation and want of clothing, and if the Government of India could help Bihar and Quetta with crores of rupees at the time of earthquakes, as they ought to have done, it is their bounden duty now to come forward and help the flood-stricken areas of the United Provinces, Bihar and the Punjab. (An Honourable Member: "Why not Bengal?") Let the Honourable Member put up his case. As the time at my disposal is very short now I will close my remarks with an appeal to the Honourable Leader of the House. In conclusion I will appeal to the Government of His Excellency Lord Linlithgow, who has already shown his solicitude for the agriculturist and the poor, and the Honourable Leader of the House, who is himself a big agriculturist and hails from the province which is the worst affected by floods, which have devastated it three times during a short period of three months, to accept my Resolution and grant Rs. 50 lakhs for mitigating the sufferings of the flood-stricken, down-trodden and dumb millions of His Majesty's subjects who have largely contributed to the coffers of the Government in the maintenance of the fabric on which the whole administration is based. I hope and trust my appeal will have the desired effect both on the Treasury Benches and

[Rai Bahadur Lala Mathura Prasad Mehrotra.]

the non-officials who have sought the suffrage of these people and come to this House as their representatives.

With these words, Sir, I move my Resolution.

THE HONOURABLE RAJA SIR RAGHUNANDAN PRASAD SINGH (Bihar and Orissa : Non-Muhammadan): Sir, I move my amendment :

"That the words ' and of Bihar ' be added at the end of the Resolution."

I am glad that my friend the mover of the original Resolution has already accepted my Resolution and I hope the House will also accept the same.

Sir, I need not dilate on the havoc created by the flood in my province of which detailed reports have appeared. Apart from the suffering caused to the people by the collapse of their houses, most of the crops standing in the field and stored in houses have been washed away. The condition of the cattle is most deplorable as most of the fodder has been destroyed by the flood. Most of the villages on the banks of a river are over-flooded and people who are rendered homeless have to take shelter either on trees or on high lands and railway lines. Several villages are submerged under water and a number of them were marooned. Most of the flood-stricken villagers have lost their cattle and seeds with the help of which they could have again fallen back on their occupation of agriculture. Sir, I must say that all organisations and even individuals did come forward to render help to these unfortunate people but that was not enough for the situation. The resources required to rehabilitate them is enormous and such resources can only be available from the State. The Government of Bihar, I must say, have done and are doing their best but, Sir, the Government of my province is generally run at a deficit and as such the financial resources necessary for rehabilitating the villages in Bihar is far less than what was required to meet the purposes of relief. Unfortunately my province has been visited by floods not once but twice this year and therefore the House will better imagine the harrowing condition of the flood-stricken people. The Central Government which has got vast resources at its back can justly be expected to come forward with financial aid and our demand, too, is a modest one. I join issue with the mover of the original Resolution and request the Government of India to grant a suitable amount to the Government of Bihar as well for rendering all necessary help to the people of the flood-stricken areas.

Sir, I am pretty certain that if the help which is most needed is rendered now, it will go a great way to re-establish the loyalty of these people to the Government. I take this opportunity also of appealing to His Excellency the Viceroy and Governor General who is ever ready to help the distressed to come to the rescue of these unfortunate people.

THE HONOURABLE THE PRESIDENT: The original Resolution was :

"That this Council recommends to the Governor General in Council to allot Rs. 50 lakhs towards the relief of floods-stricken people of the United Provinces"

To which an amendment has been moved :

"That the words ' and of Bihar ' be added at the end of the Resolution."

The debate will now proceed both on the original Resolution and on the amendment.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan): The Punjab also has suffered from floods and I owe a duty to my constituency in pressing the case of the Punjab.

THE HONOURABLE THE PRESIDENT: But you have not given notice of an amendment.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: If you will kindly allow me to move an amendment I should like to include the Punjab along with Bihar. I hope Honourable Members will have no objection to my amendment even though I have not given due notice. My amendment is :

"That the words ' and of the Punjab ' be added to the end of the Resolution."

THE HONOURABLE THE PRESIDENT: You have not given the usual notice, but as the matter is very small I am prepared to permit you to move the amendment if the Government Member has no objection.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Education, Health and Lands Member): Sir, I have no objection but I really have no information about the Punjab at all and therefore I shall not be able to give any reply to my Honourable friend's observations. That is my only objection. If he is prepared to be content with his own speech and to no reply from me as regards the Punjab, I have no objection.

THE HONOURABLE THE PRESIDENT: In view of those circumstances I cannot allow your amendment.

THE HONOURABLE SRIJUT HERAMBA PROSAD BARUA (Assam : Non-Muhammadan): I wish also to move an amendment to include Assam.

THE HONOURABLE THE PRESIDENT: There will be a similar objection and I disallow it.

THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE (East Bengal : Non-Muhammadan): I beg to move an amendment, Sir.

THE HONOURABLE THE PRESIDENT: I disallow that also.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Sir, I heartily support the Resolution which has been so well moved by my Honourable friend Rai Bahadur Mathura Prasad Mehrotra. The request there being a modest one I think will be accepted by the Government. Whenever there is any small rising on the Frontier Rs. 50 lakhs is the minimum amount which the Army Department generally spends and in the way in which money is found for such expeditions money can also be found for flood relief. In the Punjab, Sir, although my amendment has been disallowed, I might mention for the information of the House as well as of the Government that due to very heavy floods, particularly in the river Ravi, the districts of Lahore and Sheikhupura have suffered very badly and if my information is correct as many as 58 villages have been affected and some washed away altogether. The flood visited these unfortunate villages at midnight and in the case of village Trandi in the Sheikhupura district the people had to save their lives

[Rai Bahadur Lala Ram Saran Das.]

by the use of boats at midnight and they lost their all. Sir, an inquiry into the causes of the flood is necessary. Some of the reasons which led to these floods in the Punjab are perhaps known to the Government. One of them is the denuding of forests which led to the instantaneous rush of water from the hills to the plains and thus caused very heavy floods. The second reason is training works and it was mostly due to the training works of the Ravi bridge that in the Shahdara tehsil of the Sheikhupura district the greatest damage was done. The Irrigation Department have made protective works for their channels and the unfortunate villages which came in between the canal and the river Ravi also suffered the most and in particular on the Upper Chenab Canal in the Shahdara tehsil of the Sheikhupura district. The saving of the irrigation channel resulted in the destruction of villages. I wish, Sir, that an enquiry be made and remedial steps taken and that the modest sum of Rs. 50 lakhs is allotted to the three provinces, the United Provinces, and equity demands to Bihar and the Punjab as well.

With these words, Sir, I support the Resolution.

THE HONOURABLE KHAN BAHADUR NAWAB CHAUDRI MUHAMMAD DIN (East Punjab : Muhammadan) : Sir, the vagaries of the monsoon this year have been very marked. Whereas the United Provinces, Bihar, Bengal and Ravi villages in the Punjab have suffered devastation as the result of abnormal floods, Rajputana, Gujarat and Kathiawar are in the grip of the more drawn-out misery of famine. Although the September rains have mitigated the hardships to some extent, still the prospect is not free from anxiety. Our needy fellow-men in the affected areas are entitled to our sympathy. Sir Harry Haig has been doing his best for the distressed villages in the United Provinces and the Government of India should do what it can to render financial assistance to those provinces for the relief of the unfortunate people.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Education, Health and Lands Member) : Sir, I hope I shall not be accused of a want of sympathy or of not realising the seriousness of the floods which have afflicted certain provinces if I do not deal with this Resolution in the picturesque way that has been adopted by the mover, my friend Rai Bahadur Lala Mathura Prasad Mehrotra. He gave us during the course of his discourse some astronomical figures of loss in the United Provinces. He said—I think I have taken down his words correctly—that thousands of lives were lost, that millions of livestock were swept away, and so on and so forth. Well, Sir, I saw the very detailed press communique which was issued by the United Provinces Government, dated the 24th of August, in which the whole flood situation in the United Provinces was reviewed, showing the loss both in life and in cattle and the damage done to crops as also the measures taken by the Local Government to relieve distress. Now the figures actually given by the United Provinces Government as regards loss of human life is only about 50 instead of thousands. These were due not to drowning but to the collapse of houses. As regards cattle, instead of millions the loss reported is 2,500 cattle. I am quite prepared to admit that a great deal of damage has been done to the *Kharif* crop, also that a large number of houses have collapsed. I am also prepared to admit that these

floods will cause a great deal of distress and that this distress is such that measures of relief are required. But the point that this House has to consider is whether the measures which have already been taken by the United Provinces are adequate, whether they have got themselves enough funds to meet the requirements of the situation and I hope before I have finished that I shall be able to prove to the House that the United Provinces Government have taken adequate measures and that they are fully prepared to meet any situation which may arise as a consequence of these floods. I understand from this press communique that they have already given over Rs. 30,000 for gratuitous relief, over Rs. 2 lakhs have already been distributed in loans, that they have given instructions to their forest officers to supply fodder and bamboo and fuel either free or at reduced cost. They have instructed their revenue officers to tour and report to the Government the extent of the damage caused to the crops and what relief is required as regards remissions of rent and revenue. Local relief committees have been formed in the areas which have been affected. Apart from this, my Honourable friend has probably forgotten that under the Devolution Rules there is such a thing as a Famine Relief Fund in the United Provinces. Under these rules the annual assignment which the United Provinces Government have to make to this Fund is Rs. 16 lakhs and the minimum amount they should have in the Fund is Rs. 55 lakhs. From the figures which we have received of the actuals on the 31st March, 1935, the United Provinces Government has in the Relief Fund Rs. 55.11 lakhs. So that any reasonable expenditure which we may expect in the future can certainly be met from this Fund. The Government have applied to the Indian Peoples' Fund of which I happen to be the Chairman and they have asked for a grant of Rs. 25,000 from that Fund. The meeting of the Fund will take place on the 3rd of October and I am sure that the request of the United Provinces Government for assistance from that Fund will be sympathetically considered.

As far as Bihar is concerned, there again they have got a Famine Relief Fund. Actually at the end of March, 1935 they had a sum of Rs. 18 lakhs in that Fund and the Bihar Government have also applied to the Indian Peoples' Fund and they have asked for a grant of Rs. 40,000 and they have based their request on the ground that about 8,000 houses had collapsed during the floods and they say that the rate of Rs. 5 per house for 40,000 houses is a reasonable demand for the Bihar Government to make. To show in some ways the unreality of this discussion, my Honourable friend started with a Resolution saying that Rs. 50 lakhs should be given to the United Provinces. An amendment was moved by the Member for Bihar and my Honourable friend, the Leader of the Opposition, wanted to bring in the Punjab as well. My Honourable friend, with a generosity which somewhat surprised me, said he was quite prepared to distribute this Rs. 50 lakhs, which he originally wanted for the United Provinces, proportionately between Bihar and the Punjab. Fortunately, the amendments of the Members from Bengal and Assam were ruled out of order, otherwise my Honourable friend would have equally been prepared to distribute the Rs. 50 lakhs among all the provinces in India if such an amendment had been moved! I do not think that my Honourable friend has established during the course of his remarks

[Kunwar Sir Jagdish Prasad.]

that the extent of the damage to the United Provinces is such that the Government of India should make an additional contribution of Rs. 50 lakhs to supplement the resources of the United Provinces Government. The United Provinces Government are fully aware of their responsibilities; they have taken adequate measures to deal with the situation, and I join with my Honourable friend in acknowledging the great work that was done by the local officials during the difficult times of the floods and by non-official agencies. They are quite prepared to meet the situation and we are satisfied that there is no need for the Government of India to share this responsibility with the Provincial Governments. I hope that the House will be satisfied that all that is possible is being done by the Provincial Governments concerned and that they need be under no apprehension that adequate measures will not be taken for the relief of the distressed.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : Sir, I regret to note that the Government of India is not prepared to help the United Provinces and other provinces during this calamity. I do not know, Sir, why the Government of India came forward to help the Bihar and Quetta sufferers at the earthquakes in those places. Obviously the Famine Relief Fund referred to by the Leader of the House was not meant for earthquakes and floods and why does he think that this can be applied in flood relief? I have not got the Devolution Rules at present with me, otherwise I would have shown that the Fund is especially earmarked for famine relief and not for these unprecedented calamities.

Then, Sir, the Honourable Leader of the House was pleased to refer to the United Provinces Government communique. Sir, in that communique they say that the calamity is widespread and it is not possible for the Government to shoulder the whole burden of loss unassisted. They have also said, Sir, that the great landowners and other citizens in the district of Oudh have come forward to rebuild their houses in their own villages. Further they say that there is a shortage of fodder for cattle and they will not get adequate fodder till the new grass springs up. So, Sir, what is to be done during this period? The reports that have been received are not complete. I may give two definite figures in which the loss of life comes to about 50 as given in the communique. Twenty-two children with their teacher lost their lives by the collapse of a primary school at a distance of 14 miles from my town. Six persons in the town itself died on account of the collapse of houses. That makes 28. The Government will not deny that the whole of the village of Bamroli consisting of 22 lives was swept away and none was saved. That brings up the figure to 50, not counting the loss in other districts and especially at Gorakhpore where five out of six tehsils have suffered in the floods. So, Sir, it is very difficult to rely on these figures when the calamity lasted for weeks together and the floods came not once or twice but three times in the United Provinces.

Sir, when the communique was issued there were also articles published in the *Leader* and other papers of the province that contradicted the reports received through Government agency and therefore, Sir, it is very difficult to rely on the actual figures given in the communique. The Government itself

RELIEF TO FLOOD-STRICKEN AREAS OF THE UNITED PROVINCES.

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has said that these are the facts as far as information is available, and you know, Sir, how difficult it is to get correct information at such times. I, Sir, do not think that the Local Government will be able to shoulder the unexpected burden that has fallen on them as mentioned in the communique. Of course, I do not know if they have approached the Government of India for help. But, Sir, I, as representing the province, thought it my duty to bring this Resolution forward and I hope the Members of this House will support it and see that it is carried by this House.

Sir, with these words, I commend my Resolution to the acceptance of the House.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : Sir, there are two points to which I should like to reply before the Resolution is put to the vote. The first point raised by my Honourable friend is that the Famine Relief Fund could not be applied for the relief of damage caused by floods. I can assure my Honourable friend that it can be so applied. The second point was with regard to the statement made by the United Provinces Government that they could not, unassisted, meet the situation. Sir, I should be prepared to lay a copy of this communique on the table of the House, but if I may be allowed to complete the sentence, the sense in which these words were used are quite different from what my Honourable friend wishes to convey to the House. What the United Provinces Government said was :

"It is not possible for Government to shoulder the whole burden of relief unassisted by private charity and effort".

They did not say that they cannot meet the situation except with the Rs. 50 lakhs or a proportionate share of it from the Central Government. I should like again to point out to the House that in discussing a matter of this kind, when a question is raised whether a particular communique issued by the United Provinces Government is correct or not, it is impossible for me here to be able to challenge a statement made by a Member on the floor of the House. I am sure there will be another meeting of the United Provinces Legislative Council before it is dissolved some time in October or November next and I think that that would be the proper forum for a detailed discussion as to whether the various things done by the United Provinces Government were or were not adequate. So far as my information goes—and I can only rely on the information which we have received from the United Provinces Government and from their communications—we are perfectly satisfied that all that is possible has been done and will be done and that there is no need for any further assistance from the Government of India.

THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa Muhammadan) : On a point of information, Sir. Is the Honourable the Leader of the House prepared to assure us that if the United Provinces Government require some help from the Government of India, the Government of India will give the matter their sympathetic consideration?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : That is a hypothetical question.

THE HONOURABLE THE PRESIDENT : In the exercise of my discretionary power, I will first put the original Motion to the Council.

[Mr. President.]

The Question is : that the following Resolution be adopted :

"This Council recommends to the Governor General in Council to allot Rs. 50 lakhs towards the relief of flood-stricken people of the United Provinces."

The Council divided :

AYES—15.

Barua, The Honourable Sriput Heramba Prosad.	Mehrotra, The Honourable Rai Bahadur Lala Mathura Prasad.
Buta Singh, The Honourable Sardar.	Naidu, The Honourable Mr. Y. Ranganayakalu.
Ghazanfar Ali Khan, The Honourable Raja.	Padshah Sahib Bahadur, The Honourable Saiyed Mohamed.
Gounder, The Honourable Mr. V. C. Vellingiri.	Raghunandan Prasad Singh, The Honourable Raja Sir.
Hossain Imam, The Honourable Mr. Jagdish Prasad, The Honourable Rai Bahadur Lala.	Ram Saran Das, The Honourable Rai Bahadur Lala.
Kalika, The Honourable Mr. V. V. Maung Aye, The Honourable Captain.	Sapru, The Honourable Mr. P. N. Suhrawardy, The Honourable Mr. Mahmood.

NOES—29.

Akram Husain Bahadur, The Honourable Prince Afsar-ul-Mulk Mirza Muhammad.	Ishrat Husain, The Honourable Saiyid.
Arthur, The Honourable Mr. C. G.	Ismail Ali Khan, The Honourable Kunwar Haji.
Ayyangar, The Honourable Diwan Bahadur Narasimha Ayyangar Gopalaaswami.	Jagdish Prasad, the Honourable Kunwar Sir.
Banerjee, The Honourable Mr. Jagadish Chandra.	Johnson, The Honourable Mr. J. N. G.
Charanjit Singh, The Honourable Raja.	Menon, The Honourable Diwan Bahadur Sir Ramunni.
Choksy, The Honourable Khan Bahadur Dr. Sir Nasarvanji.	Muhammad Din, The Honourable Khaz Bahadur Nawab Chaudri.
Clow, The Honourable Mr. A. G.	Nixon, The Honourable Mr. J. C.
Commander-in-Chief, His Excellency the.	Noon, The Honourable Nawab Malik Sir Mohammad Hayat Khan.
Devadoss, The Honourable Sir David.	Pandit, The Honourable Sardar Shri Jagannath Maharaj.
Dow, The Honourable Mr. H.	Parker, The Honourable Mr. R. H.
Ghosal, The Honourable Sir Josna.	Ray of Dinajpur, The Honourable Maharaja Jagadish Nath.
Glancy, The Honourable Sir Bertrand.	Russell, The Honourable Sir Guthrie.
Hafeez, The Honourable Khan Bahadur Syed Abdul.	Sethna, The Honourable Sir Phiroze.
Haidar, The Honourable Khan Bahadur Shams-ud-Din.	Spence, The Honourable Mr. G. H.
Hallett, The Honourable Mr. M. G.	

The Motion was negatived.

THE HONOURABLE THE PRESIDENT: As the original Resolution has failed, the amendment also necessarily fails.

RESOLUTION RE CENTRAL BOARD OF PUBLIC HEALTH.

THE HONOURABLE THE PRESIDENT: In view of the pronouncement made by His Excellency the Governor General yesterday, I hope you will be brief.

THE HONOURABLE MR. P. N. SAPRU (United Provinces Southern Non-Muhammadan): Sir, I rise to move the following Resolution:

"This Council recommends to the Governor General in Council to constitute a Central Board of Public Health on the lines of the Central Advisory Board of Education for the purpose of co-ordinating and stimulating public health activities in the country."

Sir, I did not realise when I gave notice of this Resolution that it would be the subject of an announcement by the respected head of the Government. If you will permit me to say so, Sir, His Excellency has been taking since his arrival in this country a great deal of interest in the development of services on which our future as a nation depends, and our thanks are due to him for the interest which he is taking in the development of these services. It has become unnecessary for me, in view of the announcement which was made by His Excellency yesterday, to make any long speech on this Resolution, but there are just a few points on which I should like to be enlightened, and there are also a few suggestions which I should like to make so that the Board might serve the purpose for which it is intended. I hope that in the constitution of this Board care will be taken to see that non-officials are given adequate and substantial representation.

THE HONOURABLE MR. HOSSAIN IMAM: (Bihar and Orissa: Muhammadan): A majority.

THE HONOURABLE MR. P. N. SAPRU: As my Honourable friend says, a majority.

Then I should like to say that women should not be ignored in appointments to the Board. I think women can contribute a great deal to the discussion of public health questions and it will be good if we can have some of our sisters on this Advisory Board.

I should like to make a suggestion in regard to the location of research centres. We have a research centre at Kasauli, and if I read the announcement aright, it is intended to have a new research nutrition centre. I think these centres ought to be situated at central places, and when I speak of central places I have places like Delhi and Calcutta in mind. In Calcutta there is a large body of medical men and a big University, and places like Calcutta and Delhi which are central places would be more suitable than, say, a place like Kasauli. I hope the location of these research centres will be at central places like Delhi or Calcutta.

THE HONOURABLE SIR PHIROZE SETHNA: (Bombay: Non-Muhammadan): Or Bombay!

THE HONOURABLE MR. P. N. SAPRU: Well, I do not mind Bombay, though it is a little far off from us in the United Provinces, and we of the United Provinces would certainly and definitely prefer Calcutta or Delhi.

THE HONOURABLE SIR DAVID DEVADOSS: (Nominated: Indian Christians): What about Madras then?

THE HONOURABLE MR. P. N. SAPRU : Madras is even further off.

Another direction in which we need to stimulate activities in this country is the campaign against malaria. I was alarmed to find from the Report of the Public Health Commissioner that a million deaths a year are due to malaria alone, that nearly 20 per cent. of the total death roll is attributable to malaria. There is urgent need for a nation-wide campaign against this curse of malaria and I hope that this Public Health Board will stimulate research and activity in regard to malaria.

It has always struck me that one of the defects of our education is that in our schools there is no teaching of nutrition and very little teaching of hygiene. Now, hygiene and nutrition are subjects which ought to be compulsory subjects in the primary and secondary stages of our education and I hope that the question of providing a place for them in school curricula will be taken up both by the Public Health Board and by the Central Advisory Board of Education.

Finally, I feel that we need educative propaganda in rural areas in regard to public health matters. It is necessary that there should be vigorous propaganda and I desire that the Board should devise some effective machinery for this propaganda.

Sir, I hope the Honourable Sir Jagdish Prasad will be able to enlighten us in regard to the constitution of the Board and on some of the points which I have raised.

I move my Resolution with these words.

*THE HONOURABLE MR. HOSSAIN IMAM : Mr. President, before I commence my remarks on the Resolution itself, I should like to congratulate my Honourable colleague Mr. Sapru on his good fortune in having given notice of a Motion which was accepted before it was moved.

THE HONOURABLE THE PRESIDENT : Not accepted, but forestalled

THE HONOURABLE MR. HOSSAIN IMAM : It is a good fortune which I think has not been shared by any other Member of the Legislature so far.

As regards the constitution of the Board, I have only one word to say. The Government of India who form these Boards generally make their announcement of their composition without giving the Houses an opportunity to discuss the matter. I would request the Honourable Leader of the House, if it would not put him out, to place the scheme which he has in mind before the two Houses for discussion. Inasmuch as our votes and our resolutions are not binding on the Government, he will not in any case be inconvenienced thereby. But it would give us an opportunity of giving our opinion and perhaps we might be able to amend or modify in certain respects.

With these words, Sir, I support this Resolution.

*Not corrected by the Honourable Member.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Education, Health and Lands Member) : Sir, I should like to state for the information of the House that this question of having a Central Board of Public Health has been engaging the attention of the Government of India for a number of years. In 1921 they had a Central Board of experts, officials and non-officials but unfortunately after meeting only once it was dissolved due to financial stringency. My distinguished predecessor, the late Mian Sir Fazl-i-Husain, brought up the question again in 1927 and he thought that it was necessary to have in India itself some organisation which would co-ordinate the activities of provinces and do work similar to that which is done by the Health Section of the League of Nations for the different nations. Sir, really the credit for initiating this proposal belongs to the late Mian Sir Fazl-i-Husain. Unfortunately after a great deal of discussion and after schemes had been prepared, the matter could not be proceeded with because of the lack of funds. Now, we are in the fortunate position of having accomplished what was thought of so many years ago. As regards the constitution of the Board, the matter is still under consideration, but I have no doubt that in its composition non-official opinion will certainly be most adequately represented. I should also think that in a matter like this we shall very carefully consider the suggestion made by my Honourable friend Mr. Sapru about having women on the Board. As regards the question of the location of the Research Institutes, it is a question of cost very often. We have laboratories in Kasauli; we have invested a great deal of money there. So I cannot promise that we shall scrap these existing institutions and bring them to Delhi because that means very much additional expenditure. But in regard to the location of future Research Institutes, we shall consider all relevant points such as that the place should be accessible and should be in a central situation. The other point that was raised was that the House should be given an opportunity of discussing the scheme as a whole. The Assembly will certainly have an opportunity of knowing what the proposals are, because before the Board is constituted a certain amount of expenditure will be necessary and probably the scheme may have to go—I am not quite sure—to the Standing Finance Committee. Money will have to be voted by the Assembly, but I can assure Honourable Members that the records of the Government of India in regard to the constitution of the Imperial Council of Agricultural Research and the other body, the Central Board of Education, is such as I hope will lead Honourable Members to think that what we shall do will not be unacceptable to them. That is all that I can say. I am very glad that it has been possible for us to have these three central organisations to co-ordinate activities, first of all the Imperial Council of Agricultural Research so far as agriculture is concerned, then we have the Board of Education so far as education is concerned and now we have got the Board of Public Health—a want which was keenly felt, and therefore I take it that my Honourable friend will withdraw the Resolution as what he wants has already been done.

THE HONOURABLE MR. P. N. SAPRU : Sir, I ask for leave to withdraw the Resolution.

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

RESOLUTION RE LEAGUE OF NATIONS.

LEAGUE OF NATIONS.

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THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa : Muham-
madan) : Sir, I move :

"That this Council recommends to the Governor General in Council to give notice of withdrawal from the League of Nations on behalf of India and to stop forthwith payments of annual contribution."

Before I commence my remarks on this Resolution, I wish to remove some misconception that might exist in the minds of my friends. It is already nearly three minutes to one and I shall therefore not take up too much of your time. Some of my friends might be under the misconception that my Resolution is an indirect support of the action taken by Italy, Japan and Germany, the States who have seceded from the League. But there is a world of difference between a man who is dismissed and a man who resigns. A man is dismissed because he has committed some crime or done something wrong. Germany and Japan have withdrawn from the League because they were aggressors, and the League would have turned them out if they had not left of their own accord ; while we are resigning from that body because we find that it is not fulfilling the objects for which it was formed and as it is not up to the mark. Then again, Sir, some designing person might misconstrue this Resolution as a disbelief of India in the ideal of world peace and security. That too, Sir, would be a wrong interpretation of my Resolution. No Indian can say that he does not believe in the ideal of peace and security. But it is one thing to have a belief in it, and altogether another thing to trust that those persons who are carrying on this work are doing it rightly with good intentions. If I may be pardoned, Sir, I might say it is like this ; that if we are shareholders in a company and we find that the managing agents are mismanaging it, there are two options open to us, either to dismiss the managing agents if we have the power to do it, or if we have not the power to do it (as is the present case in India as well as in the League of Nations), then the only course that we can adopt is to get out and to cut our losses as much as we can. It is with this view that I have brought forward this Resolution.

The League of Nations, as it was conceived by Dr. Woodrow Wilson was an ideal thing, was a thing which, if it had been honestly carried out, if it had been followed up in a spirit of sacrifice which it required, would have been of tremendous good to the world. It would have really outlawed war as the Kellog Pact tried to do. But even from the very conception of the League, the difference between the ideal and the actual began to take shape. To those people who are conversant with the history of the League of Nations, it is not necessary for me to point out that the League of Nations Commission (1919) interfered and intervened at every stage to change the picture as drawn by Woodrow Wilson until we had the finally approved plan as now existing. But I may point out two features of great importance. When France proposed at the time the League constitution was in a nebulous state that it should be endowed with an international army, the European bloc, with the exception of Great Britain, was in favour of it. Great Britain, in the person of Lord Cecil, prevailed upon Dr. Woodrow Wilson to veto this proposal. The result was that the League when it took shape was an ineffective body. Another question, Sir, which Japan brought forward was to recognise the equality of nations. A great majority of the people

composing the Commission were prepared to adopt this and at this stage Great Britain alone stood out and vetoed it. I have instanced just two things to show that from the very beginning the League as conceived and as shaped differed greatly. When the League was formed, Sir, it started with a beat of drums and propaganda throughout the country and it received an ovation because the world at that time was sick of war. People realised then that brutality and barbarism were not dead yet, there was still very much of them left in the European continent, and the atrocities committed in the name of civilisation by submarine warfare or by means of aerial warfare were worse than anything barbarians had committed in past ages. With this realisation in the minds of the general public the ideal of a world peace and of world security was received with acclamation and ovation from every side. But the imperialistic powers who had the shaping of things in their hands tried from the very beginning to make the League and its Covenant indefinite, flexible, diplomatic, and experimental, instead of having what is required in dealing with human beings, i.e., definite, logical and rigid.

The objects for which the League was formed were many but, if one may be allowed to select, there were five main objectives for which the League was formed, in each and every one of which during the course of these 16 years, the League had proved to be a failure except one, and that I shall deal with afterwards. The first ideal which the League had as embodied in Article 8 was disarmament and the subsidiary item in it of the nationalisation of the armament industry. I need not weary the House with a recital of all its failures from 1923 onwards. Suffice it to say that for the moment the armament race is growing stronger and stronger. No one asked the League the question whether armaments were being increased or whether the League gave its permission or not. The original compact was that whatever was decided would be decided for a period of ten years, and that if in the interval any power wanted to modify it, it would have to come before the League. That has not been applied by any power. Then, Sir, the question of the nationalisation of the armament industry has not been taken up in any country. There is only one solitary example in the whole world after the establishment of the League of a country that has nationalised the armament industry, and that is France. It did it in order to economise in its expenditure and not in pursuance of the League's policy. That, Sir, is one item. Even the small restriction in armaments that we had before the present race of armaments was due to unilateral or other pacts entered into by the other powers. For instance, the naval expenditure was reduced not under the auspices of the League but as a result of a gentleman's agreement in which powers outside the League participated. The League has miserably failed in its first objective.

Then, Sir, we come to the next point which the League had taken up, namely, the prevention of war and the amicable settlement of disputes between the nations as laid down in Articles X to XVI. The less said about that the better. The efforts of the League from the very commencement up to the present day have been, if I may be pardoned for saying so, disgraceful. Even from the very beginning, Sir, I can trace that wherever there have been successes those successes have been due to influences outside the League. Take for

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instance, the first question that came up before the League, the quarrel between Albania and Serbia. That was decided amicably because indirectly France was interested in the cause of Serbia and Albania had Italy to back her. So in order to save these big powers from becoming embroiled the League of Nations intervened and made an amicable settlement. But when questions came up in which the big powers were not involved on both sides the League sat tight as it has done recently in the case of Italy and Abyssinia. This is what the League has been doing all along. Poland without any justification occupied Vilna. The League saw it and the League condoned it. Again, when Italy was the aggressor at Corfu, the League gave a lame excuse and condoned it because a big power was involved in it. And this sort of thing has been going on all along. My information is that about 35 disputes were referred to the League during these 15 or 16 years and many of them were of such a petty nature that they were settled without the intervention of the League by the parties themselves. And in some of them the League oppressed the parties who were in the right with the result that as they had no champion they sat down and accepted the unrighteous settlement. But we, Sir, do not belong to the Continent of Europe. We have to see what the League has done when it has had to deal with the cases of countries outside Europe. The South American wars are fresh in our minds. The League did nothing there. The League might say they were unable to do anything because they had accepted the Monroe Doctrine in Article 21. That is some sort of an excuse. Then we had these troubles of China with Japan, and Manchuko. There, the League took every step, they sent out commissions, they made inquiries, they did this and that. It did everything possible except taking effective steps to stop the quarrel, and their excuse was that the site of the war was far off and that the great powers who formed the main pillars of the League were unable to take part in that war. We saw that a country like China which had been a member of the League for so many years was robbed and bled white by another power without any of the machineries of the League like economic sanctions being resorted to. If they were not prepared to go to war, the least they could have done was to go in for sanctions as they did in the case of Italy.

The crowning shame is the question of Abyssinia *versus* Italy. I need not dwell on this at length because it is too fresh in our minds. One word will suffice. Abyssinia was sacrificed because it had belief in the League's potentialities. If Abyssinia had realised that the people who formed the League were not sincere in their promises, and that they had other axes of their own to grind, they could have settled their differences with Italy at the cost of parts of their country. But the European diplomacy of the great powers would not allow them to do so. What was this farce? Sir Samuel Hoare (the brilliant Secretary of State for India, whose monumental work on reforms is there), was sacrificed and made the scapegoat of the British Cabinet because he had the honesty to say to Abyssinia that she cannot expect help. Then there was a hue and cry in England. Instead of fighting to safeguard Abyssinia, England was so weak that she could not even carry on the sanctions afterwards, that she had to beg of Italy to allow trade pacts and clearing arrangements to be made, and it is Mussolini who has had his own way.

British traders are going to re-start trade on their own account. The latest thing is that perhaps Abyssinian delegates are to be debarred from entering the League in order to facilitate the re-entry of the arrogant dictator of Italy, and to let him have his own way. Is it conceivable that 52 nations of the world are powerless in the face of the domination of one man over their will? Or is it not right to conclude that all this is a sham and that the European powers, for their own needs—goodness only knows what it is—do not wish to impose their will? They are making a great mistake. Do they think that they will satisfy Mussolini or Hitler by their weak-kneed policy? They will only be increasing their demands. They are now asking for one thing, and the next day they will ask for more. I had great faith in Britain. Britain had been the champion of all the down-trodden people, and more often than any other country has gone out of its way to safeguard the liberty of other countries. But at the moment British policy is so weak that one wonders if they have lost their navy and their army. *The League's failure to prevent wars is self-evident.*

I now come to the other two main objects for which the League was formed, *one was the safeguarding of the minorities.* When the map of Europe was being changed, 100 million people got liberty and an independent form of government, with the result that 32 million people who were formerly majorities were converted into minorities and placed under the new Government that had been formed. We were told in the Treaty of Versailles that provisions were made for their safety and their religious, economic and other needs. I would like to dilate on this point but as my time is so short, I shall not take up much time. I will only read out the opinion of an authority on the subject. The minorities, Sir,—

THE HONOURABLE THE PRESIDENT: What are you reading from?

THE HONOURABLE MR. HOSSAIN IMAM: I was going to quote the opinion of an author on the subject—*The League of Nations in Theory and Practice*, by C. K. Webster and Sydney Herbert, but I shall not. The minorities, Sir, had this misfortune that they had nobody to take up their case; that finding that Members of the Council were not prepared to take up the question of these unfortunate people, the League adopted the procedure that it will receive petitions. But these petitions are shifted from one place to another and the inquiries on the basis of those petitions are so one-sided that *the competent opinion of all the European writers on the subject of minorities safeguard is that the League has proved a failure.* The minorities have not even this confidence that their case is heard and adjudicated upon. It is a different thing when a case is referred to a judge and it is decided against him. But to feel that your case does not even reach the judge and you are all the time under suspense is something worse than cruelty. That is what has happened in the case of minorities.

Now I come to the mandates. There I am on surer ground. The League of Nations had three kinds of mandates—A mandate, B mandate and C mandate. I am particularly concerned with A mandates in which were included Syria, Palestine and unofficially Mesopotamia. I call it unofficially because it has not formed the subject of any mandate as such. Originally it was conceived

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that an A mandate should be given only for all the territories of the former Ottoman Empire. My authority for this is the official publication of the aims and organisation of the League of Nations in which the mandates have been divided into three kinds. Now, in these A mandates the League gave out that the object was to have a Government which would have the interest of the people in its mandate very much to the fore and it would be its duty to establish the people on their own legs as soon as may be possible. Now what has happened? Mesopotamia, over which no mandate was given, has got self-government first of all, and the two countries over which a mandate was given and which were placed under the ægis of the League are faring distinctly worse than a country not placed under the League's guidance. As regards Syria, as you know, the French Government have been considering the framing of a constitution for that country for a long, long time. Every now and then we hear that a scheme is ready and it will be given effect to. They were asked to give it a national constitution within three years of the signing of the Treaty by Article 2 of the mandate, and in all these 16 years that has not been done. That is the effectiveness of the League.

As regards Palestine, it is really a disgrace that such things should be allowed to happen. They were part and parcel of the same Empire. The people belong to the same Arab nationality as the Syrians and other people belong. Mesopotamia can have a Government of its own; Syria is going to get a liberal constitution; but poor Palestine can get nothing. As I have said, the working of the League has been infructuous and experimental. We were told that Palestine would be made into a national home for the Jews. But Article 2 of the Palestine Mandate lays down that the mandatory is responsible for the development of self-governing institutions and also for safeguarding the civil and religious rights of the inhabitants of Palestine irrespective of race or religion, and it was assured that the rights and privileges of other sections of the population would not be prejudiced. These two provisions have been outraged. Palestine has been for 16 years under the management of His Majesty's Government and what has happened? What material benefit has accrued to the people, the indigenous people of Palestine? A scheme has been imposed upon the people for making it into a national home for Jews. Have you heard of any country which is already thickly populated on which another nation has been superimposed? It was said of the Jews that they have historic associations with it. We admit that. But would Englishmen be prepared to vacate their country and allow the Celts of Ireland, who were the original inhabitants of England, to come over and occupy their land to the exclusion of Englishmen? You can colonise virgin countries or sparsely populated countries may be foisted with additional populations, but how can you impose this sort of thing on a country already groaning under a heavy population. Yet that has been going on right under the nose of the League. In one single year 61,000 Jews have gone in through the authorised door, and Palestine officials themselves have estimated that the annual illicit importation of Jews amounts to 4,000 or 5,000. If I had time I would read out portions from the 29th Session of the League's Permanent Mandates Commission, in which you would find that even officials of the mandatory power are involved in this

struggling of Jews. And yet when the people of Palestine ask for the stoppage of Jewish immigration for the time being till they can consider what to do next, the British Government thunder that they will impose martial law. Martial law you can have, but what is the good of having the League of Nations there? What would be the difference if it were a conquered country just like India is? We were told that mandates would be a guarantee that the people so placed under it would be under the protection and be the concern of the whole of civilisation. Article 22 says:

"that the well-being and development of such people were the sacred trust of civilisation and that securities for the performance of this trust shall be embodied in this covenant".

But what is all this but a farce. The League has disgracefully failed in its trust. If the League was genuine, if it was effective, if it had succeeded in performing any of the tasks with which it was entrusted, we, Sir, although a subject nation, would not have objected. We would have been glad to help the League in whatever little way we could to make it more effective. But we are not prepared to tolerate just anything which masquerades under a benevolent name.

Another point, which I made at the beginning is, that the League has been a success in one respect alone and that is in social and economic welfare under the League Labour Organisation. And here I would like to inform my friends that membership of the Labour Organisation is not dependent on the membership of the League. Germany was a member of the Labour Organisation of the League six years before she joined the League of Nations, and if we resign from the League there is no reason why we should secede from the Labour Organisation; just as Brazil has resigned from the League but is still a member of the Labour Organisation of the League. Therefore, Sir, we are prepared to remain within and utilise whatever is good in the League, but we do not wish to be associated with the League itself which has failed in its allotted task.

With these words, Sir, I move this Resolution.

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 SIR PHIROZE SETHNA (Bombay: Non-Muhammadan): Sir, I beg to move the following amendment:

"This Council recommends to the Governor General in Council that steps be taken to have the amount of our annual contribution to the League of Nations substantially reduced and preferably from this year."

Recent events in connection with the war between Italy and Abyssinia brought into prominence the question whether the League should be continued or not. There can be no doubt that the League's inability to prevent the war has given it a severe blow. India has been a member of the League ever since its inception and has extended to it her co-operation in all its activities. She has been making a large contribution to the expenses of the League, though that contribution has placed an additional burden upon her

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comparatively limited financial resources. There is at the present moment a feeling in India that it is not worth while making this large contribution and that the time has come when the Government of India should at least make it plain that it must be considerably reduced for the advantages we have gained so far or may gain hereafter have not been and will not be in keeping with the contributions that we make. Although an original member of the League, India has never yet been made one of the nine non-permanent members of the Council of the League nor has any Indian so far been appointed to any post of control or direction due principally to the fact that the principal posts are filled according to diplomatic and political considerations nor is the number of Indian employees as large as it should be as compared to other nationals.

I am notwithstanding against the abolition of the League for even if the League has within recent years failed in its main purpose of preventing war at least amongst its own members it does not follow that it will continue to fail in the future as well. Already efforts are being made for placing it on a proper footing which let us hope will restore to the League its original strong position. It will be more advantageous to have a League even such as it is at present rendering efficient services in directions other than the prevention of war rather than to have no League at all and it is therefore that I am against the Resolution. Again, it is not easy to become a member so that if by any chance we withdraw now it will be very difficult to re-enter. If once the League is put on a proper basis it will be a distinct loss if at that time we are denied permission to join it. This important point should not be forgotten. At the same time I feel there is really no justification for the very large contribution which India has been making to the expenses of the League.

Till recently India paid 1,670,670.85 gold francs as her contribution and as the gold franc is about fourteen annas in our money our contribution amounted to more than Rs. 14½ lakhs per annum. Out of more than 50 members only four other members of the League make larger contributions than India. They are the United Kingdom of Great Britain and Northern Ireland which pays the equivalent of Rs. 24 lakhs in our money. Then come France and Russia which pay equal amounts, about Rs. 21 lakhs each. The fourth country which pays more than India is Italy. Its contribution is about Rs. 18 lakhs but one does not know if it has paid its contributions for the years 1935 and 1936. The House would like to know the total of the contributions per annum by all the members of the League. This amounts to 28,279,931 gold francs or roughly Rs. 2½ crores. Each member pays a certain number of points or units out of a total of 931 points. India's share was 56 points but since last year it has been reduced to 55. Even this reduction of one point will amount to a saving of roughly about Rs. 26,600. Our share used to be 56 points but it was reduced by one point in the meeting of the Assembly held in 1935 which of course is insignificant.

Honourable Members will remember that Lord Lytton who led the Indian Delegation to the Ninth Assembly of the League of Nations in 1928 made a

strong effort to get our contribution reduced. In his speech in the Assembly on the budget, he said (I am quoting the summary of his speech as given in the Interim Report of the Indian Delegation to the Ninth Session of the Assembly of the League):

"That India was probably the country whose Government found the most difficulty in justifying the contribution due from her. The proportion of the League's work which could be represented as being of benefit or interest to India was far from corresponding with India's share in its expenditure, which was higher than that of any State, not permanently represented on the Council. The fact that the amount of her contribution could be employed for important national services, for which funds were needed was not the whole difficulty. There was a view in India, as in other Eastern countries, not only that the League did not carry out much work of value to Eastern countries, but that its tendency was to strengthen European interests at the expense of those of other continents and races. If the League might now be regarded as firmly and finally established in Europe, that was by no means the case in Asia. It was important that the work of those who were supporting the interests of the League and its ideals in the East could be brought into direct contact with the work of the League, and the more the League demonstrated that it worked as much and as impartially for Asia as for Europe, the less would be heard of financial grievances. The best solution lay along the line of increasing collaboration between East and West. But pending such a development, the claim for a limitation of the financial burden involved in membership of the League was in the case of India, an urgent one which needed to be received with greater sympathy and attention. Every increase of the financial burden, without a corresponding extension of the sphere of work, increased the difficulty of maintaining that membership of the League was worth the price".

Lord Lytton said that the League might be regarded as fairly and finally established in Europe. He could not have dreamt for a moment that within only six or seven years, the whole edifice of the League would be threatened with utter collapse.

The League certainly cannot be defended for the part it played in the ruthless war carried on by Italy against Abyssinia. It had previously failed to prevent war between Japan and China, also between Bolivia and Paraguay and in the last struggle Italy went on making preparations while the League was simply talking and discussing. Abyssinia, a member of the League has been conquered by Italy which is another member of the League, and the League has already raised the sanctions and virtually reconciled itself to one of the gravest and most flagrant international wrong perpetrated in history. The vacillation on the part of the big European powers including of course Great Britain has brought about the fall of Abyssinia and the collapse of the League. Mr. Stanley Baldwin has admitted that the situation is "bitterly humiliating" and he will be forced to accept this annexation as a *fait accompli*. It is said and rightly that Ethiopia's annexation has made Western civilization stink in the nostrils of every decent minded person and the League of Nations' part in the affair can only be described as despicable. The League has proved a veritable death trap to Ethiopia.

When the League was established it was hailed as a momentous event, heralding the dawn of a new era of international peace and security. There was a general feeling that a great institution was established whereby war would be prevented and peace would be maintained, at least among those nations which became its members, but even at that time there were critics who condemned the League as a fraud and a conspiracy of some of the big powers to

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maintain their supremacy. Article 10 of the Covenant, in particular, evoked considerable adverse criticism inasmuch as it was thought that it sought to perpetuate the existing territorial distribution of the world and provided against subject or conquered countries from asserting their just national claims.

The one and only sanction that could have been effectively applied against Italy during the war and brought Mussolini to a halt in his career of aggression, namely, the oil sanction, was not applied at all, because even powerful League members, with all their professions of loyalty to the Covenant feared that it would accomplish what was both the avowed object of the League and its primary duty. The application of the oil sanction would, in all probability have led to a war between Italy on the one side and the other members of the League on the other. But the situation was such that such a war in defence of the League and in vindication of all that it stands for, would have been perfectly justified, both on political and moral grounds and there can be no doubt whatever that its result would have been complete victory for the League.

Within the last fortnight there has arrived in India to advise the Indian Princes an eminent international jurist Mr. W. H. Wadhams. He had a hand in framing the Covenant of the League along with the late President Wilson. In an interview he gave to the *Times of India* in Bombay he said :

"Easy gradual actions were not contemplated by the Covenant which provides for effective co-operative action against the aggressor, and such action cannot be effective unless it is applied by the united will of the members of the League".

We realise that the world's expenditure on armaments today has more than doubled itself. Great powers and smaller States are vying with one another in making preparations for war. The reconstruction of the League must aim at preventing all this. It cannot however be denied that the European atmosphere today is filled by, and polluted with, dread of another world war, which they fear may break out at any moment, particularly between Germany and Russia and engulf the whole of European society and civilisation in irretrievable destruction. In the *Daily Express* some weeks back a correspondent has made a prophecy in these words :

"I calculate from the figures of the Bible that September 20th, 1936, will be a day of great importance to the Jews and that Armageddon, the last Great War, will start on October 6th, 1936".

That date is not far distant but let us devoutly hope and pray that the writer will prove a false prophet.

The root causes which have reduced the prestige of the League to its present important position are to my mind four :

First, the Treaty of Versailles of which the Covenant of the League is an integral part is not a fair treaty. Some of its provisions contravene the great principles laid down in the fourteen points of President Wilson. So long as that Treaty is not revised, the Powers and States which are aggrieved by it will be tempted

to break the Covenant. The unfairness of the Treaty has now been generally recognised and yet strange to say no attempt is made to revise it.

Second, the European nations are bound to be torn by rivalries and jealousies so long as some of them continue to pursue their imperialistic designs and ambitions. The only way to remove these rivalries and jealousies is to recognise that every nation, whether highly civilised or yet to become highly civilised, has an inherent right to independence or at least to self-government, and to reconstruct the entire human society on this equitable basis.

Third, many members of the League have no genuine faith in the League such as it is.

And fourth, the procedure of the League is so dilatory that no prompt action can be taken against an aggressive member of the League.

So long as these root causes of the failure of the League continue to operate, the League can never achieve its object and inspire confidence. It can only be a pale shadow of the League as it should be.

My last argument in support of my amendment has reference to the financial condition of India, and the many national services which still await development for want of funds. This is a point which I need not elaborate. Honourable Members must have read the *Indian Financial Inquiry Report* by Sir Otto Niemeyer. From that Report, it will be seen, how necessary it still is to economise our financial resources. Our financial resources must be economised and utilised to the best advantage. They must not be frittered away on objects which are not urgent or substantial or essential. The saving of even a few lakhs that may be effected by reduction in the contribution made to the expenses of the League can be more profitably spent in the country itself. The League is at present a costly luxury. The expenses on the League of Nations is a fit object for economy and I earnestly appeal to Government to take steps for getting reduced substantially our contribution. I have added the words "preferably from this year" because any reductions in the past were given effect to only a long time after they were proposed and agreed upon.

THE HONOURABLE THE PRESIDENT: Original Resolution moved:

"That this Council recommends to the Governor General in Council to give notice of withdrawal from the League of Nations on behalf of India and to stop forthwith payments of annual contribution"

since which an amendment has been moved:

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

"This Council recommends to the Governor General in Council that steps be taken to have the amount of our annual contribution to the League of Nations substantially reduced and preferably from this year."

The debate will now proceed both on the amendment and on the original proposition.

THE HONOURABLE MR P. N. SAPRU (United Provinces Southern; Non-Muhammadian): Mr. President, the House knows that it is rarely that I

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differ from the Honourable Mr. Hossain Imam. He and I seem always to think alike but on this question I must say that I cannot agree with him. He has made out with the ability which characterises his utterances in this Council a strong case against the League of Nations and if after hearing his speech I still feel that his case is essentially weak then all I can say is that the arguments, though clever, did not appear to me to be really and in fact strong. They looked strong but they were not really strong.

Now, Sir, I will at once say that I agree with most of the criticisms against the League. The League has been in recent years the subject of much criticism and of much ridicule. It was ineffective in dealing with Japan. It was still more ineffective in dealing with Italy. Italy has swallowed up Abyssinia and Britain, France and all the League powers have not been able to save Abyssinia from the loss of her independence. There are many mutual jealousies among the European powers. These mutual jealousies prevent effective co-operation among nations and we are really where we were in 1914. The League system of collective security, one can reasonably say, has broken down in so far as nations are still as distrustful as they ever were. But, Sir, the establishment of the League in itself showed that an international consciousness was growing. We are living in a very, very imperfect world. What do, after all, the criticisms against the League come to? They come to this, that human nature is very imperfect, that the reality is sometimes ugly whereas the ideal is often beautiful. All those criticisms one may agree with. But the real point is this. Shall we be helping the cause of international co-operation, of international goodwill, by withdrawal from the League at this juncture? I have always thought, Sir, that it was a wise move on the part of Mr. Montagu to have found for India a place on the League of Nations. Situated as we are, our international status is bound to have repercussions on our domestic status, and therefore I think, from our point of view, the League membership is valuable. It is valuable because it enables our statesmen to come into contact with some of the international figures of the world. It helps them to broaden their outlook; it helps them to enlarge their information on foreign affairs; and it gives to our country a body of men who are conversant with foreign affairs. It is said that we must withdraw from the League because we do not want to be pawns in the game of imperialist powers. The House knows that I am not an imperialist myself. There is no one who has a more genuine horror of imperialism and all that it stands for than myself. But I ask myself this question, and I have had no answer to this question from the Honourable Mr. Hossain Imam. How will India's withdrawal from the League help India? Shall we be able to control our own foreign policy if we withdraw from the League? Our foreign policy, whether we remain a member of the League or whether we refuse to remain a member of the League, will be determined not by us but by the British Foreign Office and by the British Cabinet. Therefore, Sir, so far as withdrawal from the League is concerned, that will not help us to achieve what Mr. Hossain Imam desires and what I also desire, namely, control over our own foreign policy. If we are not able to get control over our own foreign policy, if we still continue to be dominated so far as foreign affairs are concerned

by the British Foreign Office, then what is it that we get by withdrawal from the League of Nations? If we withdraw from the League of Nations, we shall deprive ourselves of such opportunities as the League offers to us of co-operating in the social and humanitarian work which the League has been doing for the last 15 or 16 years. I know, Sir, the International Labour Organisation is a separate organisation in a way. India can be a member of the International Labour Organisation and yet refuse to remain a member of the League of Nations. I know all that. But certainly, our withdrawal will mean that we shall have less opportunities of influencing opinion in the League. We shall have less opportunities of coming into contact with vital world problems. Sir, I agree, as I said, with many of the criticisms which have been levelled against the League by the Honourable Mr. Hossain Imam. I am not a supporter of the foreign policy of the National Government. It is to us in India a matter for genuine regret that the sanctions were not applied with greater vigour against Italy and that the sanctions have been raised. Reference was made by the Honourable Sir Phiroze Sethna to the Treaty of Versailles. There is no doubt that most of our troubles are due to that inequitable peace. But, Sir, here again, I would say this that while I look upon that peace as essentially unjust I would not be prepared to advocate a revision of that peace so long as Hitler and Mussolini pursue the policies they are pursuing. My attitude would be this. I am prepared to deal with a democratic Germany on a new basis. The concessions that I would make to a democratic Germany or the concessions that I would make to a democratic Italy, I would not make to a Fascist Italy or a Nazi Germany. This ought really to be the attitude of Britain and this really ought to be the attitude of France. We must refuse to consider the question of the revision of the peace treaty until we have a new Germany and a new Italy to deal with. I know that these countries are becoming very aggressive. Fascism is a very serious danger and as one who has a real horror of Fascism, who hates the Fascist mentality, I feel that the only way in which we can deal with these Fascist countries is by showing that we are determined not to make any concession to Fascism in any shape or form. The future of democracy, Sir, is very dark. In Spain, we find today a liberal administration fighting for its very existence. The rebels are having the upper hand. There is the policy that France and England are pursuing towards Spain—the policy of non-intervention. I regret to say that that policy of non-intervention is not being followed by Germany and there is reason to believe that the insurgents have the indirect support of the Nazis in Germany. The position therefore is a very very difficult and complicated one. We have to reform the League. If we give up the League altogether we give up the ideal for which the League stands. There is danger that withdrawal from the League would make us also forget the ideals for which the League stands. I know it is a very imperfect instrument in a very imperfect world for carrying out the high ideals for which it was founded. But if the instrument is imperfect, let us try to make it as perfect as we can. It is not by a policy of what I might call non-co-operation with the League that we shall be able to effect those changes which we desire to see effected in the international policies of the world. It is really by co-operation with the progressive elements in the League, with the progressive elements outside India, that we shall be able to farther the ideal

[Mr. P. N. Saprū.]

for which we think the League of Nations must stand. The real issue is this, should we give up the endeavour to reform the League in despair and go back to the pre-war days of international anarchy, or ought we as men who value the ideal set to discover the causes which have made the League not answer the ideal and work for such changes in its constitution as would make it a real, a mighty instrument for international peace and international justice? I have no hesitation in saying that I would reform the League and not end it. I have no hesitation in saying that I do not rejoice in its difficulties, that I wish it well and that my sympathies are with those who do not seek to end it but who wish to reform it, who wish to make it a real instrument for peace and international goodwill. It is said that the League is an instrument in the hands of imperialist powers. Well, Sir, how will withdrawal from the League help us in our fight against imperialist powers? (There was an inaudible interruption from the Honourable Mr. Hossain Imam.) I do not know, Sir, that Britain is the greatest sinner, and I do not know that Britain today is responsible for the failure of the League. I think the real responsibility for the present position rests, not primarily with Britain, but with Italy and Germany. I blame British policy to some extent. I do not agree with the policy of the National Government. My criticisms against the National Government's policy would be identical with the criticisms of Major Attlee or Sir Herbert Samuel or Mr. Archibald Sinclair. I think the present National Government has not been consistent in its support of the League ideal. I think the present National Government by its vacillating policy, by its policy of compromise with Mussolini—because really it comes to that—has weakened the League. I agree with all those criticisms, but I do also think that if there is war in future it will not be Britain who will be responsible for the war; it will be the Fascist countries; it will be Germany and Italy who will be responsible for it. And therefore I do not see how India's vote will add to the strength of the imperialist powers. I think if we withdraw what will happen is that we shall deprive ourselves in the future of such opportunities as we have today to gain insight into foreign politics. We shall deprive ourselves of opportunities of co-operation in the social and humanitarian work of the League, and therefore we shall do our country no good.

I have got nothing more to say except this that I am opposed to the Resolution of Mr. Hossain Imam. The Resolution of Sir Phiroze Sethna however stands on a different footing, and my sympathies are with his Resolution. If our contribution can be reduced it ought to be reduced. We are really paying more than we should.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan) : I rise to support the main Resolution. Sir, when the Great War was fought the policy of the British Government was that right is might. Being a business man I go by the results. I know that the objects underlying the formation of the League are very noble, but what do we find in practice? If I rightly understand opinion in this country, it is that the League is simply meant to protect the white nations and to ignore the coloured ones. The matter of the League's indifference in the matter of the Abyssinian war has been greatly felt here. My information is that it was at the request

of France that the British Government became indifferent, when Mussolini threatened France in regard to the enforcing of sanctions. I do not know why the British Government did not do the right and just thing? We all know that the announcement of a certain policy made Sir Samuel Hoare resign because of the resentment it aroused in Parliament. Yet we know that that very policy which he announced and which was then so greatly resented in Parliament was eventually carried out in the spirit and exceeded in practice.

In face of the policy that for the sake of a coloured nation there should be no war amongst white nations we cannot expect much from the League of Nations. What is happening in China? China is a member of the League and it has requested the British and other members of the League to bring the aggressor to his senses; but nothing has been done. The aggression is going on. I do not know if it is because of their Far Eastern policy that the British Government have taken up an indifferent attitude; but they cannot deny the fact that in the case of China also the League is proving a failure. Sir, when these sanctions were passed, Canada proposed that an embargo should be placed on exports to Italy of steel, petrol and coal, but this proposal was turned down by the British and that made the rest of the sanctions ineffective. Sir, my friend Mr. Saprū says that we want control of foreign policy and then our remaining a member of the League will be of material use. As far as my views go, we do not want any control over foreign policy, but what we want is equity and justice and when we do not get equity and justice, we do not want to waste money over being a member of an institution which, though it has very noble objects but in practice is totally ineffective in helping the coloured nations. I might further say that our fear is that as far as the Government of subject races is concerned, and as far as the Asiatic countries are concerned, there is no pronounced policy of the League of Nations except that in the Covenant they say generally :

“ by the maintenance of justice and a scrupulous respect for all treaty obligations in the dealings of organised peoples with one another,

by the prescription of open, just and honourable relations between nations,

by the firm establishment of the understandings of international law as the actual rule of conduct among Governments ”.

and so on. But we go by the actual facts. I hope the Honourable Member in dealing with this Resolution will tell us in face of the pronouncement of Sir Samuel Hoare cited above what practical advantage we will gain by continuing as a member of the League and why has the League so far miserably ignored the claims of the coloured nations? I might further say :

“ It is true that some of the very nations which helped to create the League have refused to submit important international interests to the League's arbitrament, and so this is convincing evidence either that the creators of the League themselves have no faith in its ability to deal with really important problems or that, from the beginning, they never intended to allow an independent national body to share in the settlement of matters affecting their own vital interests ”.

This fact shows that the people who created the League themselves have not got full confidence in the League, otherwise such things would not happen. Sir, I myself think that an institution like the League is a very noble and a very

[Rai Bahadur Lala Ram Saran Das.]

important one. It is not a new thing. Even in Vedic times there was such an institution in existence. We find, Sir, that even in the *Yajurveda* it is stated :

"May there be peace in the sky, peace in mid air, peace in waters, peace in medicines and peace in vegetables. May all the powers of nature bring us peace. May God vouchsafe us peace. May peace and peace alone reign everywhere. May that peace come unto us".

Sir, it is a very noble institution I admit, but unless some definite assurance is given that the unjust policy that I have mentioned will be put right and unless there is improvement in the impartial working of the League, I will not be able to advise that we should bear any more the burden of contribution.

With these words, Sir, I support the main Resolution.

THE HONOURABLE MR. G. H. SPENCE (Legislative Secretary): Sir, it will, I am sure be a matter of keen regret to all Honourable Members—and it is a matter of particularly keen regret to myself—that the nature of the business under transaction in another place has rendered it impossible for the Honourable the Law Member to come to this Council today and state Government's case on this Resolution. I can only hope that any inadequacy in my own presentation of that case will not obscure the compelling character of the grounds which have led Government to conclude that they would be doing a grave disservice to India if they adopted the course recommended in the original Resolution moved by the Honourable Mr. Hossain Imam.

I think, Sir, that before addressing myself to the main issue, I should refer very briefly to the fact that the Honourable mover's Resolution contemplates cessation of the payment of the contribution simultaneously with the giving of notice. This is a very small point, but I would mention that withdrawal from the League is regulated by paragraph 3 of Article 1 of the Covenant, the effect of which is that if India gave notice of withdrawal, she would remain a member for the two years following the giving of notice and during those two years she would remain liable to pay her contribution. I suggest, Sir, that it would be wholly out of keeping with the Honourable mover's highly idealistic attitude in this matter if he suggests that India should default in that obligation. However, that is entirely by the way. The question of payment or otherwise of the contribution during the period of notice will not arise if notice is not given and the Council will, I hope, agree that notice should not be given.

I confess, Sir, that I had done the Honourable mover the very serious injustice of anticipating that he would base his case to a considerable extent on the argument that India should get out of the League because she gets no material advantage in return for the expenditure entailed by her membership. To his credit it must be said that he adduced no such argument. In fact the ground on which he based his case was a complete negation of that argument. But, Sir, the Honourable the Leader of the Opposition introduced that argument when he asked me specifically what practical advantage India will get by continuing as a member of the League. Well, Sir, I do not admit that India gets no practical advantage from her membership of the League, but that is not the point that I desire to stress. The reply to the question put by

the Honourable the Leader of the Opposition—the essential point—is that the question betrays a complete and lamentable misconception of the whole nature and object of the League and of the motive for membership thereof. The League is not a species of benefit society which you join in the hope that you will get an adequate material return; it is not a question of paying two annas a week and getting a turkey at Christmas or a goat on the day of Bakrid. The League is a great international organisation and the motive for membership is the individual member's obligation and privilege to play her part in that organisation—

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Does it now show impartiality.

THE HONOURABLE MR. G. H. SPENCE: I am afraid I have got a lot of ground to cover and I cannot afford the time to give way. That great international organisation was created in the words of the preamble to the Covenant:

"in order to promote international co-operation and to achieve international peace and security"

and I think I can claim the support of the Honourable mover of this Resolution himself when I say that it would be simply contemptible to suggest that India should withdraw from such an organisation for the sake merely of a financial economy.

At this stage, Sir, I think it will be convenient to deal with a matter on which considerable stress is often laid—the matter to which the Honourable Sir Phiroze Sethna's amendment is directed. I refer, Sir, to the size of the contribution. Well, Sir, Government themselves feel that in this matter India has some cause of complaint and they were disappointed at the slenderness of the relief recommended by the recent Allocation Committee. But, Sir, this is a matter in which I must ask Honourable Members to preserve a sense of proportion. A country which for the purposes of representation in the governing body of the International Labour Office has been included among the members of chief industrial importance cannot in the nature of things expect to be assessed to anything but a very substantial contribution and the most favourable recommendation which it appeared at all reasonable to anticipate was a reduction of say 10 units in lieu of the reduction of two units recommended by the Committee. I would emphasise, Sir, that there is not the smallest reason to suppose that the Committee approached India's case, which was duly placed before it, with any feeling of prejudice whatsoever. The Committee was faced with a task comparable in principle with but vastly transcending in magnitude and complexity, the task which recently confronted Sir Otto Neimeyer and the Council knows that a Neimeyer Report never satisfies any of the parties affected thereby. Moreover let not the Council forget that India's position in this matter has progressively improved. She was originally assessed at 65 and later at 60 units. The revised scale of 1925 allotted her 56 units out of a total of 937. The distribution in 1934 of surplus units accruing from the entry into the League of Russia gave India a reduction of one unit, leaving her assessed at 55 units out of 931, while if the recent Report of the Allocation Committee is approved—as we may assume that it will be—she will be assessed at 53 units out of 935. The unit is worth

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very roughly a quarter of a lakh and if India had got the maximum reduction appearing to be in any way probable she would have been better off than she will be under the Committee's proposals to the extent of some Rs. 2 lakhs. I think, Sir, that no one in this Council will suggest that India should leave the League because arguably she will be paying the League Rs. 2 lakhs more than she should.

That, Sir, is my reply to any Honourable Member who may desire to use the size of India's contribution as an argument in favour of withdrawal from the League. The Honourable Sir Phiroze Sethna's amendment postulates that India will remain in the League and thereby condemns the original Resolution. I therefore welcome the fact that the amendment has been moved. But, Sir, for compelling practical reasons it is impossible for Government to accept the amendment as it stands. The Honourable Member desires steps to be taken to have the amount of the contribution reduced *preferably from this year*. Well, Sir, the contribution for 1936 is a *fait accompli* and obviously nothing can be done to alter it. What about 1937? The proposal placed before the forthcoming Assembly of the League (the Assembly which opened yesterday) will undoubtedly be that the report of the Committee be adopted. This proposal will be subject to the Assembly's rule of procedure requiring decisions to be taken by a unanimous vote. A single adverse vote, therefore, would defeat the proposal and the only conceivable consequence of the Indian Delegation recording an adverse vote would be the continuance for 1937 of the existing scale. In other words, India by opposing the Committee's recommendations would merely lose the reduction of two units recommended by the Committee.

Well, Sir, what about the future? The Allocation Committee conceived itself to be charged with the duty of divising a scale representing a satisfactory settlement which might be expected to endure for several years. The Committee has, however, entered the *caveat* that it would be unfair to the general body of Member States if the Committee's recommendations with regard to the States, conceived to require special temporary relief by reason of temporary financial conditions, were regarded as permanent. In the upshot the Committee expressed themselves as inclined to submit that the first revision should not in any case be made before 1939. It may be anticipated that the general line taken by the Committee in this connection will be endorsed by the Assembly of the League and the Council will, I believe, agree that for India to agitate her claim for further reduction in the period intervening before further general revision is undertaken would in the absence of some specific new development be at once inherently inappropriate and calculated to prejudice the prospect of a reduction when the next revision is undertaken. At the same time, Sir, Government do feel with the Council of State that India's contribution is too large and they are fully with the Council in their desire to get it reduced, and I am prepared to undertake on behalf of Government that, in any event when the next revision is undertaken, and before that date if what is in their opinion an opportune occasion presents itself for re-opening the matter, Government will use their best endeavours to secure a further substantial reduction.

If, Sir, the Honourable Sir Phiroze Sethna still desires that his substituted Resolution should be adopted, I shall be perfectly prepared to accept it on behalf of Government if he will agree to omit the words "and preferably from this year". If we accepted the Resolution with those words included it would clearly be disingenuous as nothing could be done this year.

THE HONOURABLE THE PRESIDENT: You want to delete these words "and preferably from this year"?

THE HONOURABLE MR. G. H. SPENCE: I do not ask that a further amendment should be moved at this moment, Sir. If after I have concluded the other remarks that I have to make, the Honourable Sir Phiroze Sethna finds it possible to meet us on this point, I suggest that formal amendment be then moved.

THE HONOURABLE SIR PHIROZE SETHNA: Mr. President, I accept the suggestion made by the Honourable Member.

THE HONOURABLE MR. G. H. SPENCE: Well, Sir, I now return to the original Resolution moved by the Honourable Mr. Hossain Imam. He took, Sir, the only line which requires a serious reply. He said in effect that if the League had lived up to its ideals there would of course be no case for the withdrawal of India or any other member, but that in fact the League has manifestly failed most deplorably to live up to those ideals and in particular (a point on which he laid great stress and naturally) that the League's handling of the Italo-Abyssinian crisis has branded it as an institution of which no country true to the League's own ostensible ideals should desire to be a member. Well, Sir, I should be quite incompetent to, and I am not going to attempt to, traverse the Honourable mover's history. I admit, of course, that a very weighty indictment can be made and has been made by the Honourable mover against the League's achievements. Many failures, general and specific, can be charged against it. At the same time, I submit that a case for withdrawal from the League on these grounds is very definitely not sustainable. In the first place, Sir, is it so entirely certain that from the point of view of the League the Italo-Abyssinian affair exhibited nothing but sheer failure and futility? Is it not at least possible that the historian of the future will find the primary significance of this painful episode not in the final failure but in the fact that for the first time in the world's history some 50 countries did combine to take certain measures, detrimental for the most part to their own individual interests, with no other object than to implement a decision of the League and protect from unjust aggression a country in whose fate few, if any, of the countries combining in those measures had any direct individual interest? Well, Sir, whatever the answer to that question and conceding to the Honourable mover and the other advocates of withdrawal that the League's handling of the question must be written down as sheer and simple failure, how did the League react to the failure and what is the League now doing? All Honourable Members must be aware that at the Assembly of the League which opened yesterday the whole position will be reviewed and earnest efforts will be made so to alter, if necessary, the provisions of the Covenant and in any case existing methods as to ensure so far as humanly possible that if the League is not now capable of implementing the primary purpose of its existence it will hereafter

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become so. I suggest, Sir, that for this Council to pronounce in favour of withdrawal at this juncture with these efforts to cure existing defects at this very moment in progress would be more than inopportune; it would betray a levity of outlook which in view of the Council's reputation for sobriety of judgment I would venture to describe as inconceivable. In this connection, Sir, I think it relevant to observe that of the 57 States who were members of the League at the commencement of the Abyssinian crisis—I exclude Paraguay who had given notice of withdrawal before the commencement of the crisis—three States only, Guatemala, Nicaragua and Honduras, have given notice of withdrawal. Assuming their notices to have been inspired by the outcome of the Italo-Abyssinian crisis, is there any reason for India to take a line from these particular countries? Is it not much more pertinent to India's course of action that Egypt is on the point of seeking admission to the League? Moreover, Sir, apart from any argument based on what is now happening at Geneva, I believe that no Member of this Council will deny—and certainly the Honourable mover, on his own showing, does not deny—that an effective League of Nations would be an inestimable boon to the world and that at no time has there been a greater need for an effective League of Nations than now. Secondly, Sir, I do not think any one in this Council will deny that one of the main causes making for any ineffectiveness that can fairly be charged against the League as it exists today is its lack of universality. The Honourable mover desires India to choose this moment for withdrawing from the League. He says he is getting out of the League because the League has failed in its ideal. That would not be the construction adopted by the world. The world would say that India was repudiating the ideal of an effective and universal League.

I think there is one other point which I ought to refer to. I have endeavoured to meet the Honourable Member's idealistic ground that India should get out of the League because the League is not worth belonging to. I trust I have succeeded in convincing some Honourable Members that that argument should be repudiated. I would put it to the Council, Sir, that from the point of view of her own—not material advantage—but progress in the world, for India to leave the League would be most extraordinarily deplorable.

It is often said that considerations applicable to other members of the League have no relation to India because India's theoretically separate membership of the League is a mockery and because she has to follow blindly whatever course Great Britain adopts. In the first place, that argument rests on a complete distortion of the relevant facts. For the most part, as a member of the League of Nations, India has freedom of action. It is of course perfectly true that in the existing constitutional position, India's foreign relations are controlled by His Majesty's Government, and it must follow as a corollary that on all matters of foreign policy coming before the League India must in the last resort associate herself with the line taken by His Majesty's Government. That, I fully and freely admit. But, in spite of that admission, Sir, it is an indisputable fact that India's membership of the League, derived from her naming in the Annex to the Covenant despite the fact that

she had not, and has not, attained fully self-governing status, has resulted in India achieving an international position which she could not otherwise have achieved, and I put it to the Council that to pronounce in favour of withdrawal, which would mean the exchange of a position in which India enjoys, with whatever practical limitations, an independent international status for a position in which she would be a mere dependent of the United Kingdom would be to base on a sentiment of false *amour propre* a conclusion wholly incompatible with India's true interests. In this connection, I think it is very important to remember that if India withdrew from the League, it is at least possible that despite her original membership, her re-entry would be held to be subject to paragraph 2 of Article 2 of the Covenant in which event she would not be able to secure re-entry until she attained fully self-governing status and that one result of withdrawal might well be to delay the achievement of that status. I submit, therefore, that the India of today should be very loath to take a precipitate decision which the India of tomorrow might have grave cause to regret.

In conclusion, Sir, I am well aware that the fate which has befallen Abyssinia has evoked feelings of very deep and genuine indignation. These feelings are by no means confined to India or to Indians but they are perhaps nowhere entertained more keenly than in India. To Honourable Members actuated by these feelings I would venture to submit that when a judgment is to be formed on an issue of grave moment in connection with which keen emotions have been aroused, the test of statesmanship lies in the capacity to lay aside emotion and reach a decision in accordance with the dictates of reason. I believe, Sir, that if the issue is approached in this spirit, the Council will reject the Resolution moved by the Honourable Mr. Hossain Imam. (Loud applause.)

THE HONOURABLE SAIYED MOHAMMAD PADSHAH SAHIB BAHADUR (Madras : Muhammadan) : Sir, the Honourable Member who spoke on behalf of the Government had at least the fairness to admit that India's contribution to the League of Nations was out of all proportion. He admitted that it was too much and he also assured us that the Government would not lose any opportunity to see that this contribution is reduced substantially. But, Sir, that is all that could be said in favour of the speech which has just been made on behalf of the Government. I am afraid that the argument which the Honourable Mr. Spence advanced in support of the continuance of this country in the League was altogether not without flaw. He contended that we would be ill-advised in breaking away from an organisation which existed for international peace and security. I would have subscribed to this argument if that organisation had lived up to its ideals and if that organisation had justified its existence. But, Sir, from the able and lucid speech which the Honourable mover made in moving his Resolution, it is clear how all those high ideals for which this august body had been established with such a blare of trumpets have practically been cast to the winds and how none of the purposes which this body was designed to encompass has been achieved by it up to this date. Since much has been said about it, I would not deal with all the aspects of this question. I would confine myself to one or two main features. First of all,

[Saiyed Mohammad Padshah.]

I would take up one of the main directions in which the good offices of the League were supposed to bring about the desired effect. One of the main objects of the League was to prevent war and bring about peace by amicable settlement. We know what the actual facts have been. We know how from the moment this body was called into being up to the present day, in spite of the fact that it did make a show of making an attempt in that direction, it has failed miserably to achieve this object. We know, Sir, how this body was powerless in giving the much needed relief to the Chinese people. We know how it was powerless to save China from the ravages of the Japanese. We know it was powerless to intervene effectively in the war that raged in South America, and we know of the recent instance in which the record of this august body has been no more creditable and how it has bungled over the Italo-Abyssinian war. All those meetings held under the ægis of the League and the tall talk indulged in and the resolve of those 50 countries to bring the aggressor to his knees have all ended in smoke. They not only ended in smoke but they were the cause of the ruination of the nation whom the League professed to support. We know that had it not been for the promises held out by the League of Nations and the talk of support by all those 50 countries, Abyssinia would possibly have prepared in time to repulse the attack of the aggressor and would at least have secured better terms of peace when the invader was still doubtful of the final issue and was in a mood to come to terms. We know how the Negus has had to pay heavily for his folly in pinning his faith to the League of Nations.

This is the record of its achievements in respect of one of its main objects. And what is its record in respect of another object, namely, the protection of those people who came under the charge of the League and who were entrusted by it to different powers under mandates issued by the League? From what has been said by the Honourable mover of the Resolution and the accounts he gave of the serious disabilities and hardships to which the people in the mandated territory of Palestine have been continually subjected, from the manner in which the interests of the children of the soil in Palestine have been sacrificed for the benefit of Jewish immigrants, it is clear that the League, in spite of the fact that it regarded the safeguarding of the interests of those people as a sacred trust, has allowed the people of Palestine to be exploited without uttering a word of protest. Sir, we know that Palestine is a small country and that it cannot for ever continue to be a dumping ground for Jewish immigrants. We know that the inhabitants of Palestine did not at first take objection to the Jewish immigration, but they raised their voice in protest when once they found that this immigration was going to sweep them out of their own motherland altogether. They have been demanding for years that the immigration should not be allowed to go on ceaselessly, that there should be some arrangement to regulate the flow of immigrants according to the capacity of the country to absorb them. But nothing has been done towards a solution in this respect. Again, it has been the demand of all the original inhabitants of the country, irrespective of religion or class, Muslims, Christians and Jews, that Government property should not be given away to the immigrants at nominal prices, and they insist and insist rightly that those properties should be reserved for the nationals of the country. But in spite of this the Dead Sea concessions have been given away

to the Jewish immigrants. Again, there has been a demand on the part of the children of the soil that their lands should not be allowed to be transferred to immigrants, that there should be promulgated in Palestine a law similar to that which now obtains in the Punjab under which people who do not belong to the agricultural class are prohibited from holding land. They ask for some such law to prevent the exploitation of the children of the soil and it ought to have been promulgated long ago. They have also made many other similar and reasonable demands but none of these have been conceded. It cannot be said that this trouble is a recent one. It began in 1929 and it has gone on without any relief being afforded and without any attempt on the part of the League of Nations to relieve the situation. So we feel, when all is said and done, that the League has failed miserably in carrying out the objects for which it has been called into being. It is all very well to say that an organisation like this should be encouraged and supported and that one should not light-heartedly break away from an organisation which professes to do so many good and noble things. But the question is, is this organisation capable of giving effect to its ideals and achieving the objects for which it is meant? We find that over all these years during which it has functioned it has systematically failed in every single instance to achieve the purpose for which it was designed. We feel that it is useless to go on and instead of trying to mend an institution which seems utterly impossible of improvement it is better to end it altogether and bring about something better and more effective.

With these words, Sir, I support the Resolution.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN (West Punjab : Muhammadan) : Sir, we should all feel grateful to our Honourable friend 4 P.M. Mr. Hossain Imam for bringing this important Resolution before the House. I also congratulate him on his most eloquent and impressive speech. There are not many amongst us who do not share the views which he has expressed regarding the failure of the League of Nations to rise to the occasion under trying circumstances. He has given the incidents of the war between Italy and Abyssinia and I need not detain the House by saying more on the subject. If I cannot find able myself to support the Resolution of my Honourable friend Mr. Hossain Imam, it is merely on account of the fact that there is some little hope that at some future occasion this League of Nations which was started to bring peace to this world may achieve its object. I whole-heartedly support the amendment moved by my Honourable friend Sir Phiroze Sethna neither on financial grounds, nor for the grounds advanced by the Honourable Secretary in the Legislative Department, but as a very strong protest against the failures of the League of Nations. I know that the amendment moved by our Honourable colleague from Bombay does not contain any reasons or arguments for substantially reducing the contribution which India is making towards the League of Nations. I personally support that proposition merely on the ground that it is an expression of resentment on the doings and omissions of the League of Nations. This should not sound as an extraordinary proposition, because situated as we are we have no other way of expressing our protest in most emphatic terms than by substantially reducing the amount.

THE HONOURABLE MR. HOSSAIN IMAM: Do you reduce the amount? Who reduces the amount of contribution?

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: Neither the Assembly nor the Council of State can reduce, but both Legislatures can recommend to the Governor General in Council and he can reduce it.

THE HONOURABLE MR. HOSSAIN IMAM: The Government cannot reduce it.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: Government can take steps to get the contribution reduced.

THE HONOURABLE MR. HOSSAIN IMAM: By whom?

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: Through the Secretary of State.

THE HONOURABLE MR. HOSSAIN IMAM: No, Sir.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: I hope my Honourable friend Mr. Hossain Imam who knows better will tell us whether we can reduce it or not.

THE HONOURABLE MR. HOSSAIN IMAM: We cannot.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: Can you stop contributions?

THE HONOURABLE MR. HOSSAIN IMAM: Yes.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: My friend says that it is not within the power of the Government of India even to recommend or to adopt such methods or to make a suggestion that the contribution which India is making to the League of Nations should be reduced. As I was submitting, Sir, the sole object for supporting this amendment is nothing but protest. Otherwise, I assure you that the League of Nations is such an organisation that if it were working properly and if it had achieved any object for which it was originally devised, surely the contribution which India is making towards the League of Nations would not be grudged by this country. It is merely a strong way of expressing our protest.

Now, Sir, I entirely agree with my Honourable friend Mr. Hossain Imam that the League of Nations unnecessarily created hopes in the minds of several nations which the League of Nations did not care to see fulfilled, and I have no doubt that the fate of Abyssinia would not have been so unfortunate if it had not built hopes on the League of Nations. Everyone of us agrees and I was glad that even the Government spokesman did not have the courage to get up and deny any charges levelled against the League of Nations either by the mover or by the Leader of the Opposition. I think the greatest praise he gave to the League of Nations was that he said you should wait and see. You do not say that Italy is devouring Abyssinia and the League of Nations is sitting quiet. Let the time come when the League of Nations will provide material for the future historian to say that there were 50 countries which protested while Abyssinia was being conquered by Italy. I do not think that that was the object for which the League of Nations was brought into being, that

it should be only to provide material for the future historian. As a matter of fact there is no denying the fact that the League of Nations constituted as it is at present is a body from which every practical man would like to dissociate himself except those who are optimists and who will say that if the League of Nations is closed down there is no other machinery left in the world to provide means of bringing about peace. We have noticed that in the history of several organizations times come when we find that they get demoralised and degenerated and cannot do any practical work, but the logical sequence is not that we should withdraw from such organisations, but we should make every possible attempt to improve them and to strengthen them. I put this to my Honourable friend the mover of the Resolution. He is one of the most illustrious Members of this Honourable House. He came, Sir, with the hope that he will be able to achieve something for his country by becoming a Member of this House. Can he give me a single instance where a single Resolution or a Bill was carried in this House against the opposition of the Government? If there is not a single such Resolution or a single such amendment which could be carried at any future date as long as this constitution continues, may I ask my Honourable friend what justification will he have to seek election again? Why should he not withdraw from the Council of State? Though he cannot achieve anything now, still he has some little lingering hope that just by making some eloquent speech he may be able to persuade some Government Member to do some little thing for which he is anxious in the interest of the country. It is exactly in that spirit that I prefer to support this amendment than to support his Resolution. All the same, Sir, I know that it goes to the credit of England that this is the only chief power or great power which faithfully and sincerely stood by the League of Nations even under most trying circumstances. If the League of Nations has failed to stop Italy from conquering Abyssinia, it is because there were other powers who were concerned. It was not entirely in the hands of England to stop it and declare war against Italy. England has been trying her best and as long as we continue to be a part of the British Empire it is our duty that in all foreign matters we should try to strengthen the hands of the Foreign Ministers of His Majesty's Government as far as foreign affairs are concerned. Though we quite recognise our insignificant position, yet if we carry the amendment of the Honourable Sir Phiroze Sethna it would strengthen the hands of His Majesty's Government to say that these failures of the League of Nations have reached such a stage that even a sentimental country like India is thinking of withdrawing from such a useless body.

Sir, my Honourable friend Mr. Hossain Imam has not advanced a single argument against the machinery itself. He says the managing agents are bad but he has not said a word against the business itself. I personally think, Sir, that by withdrawing from the League we will not be doing any good either to ourselves or to the world at large. By substantially reducing the amount we will be recording our protest and if we find at a future date that the League of Nations continues in its utterly useless activities and the other greedy powers of Europe still continue arming themselves and preparing themselves for a great war, I am sure one more war in Europe will end the League of Nations itself. But, Sir, as long as this does not happen, let us all sincerely hope and pray that circumstances may arise which would strengthen the hands of the

[Raja Ghazanfar Ali Khan.]

members of the League of Nations and enable them to put an end to fighting eternally in this world.

Sir, I support the amendment.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Leader of the House): Sir, the Honourable mover of the Resolution has brought a powerful indictment against the League of Nations. He has done it with his accustomed skill. He has fixed on the failures of the League. He has selected instances which he knew would appeal to his audience, to their emotions, to their innermost feelings. I intervene in this debate in order to draw the attention of the House to the grave issues which are involved. They have to consider what will be the effect of world opinion if India were to say at this moment that it has lost all faith in the League of Nations, that it saw no hope for the future, that we must carry on our international fights and our international differences in the old, old way, namely, the arbitrament of war. I ask my Honourable friends here. Is this an opportune moment to send this message out to the world? Do we not realise, those of us who have been following the trend of world politics or those who have recently visited Europe, the intense anxiety, the feeling of fear that the last world war which was meant to end war was only the prelude to another more disastrous war in which civilisation and all that has been achieved during these centuries will be destroyed in blood and smoke? And then again, I ask my Honourable friends, should India leave at a time when Egypt which has just achieved its independence is about to join the League? I should also ask Honourable Members to consider whether the institution is at fault or whether it is not that certain unexpected action was taken by a particular great power. Politicians and statesmen are very apt to throw the blame on the institutions when perhaps they themselves are the real culprits. And then I ask Honourable Members to consider that the League was only formed about 18 and 19 years ago. It was formed at a time of great crisis, in very difficult circumstances. Can we say that the experience of 18 or 19 years is decisive, especially in regard to one of the greatest experiments that the world has made to bring about peace and to get rid of the spectre of war? Are Honourable Members convinced that in this short period the League has been sufficiently tested, that there is no hope of mending it, and that therefore the time has come when we should end it? And then, are we to proclaim by this vote of ours to the world the bankruptcy of civilised wisdom; that we see no hope; that the yearnings of millions of men and women who have suffered in the Great War and who have seen the consequences of modern warfare conducted under modern conditions, that these yearnings for peace are to go in vain and that we should again revert to a position of armed camps throughout the world, where the slightest spark may bring about another catastrophe? I think we in India who have often held to ideals and have often suffered for them, I think for this country it would be disastrous if the only message we sent out to the world was one of despair. Because I think it will be acknowledged that it would be a message of despair if we were to say that there is no hope of peace in this world, that all our civilisation is nothing, that it is only might and desperate war which will settle differences between the nations.

I ask Honourable Members not to be impatient. Let us hope and pray that the statesmen who are gathered together at Geneva may be able by their collective wisdom to rebuild on surer foundations this League, that they may be able to evolve a League which may really be able to prevent war and that they may be able to do something which will give us hope that civilisation will not end in futility and disaster. It is for these reasons, Sir, that I ask Honourable Members not to be carried away by disappointment, by anger at the action of the League in regard to certain particular countries. And if I may say so, are Honourable Members certain that today we should have been so interested in the affairs of Abyssinia if it had not been for the moral lead that the League gave in regard to the aggression of Italy. Is it not likely that had it not been for the League of Nations our consciences would not have been stirred? We would probably not have known that Abyssinia had been invaded. Many countries in the past with greater civilisations, with a more ancient history have been conquered. Has the world been stirred to its foundations to the extent that we have been over the conquest of Abyssinia? That was the point that my Honourable friend, Mr. Spence, wanted to make,—that to the historian of the future the striking element would be that 50 nations were so roused, their consciences were so stirred over the invasion of a country with whose history and civilisation, with whose geography even, many people were not even acquainted. That I regard as a landmark and I think that in this country, we should, in spite of the ideal not being achieved within 18 years, not let it go. I would, therefore, strongly appeal to Honourable Members not to support my Honourable friend, the mover of the Resolution.

THE HONOURABLE MR. HOSSAIN IMAM: Mr. President, I am grateful to the Honourable Mr. Spence for having saved me from reiterating any of my criticisms; for he gracefully accepted most of them. The Honourable the Leader of the House has tried to burke the issue by bringing in sentiment and instead of having a straight fight on the facts, he tried to win our sympathy on the future prospects which the gods may have in store for us. I am very grateful to the House that on the clean issue whether the League has been a success or a failure, there has been rare unanimity. I am also gratified that no one has taken up the cudgels to praise the action of the present managing agents as good. The only question which was put to me was, "Why not turn out the managing agents?" That shows ignorance of the situation. Even before the League was constituted, England or any one of the major powers alone could have vetoed any one of the proposals even though they might have been otherwise unanimous. The procedure you find now is that barring a very few specific instances all the decisions of the Council must be unanimous. So, it is only hoping against hope to think that there can be any reform. The League has been misconceived and built on wrong principles. If this world were inhabited by saints and angels, then the present League would be a success. If there are human elements, if there is any private opinion lurking, then the League cannot be a success.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: Then no religion can be a success either.

THE HONOURABLE MR. HOSSAIN IMAM: Religion can only be a success if the world is full of human beings and not angels, who constitutionally are incapable of sinning.

The League's insistence on unanimity in many of its objects has been the greatest bar to its success. The fact that nations and governments are composed of human beings and are swayed by questions of personal gain and loss has not been given full weight. Why should a country go out of its way and spend its money and incur losses if it does not stand to gain anything? People hoped—and Wilson hoped also—that the world had learnt a lesson out of the war; they believed that ultimately it has been realised that the greatest good of the greatest number is the real basis on which policies should be formed. If you allow a mad dog to go out now, and think that it is going only on the other side and not coming towards you and therefore you need not shoot it, the result will be that the dog will turn on you and bite you. That was the principle on which the League was built, and Europe has failed to realise that mad dogs must be shot, or at least we should muzzle them if we cannot shoot them.

I shall now turn to the detailed criticisms which have been levelled against my Resolution. One that has been sounded from all sides is that this is an inopportune moment. I think that this is the most opportune moment because the League has become subservient to the mad dog. There can be no better opportunity to dissociate ourselves from a body which has no self-respect for even its pledged word, a body which cannot stand by its own promises, a body which can lick the shoes of the man who thrashes it. That is what the League is doing at the present moment. I believe that a war of righteousness is one worth fighting. We must fight for the King, for the country and for our national honour. To me, Sir, the threat that war will come if you do this and if you do that has no deterrent effect. I am prepared to face war if I have a right cause to suffer for. I am prepared to go to war if I have to safeguard the world from brutes. I regard a war of liberation of the oppressed as a holy war. This was the feeling which actuated the crusaders and their opponents; I have still that feeling lingering in me.

It has been said that our effort to end the League is not good and should not be taken. I venture to say that it is arrogance on the part of India even to dream that she can end the League. We have no place in the League's governing body. We can neither end it nor mend it. Therefore, the only thing that we can do is to dissociate ourselves from it. The Honourable Raja Saheb wanted to show his anger and his disapproval of the League by an action which is not open to us—I mean by a reduction of the contribution which we make to the League. The League demands a certain quota from us and as long as we remain in the League, as honourable members we have to pay that contribution. To default while we remain a member is not a line which I regard as an honourable line. The quota is fixed by the League itself for every country and even the Sovereign power cannot reduce it. Therefore, that line being closed to us, I hope the Raja Saheb will support me and not support the amendment which has been moved by the Honourable Sir Phiroze Sethna, because then he will not be able to show his displeasure. Then he referred to a personal question and asked that if I find that I cannot carry any

Resolution or Motion against the Government, what was the good of my coming here and why I do not keep out. My experience all these years of the Government of India has been that it is a fairly reasonable body. (Laughter.) My Honourable friend Mr. Hallett, when I moved a Resolution on the Civil Service, did not see his way to accept any one of my recommendations. But, four months ago, I saw an announcement by the Secretary of State accepting one of my recommendations "that the training period for the candidates who are sent to Europe from India should be the same as for English candidates".

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: Self-deception!

THE HONOURABLE MR. HOSSAIN IMAM: It is not self-deception. You can read the facts for yourself. I can give you many instances in which the Government of India have opposed a specific suggestion of mine and later adopted it.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: What I said was, will my Honourable friend point out to me a single Resolution which was passed in this House when the Government did not accept it?

THE HONOURABLE MR. HOSSAIN IMAM: Yes, Sir, Sir Nasarvanji Choksy's Resolution on the Drugs Committee. So I am not as hopeless of the Government as he appears to be.

Then, Sir, I come to my Honourable friend Mr. Sapru. I must say that I felt very much trouble when I found that such a staunch supporter and friend of mine was turning against me. But when I analysed his speech I found that he was labouring under some misconception. He said that the imperfection of human nature was the cause of the failure of the League. But that very imperfection makes it hopeless to think of reforming it in the near future. Unless and until there is another conflagration I have no hope of the League being made powerful enough to carry out its objects. It will sink into a worse and worse position. The generation and the statesmen who faced the last war are no longer to the fore and those who have come up have forgotten the miseries it caused. To reform the League you have to change the mentality of the major States of Europe, with their conflicting aims. A big country like France buried its head rather than face Hitler when he embarked on his Rhine adventure. It was mortally afraid, but yet it did not take this question to the League because France realised the powerlessness of the League. They realised that they cannot set it right unless they are prepared to go to war. That shows which way the wind is blowing. If France cannot face war and if England is prepared to see its imperial interests in the Near East and the Mediterranean endangered by Italy, do you think there is any sense in pinning your faith to that powerless body which goes by the name of the League of Nations?

Then, Sir, another stock argument brought out against me is that India is at present a member of the League of Nations by grace, and if she resigns she cannot become a member as of right because we have not the good fortune to be classed among the self-governing States of the world. My reply to that is a simple one. As long as we are not self-governing and we have not got the power over foreign policies we cannot utilize that right, but when we are

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self-governing it will come of its own accord and we will have the right to become a member of the League. So at present to try and preserve a thing which we cannot use is a sheer waste of money and of energy.

Then it has been asked, what do we gain by leaving the League? Now, as regards the financial side, if the objective is world peace, Rs. 15 lakhs is nothing. It is not even a comparable insurance premium, as such premiums go. If we could have world peace and disarmament we would be prepared to pay even more than Rs. 15 lakhs. But I do not like to spend a penny on a useless objective. Then it was said that we might forget the ideal of universal peace. But may I remind the House that India at the present moment has no power, no right, no place in the picture of world nations. We cannot fight for any country; we cannot defend any country; we cannot defend ourselves even against the will and desire of Great Britain, our overlord. As long as Great Britain is in the League, whether we remain in the League or not, our forces will be used and we will be dragged into war as we were dragged into it in 1914-18. (*An Honourable Member*: "Why not remain in the League then?") Remain there just like a Punch and Judy; for that is all we are doing; as the pulling of the strings is in the hands of others. I do not appreciate that position, my Honourable friend may regard it as an honour.

Now, Sir, I come to Mr. Spence. He said we cannot derive any material benefit from membership of the League because it is not a mutual benefit society. I agree there, but I should have liked him to enlighten us on the spiritual benefit we derive from our membership. Then he and the Leader of the House both drew the picture of the unique spectacle of the nations of the world taking economic sanctions against an aggressor and said what a good sign it was. I agree that such a course taken in a good cause and in an effective manner would have been useful. But we are not blind to realities. Action was taken so late that it was ineffective. Everything depended on the embargo on steel, coal and petrol. If recourse had been had to sanction in respect of those vital commodities, it would have materially altered the course of events and might have made the sanctions a real success. But it was fear which prevented the bosses of the League from having recourse to that course. I say nothing of the small fry, who could do nothing. It was the major powers who jibbed at this step because they were not honest, because they were mortally afraid of offending Mussolini. We all know the story of the Mediterranean. We all know the steps taken by Mussolini to check the British fleet there and we all know what prompted Great Britain to come to terms with Egypt and that it is directly traceable to the Italo-Abyssinian embroilment.

Now, Sir, I have only to say one thing, that I have been placed in a very unfortunate position. The substitute Resolution has taken the wind out of my sails. It was my mistake that originally I did not remember that the substitute Motion would be put first and my Resolution afterwards.

THE HONOURABLE THE PRESIDENT: I have not yet decided what I shall do.

THE HONOURABLE MR. HOSSAIN IMAM: Then I have some hope. Sir Phiroze Sethna's amendment minus the part that has been objected to by the Government is not anything new for Honourable Members to ask the Government to do. As the Honourable Mr. Spence has pointed out, it is the Government's standing policy of the Government which it has been carrying out for some time and, therefore, it is no recommendation to the Governor General. If the Chair is pleased to hold with me that this substitute Motion without that operative part—the operative part being the part which is objected to—

THE HONOURABLE SIR PHIROZE SETHNA: Certainly not.

THE HONOURABLE MR. HOSSAIN IMAM: The position is that the Government, as pointed out by Mr. Spence, have already taken steps to ask for a reduction and it is the policy of the Government at every opportunity which offers to ask for an equitable quota being fixed for India. Therefore, I submit, Sir, that the substitute Motion is not an operative Resolution, because it is already the accepted policy of the Government. Secondly, it is not a substitute Motion in this sense. What he asks and what my Resolution demands are two distinct things. My demand is withdrawal from the League and a substitute Motion should be an amendment to this Motion. He may have asked that we should give notice of withdrawal after a few years. A direct negative as you know is not regarded in this House as an amendment. This Motion, Sir, is a direct negation of my Resolution.

THE HONOURABLE THE PRESIDENT: No such condition is attached to Standing Order 66. It is absolutely in the discretion of the President.

THE HONOURABLE MR. HOSSAIN IMAM: It is perfectly correct. Your decision can never be challenged. I am pointing out to you that in the other House negatives even are allowed as amendments, whereas in the Council of State a direct negative is not regarded as an amendment. This is the difference between the practice of the two Houses.

THE HONOURABLE SIR PHIROZE SETHNA: My amendment is not a direct negative.

THE HONOURABLE MR. HOSSAIN IMAM: It is in this sense. I want a withdrawal—

THE HONOURABLE THE PRESIDENT: You have exceeded your time.

THE HONOURABLE MR. HOSSAIN IMAM: I am not saying anything of the merits. I am only stating my very unfortunate position. I have to oppose the Motion to take steps to get a substantial reduction in the contribution, because we cannot affirm our support for the original Motion except in this way, as my Resolution will not be put to the vote.

THE HONOURABLE THE PRESIDENT (to the Honourable Mr. Spence): Do you wish to give a reply?

THE HONOURABLE MR. G. H. SPENCE: No, Sir, unless you wish to hear me with reference to the point of order.

THE HONOURABLE THE PRESIDENT: I am quite conclusive in my mind on that point. I have decided now after hearing the Honourable Mr. Hossain Imam to put the substitute motion to the House first, viz.,

"That for the original Resolution the following be substituted, namely:

'This Council recommends to the Governor General in Council that steps be taken to have the amount of the annual contribution to the League of Nations substantially reduced.'

The question is:

"That this substitute Motion be adopted."

The Council divided:

AYES—35.

Akram Husain Bahadur, The Honourable Prince Afsar-ul-Mulk Mirza Muhammad.	Ismail Ali Khan, The Honourable Kunwar Haji.
Arthur, The Honourable Mr. C. G.	Jagdish Prasad, The Honourable Kunwar Sir.
Ayyangar, The Honourable Diwan Bahadur Narasimha Ayyangar Gopalaswami.	Jagdish Prasad, The Honourable Rai Bahadur Lala.
Banerjee, The Honourable Mr. Jagadish Chandra.	Johnson, The Honourable Mr. J. N. G.
Barua, The Honourable Sriput Heramba Prosad.	Kameshwar Singh of Darbhanga, The Honourable Maharajadhiraja Sir.
Buta Singh, The Honourable Sardar.	Menon, The Honourable Diwan Bahadur Sir Ramunni.
Charanjit Singh, The Honourable Raja.	Muhammad Din, The Honourable Khan Bahadur Nawab Chaudri.
Choksy, The Honourable Khan Bahadur Dr. Sir Nasarvanji.	Nixon, The Honourable Mr. J. C.
Clow, the Honourable Mr. A. G.	Noon, The Honourable Nawab Malik Sir Mohammad Hayat Khan.
Devadoss, The Honourable Sir David.	Pandit, The Honourable Sardar Shri Jagannath Maharaj.
Dow, The Honourable Mr. H.	Parker, The Honourable Mr. R. H.
Ghazanfar Ali Khan, The Honourable Raja.	Raghunandan Prasad Singh, The Honourable Raja Sir.
Ghosal, The Honourable Sir Josna.	Ray of Dinajpur, The Honourable Maharaja Jagadish Nath.
Glancy, The Honourable Sir Bertrand.	Russell, The Honourable Sir Guthrie.
Hafeez, The Honourable Khan Bahadur Syed Abdul.	Sapru, The Honourable Mr. P. N.
Haidar, The Honourable Khan Bahadur Shams-ud-Din.	Sethna, The Honourable Sir Phiroze.
Hallett, The Honourable Mr. M. G.	Spence, the Honourable Mr. G. H.
Ishrat Hussain, The Honourable Saiyed.	

NOES—6.

Gounder, The Honourable Mr. V. C. Vellingiri.	Mehrotra, The Honourable Rai Bahadur Lala Mathura Prasad.
Hossain Imam, The Honourable Mr.	Naidu, The Honourable Mr. Y. Ranganayakalu.
Kalikar, The Honourable Mr. V. V.	Ram Saran Das, The Honourable Rai Bahadur Lala.

The Motion was adopted.

RESOLUTION *RE* PREVENTION OF THE GROWTH OF COMMUNISM.

THE HONOURABLE THE PRESIDENT: Sir Phiroze Sethna, you have got a Resolution on the paper but as I have to attend an important meeting of the Empire Parliamentary Association, I shall have to go there at this stage. So I will allow you, in order that you may not lose your priority, to read your Resolution.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: Might I, Sir, most respectfully submit to you that, while it is entirely at your discretion to allow a Resolution to be read and the debate to be postponed to the next Council day, I would appeal to you kindly to consider whether it would not be unfair to those Members whose Resolutions have been balloted for the next non-official day, because in that case, this being the last session, those of us who have our Resolutions balloted for that day will suffer.

THE HONOURABLE THE PRESIDENT: I am strictly following the practice which has been in vogue for many years and been adopted by my distinguished predecessors. I quite see your point in the matter. It is not for me, however, to consider that point, but for the Leader of the House to consider it in consultation with the Government and to get you another day. (To the Honourable Mr. Banerjee) I will hear your objection on the next non-official day. Will Sir Phiroze Sethna please move his Resolution?

THE HONOURABLE SIR PHIROZE SETHNA: I beg to move, Sir:

"That this Council expresses its strong disapproval of the communistic ideas advocated and propagated by the President of the Indian National Congress and others, and recommends to the Governor General in Council that in order to prevent the growth of such ideas, well-considered measures should be adopted as early as possible for relieving unemployment particularly among the educated lower middle classes, and for reducing poverty and distress in the vast agricultural and labour population and for promoting their welfare generally."

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Leader of the House): I regret to say, Sir, that there is no business come up from the other place, so I am afraid I have no official business to place before this House.

THE HONOURABLE MR. HOSSAIN IMAM: May we request the Leader of the House, Sir, to allow us another day for the remaining non-official business to be taken up?

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: Sir, I would beg to submit for your consideration and that of the Leader of the House that as we do not know how long we shall have to sit and as we have a large number of non-official Bills which have been circulated, that a separate day may kindly be allowed by the Government for these Bills.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: I quite understand your request.

The Council then adjourned to a date and time to be notified later.

COUNCIL OF STATE.

Monday, 28th September, 1936.

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

MEMBER SWORN :

The Honourable Mr. Shavax Ardeshir Lal (Government of India : Nominated Official).

QUESTIONS AND ANSWERS.

ANNUAL NUMBER OF VACANCIES AT THE STAFF COLLEGE, QUETTA.

41. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS :

(a) Will Government kindly state how many vacancies occur each year for admission to the Indian Staff Colleges ?

(b) How are these vacancies filled ? Is it on the result of a merely qualifying examination or of a competitive examination ? Since when has this system for admission to the Staff Colleges been introduced ?

(c) How many officers have been admitted to the Staff Colleges from the time competitive examinations have been introduced for admission to these Colleges ?

(d) How many Indian officers have so far appeared in these examinations and how many of them have succeeded in getting admission to the Staff Colleges ?

(e) Have any officers been admitted to the Staff Colleges even without a competitive examination ? If so, what class of officers have been so admitted ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : (a) Twenty-six.

(b) All candidates are required to sit for a competitive entrance examination.

The first 18 vacancies are allotted to officers gaining the highest marks ; the remainder are filled by nomination from officers who qualify by gaining a certain minimum number of marks in each subject. The system is the same as that at the Staff College, Camberley, and has been in vogue at Quetta since the College opened in 1905.

(c) From 1905 till 1914 approximately 25 officers were admitted annually. From 1919 to the present time about 26 officers have been admitted annually.

(d) Six King's Commissioned Indian officers have been examined; out of whom four have been admitted to the College, including two by special nomination in excess of the prescribed number. The total number of King's Commissioned Indian officers who have applied to sit for the examination in February, 1937 is six. No Indian Commissioned officers are yet eligible on account of their inadequate length of service.

(e) No, except for a short period after the war when officers who distinguished themselves during the war were nominated by the Commander-in-Chief in accordance with the same procedure as was followed at the Camberley Staff College.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: A supplementary question, Sir. Is it not a fact that the late Commander-in-Chief, Field Marshal Sir Philip Chetwode, issued a circular to all Commands that all Indian King's Commissioned officers who qualify at the staff examination test will be admitted to the Staff College?

THE HONOURABLE THE PRESIDENT: Order, order. I am afraid some Honourable Members are under a misapprehension regarding the right of putting supplementary questions, and I would therefore take this opportunity of enlightening them on that point. The object of a supplementary question is only to clear up any ambiguity in the reply of the Government Member. This power is not meant to be exercised for the purpose of putting several new questions which may have a remote bearing on the question replied to, nor is this power to be exercised for the purpose of heckling Government Members and to extort from them information on certain matters which are wholly irrelevant. This procedure has not been correctly understood. If any point arises out of the actual answer, the Honourable Member is fully entitled to put any number of supplementary questions. The power to put questions by giving notice is amply and adequately provided for by the Standing Orders and I therefore request Honourable Members to bear in mind that this power is not to be widely and loosely exercised but should be exercised only in cases where further information arising from the answer given by the Government Member is necessary. The Honourable Rai Bahadur Lala Ram Saran Das's question can be put by giving a fresh notice and I therefore disallow it.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: On a point of personal explanation, Sir. My question arises out of—

THE HONOURABLE THE PRESIDENT: May I request the Honourable Member to bear in mind that I have already given my ruling?

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: I simply wanted to mention that my question arises from part (b) of my question which runs, "How are these vacancies filled"? and this was one of the circulars which dealt with the admission to the Staff College.

THE HONOURABLE THE PRESIDENT: You could have easily incorporated it in any of clauses (a), (b), (c) and (d).

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Very well, Sir. I will give a fresh notice of that question today.

THE HONOURABLE THE PRESIDENT: Quite right. You are fully entitled to do that.

INDIANS AND STAFF APPOINTMENTS.

42. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: (a) Will Government kindly state whether it is their policy to have Indianization in the staff appointments of the Defence Department also? If so, how far has this Indianization progressed?

(b) What is the total number of such appointments and how many of them are held by Indians?

(c) Do Government propose to fix a proportion for Indians in the staff appointments and, if so, what will be that proportion? Is it the intention of Government to take a larger number of Indians in these staff appointments till such time when the deficiency in the proportion fixed for them is made good?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: (a) Staff appointments form a general duty cadre. There is no intention of reserving any portion of this cadre for any special class of officers be they British Army or Indian Army or British officer or Indian officer. The appointment of an officer to the staff depends on his qualifications and his suitability for the appointment in question. The second part of this question does not therefore arise.

(b) For reasons already given this question also does not arise. The total number of staff appointments available are contained in the *Indian Army List*, a copy of which is available in the Library of the Indian Legislature. I may add for the information of the Honourable Member that up to date only one Indian officer has fully qualified himself to hold a staff appointment and is now in fact holding one; and I may also add that as Indian officers become qualified they will be considered for staff appointments on equal terms with British officers.

(c) In view of the above answers this question does not arise.

THE HONOURABLE MR. P. N. SAPRU: Is efficiency the only test of admission in the army and are there in fact no reservations made for particular races in the Indian Army?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: No. Qualifications are the only test for admission to the Staff College.

COMMUNAL REPRESENTATION AMONG THE INFERIOR STAFF AND LABOURERS OF STATE RAILWAYS.

43. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Will Government kindly state the reasons for not introducing communal proportions in those services of State Railways which are technically treated as on daily wages but whose members are actually working for a number of years continuously?

THE HONOURABLE SIR GUTHRIE RUSSELL: I presume the Honourable Member is referring to the inferior staff and labourers. If so, I would invite his attention to the Railway Board's letter No. E135CM145, dated the 19th September, 1935, a copy of which has been placed in the Library of the House.

IMPORT DUTIES ON RAW MATERIAL.

44. THE HONOURABLE SIR PHIROZE SETHNA: (a) Are there some industries in which the essential raw materials have to be imported from outside?

(b) Does the existing duty on such raw materials place a handicap on these industries in their competition with the same foreign industries?

(c) Did Government remove the cause of complaint in the case of the gold thread industry by increasing the duty on finished products?

(d) Do Government propose to reconsider their refusal similarly to help the healds and reeds industry?

THE HONOURABLE MR. H. DOW: (a) Yes, Sir.

(b) The existence of a revenue duty on a raw material does not necessarily place the Indian manufacturer at a disadvantage in the Indian market as compared with a foreign competitor, because the latter also has to pay import duty on the finished article. When, however, there is a complaint that these two duties are not in proper relation, it is open to the interests concerned to complain of tariff inequality. Government are prepared to investigate such complaints and consider measures of redress in suitable instances. In the case of goods manufactured in India for export abroad Government have in certain cases made special rules for the refund of duty on the materials imported, e.g., aluminium.

(c) The gold thread industry was the subject of an enquiry by the Tariff Board in 1930 and in accordance with the Board's recommendation the industry was granted substantive protection for a period of ten years by the Gold Thread Industry (Protection) Act, 1931.

(d) The case referred to in this part is not similar to that of gold thread. Representations from the healds and reeds industry alleging tariff inequality were examined by the Tariff Board in 1934 and the conclusions of the Government of India on the Report were published on the 23rd March, 1935 in the Commerce Department Resolution No. 38-T. (10), copies of which are in the Library. Thereafter the industry applied for the grant of substantive protection, but departmental examination of the case showed that a *prima facie* case did not exist for a reference to the Tariff Board.

IMPORT DUTY ON BAKELITE MOULDING POWDER AND FINISHED ARTICLES MADE THEREFROM.

45. THE HONOURABLE SIR PHIROZE SETHNA: Are Government aware that the bakelite moulding industry is an industry which depends on bakelite powder as its raw material and that the duty on this powder is 25 per cent. while the duty on finished products made therefrom is at 25 and 30 per cent.?

THE HONOURABLE MR. H. DOW: The duty on bakelite moulding powder is 25 per cent. *ad valorem*. The import duty on the finished articles made therefrom is 20, 25 or 30 per cent. *ad valorem* according to the nature of the article and the country of origin. *Ad valorem* duties are calculated on the

value of the article as it is at importation, so that bakelite powder, as compared with articles manufactured from it, pays proportionately less duty. Enquiries made by Government go to show that moulded goods are also being manufactured in this country from Indian lac and a reduction of duty on moulding powder (bakelite or other types) would affect prejudicially the prospects of such manufacture from indigenous natural lac.

RESTRICTIONS PLACED BY PROVINCIAL GOVERNMENTS ON FREE IMPORTS OF INDIAN MEDICINAL PREPARATIONS.

46. THE HONOURABLE SIR PHIROZE SETHNA: (a) Has the attention of Government been drawn to the restrictions placed by some Provincial Governments upon the free imports of Indian medicinal preparations?

(b) Is it a fact that some of these provinces have no objection to admitting such preparations made in foreign countries?

THE HONOURABLE MR. J. C. NIXON: (a) Yes.

(b) The Government of India understand that the fact is as stated in the question, although they are not in possession of full details since Excise is a provincial transferred subject.

UNIFORM POLICY WITH REGARD TO EXCISE RULES AND REGULATIONS.

47. THE HONOURABLE SIR PHIROZE SETHNA: (a) Will Government be pleased to state whether a suggestion was recently made to them by the Indian Merchants' Chamber of Bombay that a conference of different Provincial Governments and of Indian States be convened in order to arrive at a uniform policy with regard to Excise Rules and Regulations throughout the country?

(b) Did Government reply that they would send the correspondence to all Provincial Administrations, but that they did not consider it necessary to hold a conference?

(c) Have not Government called such conferences of Provincial Governments in the past whenever a hitch occurred with regard to inter-provincial relations?

(d) If Government will not hold a conference, do they contemplate any other method by which a common understanding can be reached between Provincial Governments and Indian States?

THE HONOURABLE MR. J. C. NIXON: (a) Yes.

(b) The reply to the first part is in the affirmative. As regards the second part, the Government replied that as Excise is a provincial transferred subject the matter was within the discretion of the Local Governments and therefore they could not see their way to convene a conference unless requested to do so by Provincial Governments themselves.

(c) and (d). The Government of India have called conferences of provincial representatives in certain circumstances in the past. They are averse however to obtruding spontaneously on the provincial sphere, while, as the Honourable Member is aware, the new Act still more sharply defines the demarcation between Central and Provincial functions. If however the

Government of India found any general desire among the provinces and Indian States for a joint conference in regard to a purely provincial matter, the Government of India would not fail to co-operate.

RAILWAY FREIGHT CHARGES.

48. THE HONOURABLE SIR PHIROZE SETHNA: (a) Has the attention of Government been drawn to the recent proposal to increase the railway freight charges on more than 200 articles, many of which relate to agriculture and industries?

(b) Do Government contemplate a thorough revision of the railway rates relating to the transport of fodder and cattle?

THE HONOURABLE SIR GUTHRIE RUSSELL: (a) Yes.

(b) The freight rates for fodder and cattle were examined some years ago on certain recommendations made by the Royal Commission on Agriculture. A reduction of approximately 25 per cent. was then made in the rates for cattle, but it was not considered that there was any scope for a reduction in the rates for fodder. The present rates for both cattle and fodder are on a fairly low basis, and Government have no reason to believe that a general revision of these rates is called for.

NUMBER OF CASES WHICH HAVE COME UP BEFORE THE RAILWAY RATES ADVISORY COMMITTEE SINCE ITS INCEPTION, ETC.

49. THE HONOURABLE MR. P. N. SAPRU: Will Government be pleased to lay on the table a statement showing:

(a) The number of cases which have come up before the Railway Rates Advisory Committee since its inception?

(b) The number of cases this Committee has disposed of? and

(c) The number of cases in which its decisions and recommendations have been contrary to the case made out by the Railways?

THE HONOURABLE SIR GUTHRIE RUSSELL: The information asked for by the Honourable Member is as follows:

(a) and (b). 46.

(c) 20.

NUMBER OF CASES IN WHICH THE RECOMMENDATIONS OF THE RAILWAY RATES ADVISORY COMMITTEE HAVE BEEN ACCEPTED, ETC.

50. THE HONOURABLE MR. P. N. SAPRU: Will Government be pleased to state in how many cases the Railway Board have acted upon the recommendations of the Railway Rates Advisory Committee, and in how many cases they have turned down the Committee's recommendations?

THE HONOURABLE SIR GUTHRIE RUSSELL: The Committee's recommendations were accepted in 34 cases, in two of them with some modification, and rejected in one case.

IMPROVEMENT TRUST FOR DELHI.

51. THE HONOURABLE MR. P. N. SAPRU: (a) Is there any proposal for the establishment of an Improvement Trust at Delhi?

(b) Has the Delhi Municipal Board consented to the proposal?

(c) Is it proposed to have the Delhi Municipality represented on the Trust?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: (a) The question of formation of an Improvement Trust for Delhi is under consideration in connection with Mr. Hume's report on the relief of congestion in Delhi.

(b) No local body has yet been consulted in the matter.

(c) The claims of different interests to representation on such a Trust will be fully considered if it is decided to create one.

DUTY ON DYE-STUFFS.

52. THE HONOURABLE MR. P. N. SAPRU: Has Government received any representation from the Committee of the Bengal Millowners' Association urging the total abolition, or at any rate a reduction, in the duty of dye-stuffs? What action do Government propose to take on it?

THE HONOURABLE MR. J. C. NIXON: Yes. Government are not prepared to accede to the request on account of the loss of revenue involved.

ANNUAL INCOME DERIVED FROM EXCISE DUTY ON PETROL, ETC., ETC.

53. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Will Government kindly state the annual income derived from each of the following for the last five years:

(a) Excise on petrol?

(b) Import duty on motor vehicles?

(c) Import duty on tyres and tubes, spare parts and accessories of motor vehicles?

(d) Import duty on lubricants for such vehicles? and

(e) By carriage of these vehicles from ports and distributing centres to their destination by railways?

THE HONOURABLE MR. J. C. NIXON: (a) to (d). A statement showing the information available is laid on the table.

(e) The information is not available and cannot be compiled without a degree of labour and expense which is not considered to be justified.

(In thousands of rupees.)

	1931-32.	1932-33.	1933-34.	1934-35.	1935-36.
(a) Excise duty on petrol ..	3,46,90	3,95,29	4,42,79	4,90,18	5,32,10
Import on duty—					
(b) Motor vehicles and parts and accessories thereof ..	63,20	68,10	95,02	1,32,81	1,28,08
(c) Rubber tyres and tubes* (including other manufactures of rubber other than rubber tyres and tubes used exclusively for aircrafts) ..	45,53	48,83	43,80	47,72	47,28
(d) Lubricating oils* ..	10,59	11,11	15,41	14,08	14,99

* Duty figures for these articles used exclusively for motor vehicles are not separately recorded in the revenue returns.

TOTAL NUMBER OF MOTOR VEHICLES IN INDIA, ETC.

54. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: (i) Will Government state the total number of motor vehicles now in India (a) for private use, (b) for hiring or plying for taxi purpose and (c) annual amount of taxes realised by various Provincial Governments on these motor vehicles?

(ii) Will Government state roughly the number of people employed with their dependants who make their living on hire or plying of motor vehicles?

THE HONOURABLE MR. A. G. CLOW: (i) The only information which Government have is contained in the provincial reports attached to the Mitchell-Kirkness Report published in 1933, a copy of which is in the Library. This information, however, is not complete and does not relate to any uniform period.

(ii) Government have not the precise information asked for but I would refer the Honourable Member to the 1933 Census Report, Volume I, Part II, Table X, Part I, groups 107 and 142. The figures given there, however, cover a wider range of occupations.

TOTAL NUMBER AND VALUE OF SLEEPERS PURCHASED FOR STATE RAILWAYS DURING THE LAST FIVE YEARS.

55. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Will Government state in detail the total number and value of each kind of sleepers purchased for the State Railways during each of the last five years?

THE HONOURABLE SIR GUTHRIE RUSSELL: I lay on the table a statement containing such information as is readily available, covering the last five years.

Statement showing the number and value of timber and metal sleepers purchased by Class I Railways (including Burma and excluding Jodhpur and His Exalted Highness the Nizam's State Railways) during the year 1931-32 to 1935-36.

Year.	Timber sleepers.			Total value in lakhs of Rs.	Metal sleepers.		Total value in lakhs of Rs.
	Number purchased.				Number paid for		
	B. G.	M. G. (In lakhs).	N. G.		B. G.	M. G. (In lakhs.)	
1931-32	21.23	15.76	1.30	159.48*	9.31†	..	63.47*
1932-33	12.15	15.45	1.17	126.99*	9.96†	..	11.76*
1933-34	12.33	14.46	2.20	92.49*	3.25†	..	21.91*
1934-35	11.98	17.31	1.51	106.28*	7.93†	.42	48.42*
1935-36	12.21	18.10	1.42	113.92	8.06†	.42	52.25*

* These amounts relate to the number of sleepers paid for by Class I Railways (except Jodhpur and H. E. H. the Nizam's State Railways).

† These figures indicate the number of sleepers paid for by Class I Railways (except Jodhpur and H. E. H. the Nizam's State Railways).

INCOMPETENT OFFICERS IN THE INDIAN CIVIL SERVICE.

56. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Will Government state how many, if any, of the officers recruited for the Indian Civil Service by nomination have proved incompetent? What steps do Government propose to take to ensure the recruitment of the right type of persons?

THE HONOURABLE MR. M. G. HALLETT: I am not aware that any officer appointed to the Indian Civil Service by nomination has proved incompetent.

PROFITS ACCRUED DURING THE LAST FIVE YEARS ON THE WORKING OF STATE TELEPHONE SYSTEMS AND TELEPHONE TRUNK LINES.

57. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Will Government state what profits have accrued during each of the last five years:

(a) On the working of various State telephone systems?

(b) On the working of telephone trunk lines?

(c) Are Government considering the lowering of charges on trunk calls? If so, what reduction in such charges is likely to be made and from when?

THE HONOURABLE MR. A. G. CLOW: (a) and (b). Separate profit and loss accounts for the various State telephone systems and for trunk circuits are not maintained. Profits for the Telephone Branch as a whole for the last five years, viz., 1931-32 to 1935-36 were Rs. 1,18,000, Rs. 2,28,000, Rs. 2,73,000, Rs. 23,67,000 and Rs. 13,44,000 respectively. The last figure is provisional as the final accounts for the year 1935-36 have not yet been made up.

(c) Government are not at present contemplating any reduction in trunk call rates. The latter part does not arise.

THE HONOURABLE SIR PHIROZE SETHNA: Is there any reason for the abnormal increase in the second last year of the figures you gave, Rs. 23 lakhs?

THE HONOURABLE MR. A. G. CLOW: There probably is a reason, but I am not in a position to give it to the Honourable Member.

EXCISE DUTY ON VEGETABLE COMPOUNDS.

58. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Will Government state whether they intend to put excise duty on vegetable compounds like artificial ghee, etc., produced in India?

THE HONOURABLE MR. J. C. NIXON: In matters of taxation Government do not announce their intentions in advance—whether those intentions are positive or negative.

RAILWAY FREIGHT CHARGES.

59. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: (a) Will Government state the formula on which State Railways are basing increase in the rates of freights on various articles?

(b) Do Government intend to consult the Indian Legislature before such increases in railway freights are made?

THE HONOURABLE SIR GUTHRIE RUSSELL: (a) There is no general formula; but one of the most important tests that Railways apply in their examination of the question as to whether and what alterations should be made in freight rates is whether an increase in net revenue may be expected without affecting the free movement of traffic.

(b) No. The Honourable Member is no doubt aware that in their examination of the commodities for which freight rates may be altered, Railways are taking fully into their confidence the commercial community and trading interests as represented by recognised commercial organisations such as Chambers of Commerce, etc.

UNEMPLOYMENT AND STEPS TAKEN TO RELIEVE SAME.

60. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: (a) Will Government state what practical steps they have taken to relieve unemployment, particularly amongst the educated classes? If none, why?

(b) What is the total number in India of unemployed people (i) literate and (ii) illiterate?

(c) What practical steps have Government been taking to solve the urgent question of unemployment?

(d) Do they propose to ask the various Provincial Governments to consider and adopt the recommendations of the Sapru Committee appointed by the United Provinces Government?

THE HONOURABLE MR. A. G. CLOW: (a) and (c). I am afraid that it is not possible for me to deal in an answer to a question with the various steps which Government have taken in dealing with industries, agriculture and education which have had, or are likely to have, important effects on middle-class unemployment. But if the Honourable Member will refer to speeches delivered by the Honourable the Leader of the House and myself in the course of the debate which we had on 25th March last, he will find some particulars, and other details were given in previous debates in the Legislative Assembly on the same subject. I would add to this that the recommendations of the Sapru Committee have been engaging the close attention of the Government of India.

(b) No reliable statistics are available of the number of persons who may be unemployed from time to time.

(d) No general reference of the character referred to by the Honourable Member has been made to Local Governments but certain questions arising out of the Report of the Sapru Committee have been referred to them for consideration.

LOANS TO AGRICULTURISTS BY THE RESERVE BANK OF INDIA.

61. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: What decision has been arrived at by the Reserve Bank of India as regards loans

to agriculturists? Will Government lay on the table of this House the details of such decision? If no decision has yet been made, when is it likely to be made?

THE HONOURABLE MR. J. C. NIXON: Presumably the Honourable Member is referring to the Report by the Reserve Bank to the Governor General in Council under section 55(I) of the Reserve Bank of India Act. The Government of India have just received the report and it is at present under consideration.

RURAL INDEBTEDNESS.

62. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: What is the total amount of rural indebtedness in India and what is the total sum of working capital of various co-operative banks, societies and institutions in each province for investment in rural areas as loans to agriculturists? What is the average rate of annual interest these co-operative institutions charge from the agriculturists on the money lent?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: The total rural indebtedness of India was roughly estimated at Rs. 900 crores by the Indian Central Banking Enquiry Committee in 1931. So much of the other information desired by the Honourable Member as is readily available is published in the Statistical Statements relating to the Co-operative Movement in India, a copy of which will be found in the Library of the Legislature.

FREIGHT WAR IN THE INDIAN COASTAL TRAFFIC.

63. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: What steps have Government taken to stop the freight war among the shipping companies engaged on Indian coastal traffic and with what result?

THE HONOURABLE MR. H. DOW: As far as the Government of India are aware, there is at present no freight war in the Indian coastal traffic.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Was there no freight war between the British India and the Scindia Steam Navigation Company?

THE HONOURABLE MR. H. DOW: I am aware that there have been freight wars in the past, but the Honourable Member gave me no indication as to how far he wished me to carry my researches into antiquity in this matter!

SURCHARGE ON FREIGHT OF COAL ON STATE RAILWAYS.

64. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: When is Government likely to abolish the surcharge on freight of coal on State Railways? If not, why not?

THE HONOURABLE SIR GUTHRIE RUSSELL: Not till the financial position improves sufficiently to justify such a sacrifice of revenue. For a detailed explanation of the attitude of Government in the matter, I would refer the Honourable Member to the statement made by Mr. P. R. Rau in another place on the 9th August, 1934 on a Resolution moved for the appointment of a committee on the Indian coal industry. Since then, the surcharge

has been reduced to 12½ per cent., with a maximum of one rupee, but this step has not increased the traffic sufficiently to avoid a loss to Railways.

HEAVY FLOODS IN INDIA.

65. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: What relief does the Government of India intend to give to various provinces where abnormally heavy floods have played havoc? What steps do they intend to take to enquire into the causes of such floods and to adopt measures for their control?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: Abnormally heavy floods occurred in the United Provinces and Bihar and the Local Governments of those provinces have taken adequate steps to meet the situation. Neither has asked the Government of India for any financial assistance.

It is for the Local Governments to enquire into the causes of floods and devise measures for their control, but they have more than once been informed that the Government of India will give them such assistance as is in their power and spheres should they require it.

PURCHASE OF THE BENGAL AND NORTH-WESTERN, ROHILKUND AND KUMAON AND MADRAS AND SOUTHERN MAHRATTA RAILWAYS BY GOVERNMENT.

66. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Will Government state whether they have decided to purchase the Bengal and North-Western Railway, Rohilkund and Kumaon Railway and the Madras and Southern Mahratta Railway? If not, why not?

THE HONOURABLE SIR GUTHRIE RUSSELL: The question is still under the consideration of Government.

PUBLIC DEBT OF INDIA.

67. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Will Government state in detail (a) the total amount of public debt (i) in India and (ii) in England which has been converted into cheaper rates of interest? and (b) by what time the rest of the public debt will be so converted?

THE HONOURABLE MR. J. C. NIXON: (a) The Honourable Member does not say from what date he desires the information. It is probable that the earlier facts are not now recoverable. For more recent years the information is contained in the Honourable the Finance Member's Annual Budget speeches and the Financial Secretary's explanatory memoranda.

(b) I am not in a position to say.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: What efforts are being made by the Government of India to get the conversion of their loans to a cheaper rate of interest?

THE HONOURABLE MR. J. C. NIXON: Whenever a loan falls due for maturity and only at such times does the question arise, we always attempt, if we wish to renew the loan, to renew it on better terms.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: There are a number of loans without any terms. So their question of maturity does not arise.

THE HONOURABLE MR. J. C. NIXON: The Honourable Member, I presume, is referring to the 3½ per cent. rupee loans in regard to which there is no obligation on Government to redeem. Government have considered whether it is advisable to raise money on present terms for the purpose of converting these, and have concluded that at any rate for the present it will not be advisable to do so.

APPOINTMENT OF JUNIOR OFFICERS OF THE INDIAN CIVIL SERVICE AS DISTRICT AND SESSIONS JUDGES.

68. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Is it a fact that Indian Civil Service officers even of a few years' service are appointed as district and sessions judges? Is Government aware of the public feeling against such appointment of junior officers? Do Government propose to fix a minimum limit of approved service for Indian Civil Service officers for their appointment as district and sessions judges?

THE HONOURABLE MR. M. G. HALLETT: I would refer the Honourable Member to my reply to the Honourable Sir Phiroze Sethna's question No. 62 on the 11th March, 1936. As I pointed out then, officers of the Indian Civil Service are appointed as district and sessions judges after they have had adequate judicial experience and training. As Government have received no complaints in the matter they have had no occasion to revise the existing orders. Actual appointments of course rest with the Local Governments.

LOANS BY RURAL POST OFFICES TO AGRICULTURISTS.

69. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Will Government state whether they are considering the question of rural Post Offices lending money to approved poor agriculturists on cheap rate of interest, as is done in the Travancore State?

THE HONOURABLE MR. A. G. CLOW: No. Government have no information regarding the practice in Travancore State.

NEW RAILWAY CONSTRUCTION.

70. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: What new railway constructions do Government intend to undertake during the next financial year, and what are the mileage and the estimated cost of such constructions?

THE HONOURABLE SIR GUTHRIE RUSSELL: Up to date no sanction has been given for constructions in the next year.

PRINCIPLE TO BE ADOPTED WHEN MAKING FURTHER RETRENCHMENT ON RAILWAYS.

71. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: What basic principle do Government intend to adopt when making further retrenchment in railway services? Will posts of railway officers be also reduced in proportion? If not, why not?

THE HONOURABLE SIR GUTHRIE RUSSELL: I would refer the Honourable Member to the reply given to parts (a) and (b) of question No. 33 asked by

the Honourable Rai Bahadur Lala Mathura Prasad Mehrotra in this House on 22nd September, 1936.

COMMUNAL REPRESENTATION IN THE INDIAN CIVIL SERVICE.

72. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Are Government considering the matter of adjusting communal proportion of Indian Civil Service officers by nominating persons of required communities who have passed the Indian Civil Service Competitive Examination but whose position in order of merit has not been high enough for their selection? If not, why not?

THE HONOURABLE MR. M. G. HALLETT: I would refer the Honourable Member to paragraph 7 (i) of the Home Department Resolution No. 14/17-B, 33-Ests., dated the 4th July, 1934, a copy of which is available in the Library. The rules prescribed therein are being followed.

LOSS OF LIFE AND PROPERTY AMONG THE BRITISH INDIAN COMMUNITY IN ABYSSINIA, SINCE OCTOBER, 1935.

73. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Will Government state the total loss of life and money Indians have suffered in the recent war in Abyssinia and Spain? What steps do Government intend to take to compensate these unfortunate sufferers?

THE HONOURABLE SIR BERTRAND GLANCY: So far as Abyssinia is concerned, a statement is laid on the table.

As regards Spain, no loss of Indian life or property has been reported. The Consul General at Tangier, however, has been instructed by His Majesty's Government to furnish a full report on the position as affecting British Indian interests. At the same time Consular Officers in Spain and Spanish Morocco have been instructed by His Majesty's Government to do everything possible to protect property and to take note of particulars which might form basis for possible presentation of claims for compensation.

So far as is known there was no loss of life among the British Indian community in Abyssinia since the commencement of hostilities in October, 1935.

As regards loss of property during the war the bombing of Jijiga by Italian aircraft on the 23rd and 24th March, 1936 is reported to have resulted in damage, amounting approximately to 150,000 Maria Theresa dollars, to the property of British merchants. (The Maria Theresa dollar was worth about 2 shillings before the war and depreciated to M. T. \$13.50=£1 in August, 1935. Its present value is not known.) During the bombing of Harar on the 29th March it does not appear that any damage was done to the property of British Indian merchants.

So far as the period between the disappearance of Ethiopian control in Addis Ababa and the arrival there of the Italian forces is concerned, serious rioting and looting broke out in the town, and the plan which had previously been prepared for the protection of British subjects and foreigners in Addis Ababa was put into operation. The majority of the British Indian community numbering about 500 persons, were given shelter in the compound of the British Legation. Others, however, preferred to remain in their own premises and these put up a very stout resistance in defence of their property.

During this period of interregnum rioting and looting also broke out at Harar, where His Majesty's Acting Consul rendered valuable service in protecting the lives and property of British Indian subjects.

His Majesty's Charge d'Affaires at Addis Ababa has reported that some 350 statements have now been filed at His Majesty's Legation by British subjects and protected persons in respect of losses suffered during the period of the rioting, valued at approximately M. T. \$2,250,000 in Addis Ababa alone. Similar statements are being prepared under the direction of His Majesty's Acting Consul at Harar. This matter is under consideration by His Majesty's Government in the United Kingdom. In view of the disappearance of the Abyssinian Government and of that fact that it would be difficult to prove Italian liability in respect of losses suffered prior to the Italian occupation of Addis Ababa, the prospects of securing any compensation are remote.

MEETING OF TRANSPORT CHARGES OF INDIAN MILITARY UNITS IN ABYSSINIA AND ADEN BY HIS MAJESTY'S GOVERNMENT.

74. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Will Government state whether the cost of keeping Indian military units in Abyssinia and additional units at Aden and of their transport will be debited to the War Office? If not, why not?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: The entire cost is borne by His Majesty's Government.

CONGRATULATIONS TO THE HONOURABLE MR. M. G. HALLETT ON HIS APPOINTMENT AS GOVERNOR OF BIHAR.

THE HONOURABLE THE PRESIDENT: Honourable Members, before we proceed with our business, I feel sure you would like me to offer the Council's congratulations to the Honourable Mr. Hallett on his appointment to the exalted office of Governor of Bihar. (Applause.) Mr. Hallett has been in this House for some years. His whole service has been remarkable not only for his achievements but for the conscientious and highly efficient manner in which he has rendered service to the Local Government as well as to the Government of India. He joined the Civil Service in 1907, first at Bihar and after a few years' work he was translated to Bengal where he also rendered excellent work and on the formation of the new Province of Bihar after the partition of Bengal he rejoined his old province to which he is now shortly to revert in a much more exalted office. Both in Bihar and Bengal his work was very much praised and appreciated and when he left Bengal to join his own province again I remember having seen a notice in the paper at the time of the valuable services he had rendered to that province. However, most of his time has been spent in the Secretariat both in Bihar and in the Government of India. In the Bihar Secretariat he was also a Secretary and Chief Secretary, and subsequently was in charge of a big district, and on account of his good work and ability he was selected as one of the officers to go to the Government of India in a higher sphere of activity. As Secretary in the Home Department he succeeded another official with a great reputation, Sir Herbert Emerson. You are all aware that the duties of the Secretary in the Home Department are by no means of an easy character. He has held over a three and a half years' tenure as Home

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Secretary. He has been associated throughout with the Council of State and we have not only learned to admire his great grasp of difficult cases, but his marked ability to put all propositions clearly before this House, his suavity of manner, his charm and gentleness and his courtesy even to his opponents when he had the misfortune to differ from them on most important points. We all know, and you all probably remember with a sense of admiration, the many excellent speeches which were made by him when matters connected with terrorism, repressive legislation or other matters came up, and the sympathy he evinced and the sagacity with which he dealt with all important points. We will all miss him from this House where he has been a great figure and a tower of strength to the Government Benches for the last four years, but we derive consolation from the thought that he is going to a much more exalted office and that what will be the loss of the Council of State will be the gain of the Province of Bihar. (Applause.) He will take charge just about the time when provincial autonomy will be inaugurated in that province and we could not conceive of a more capable and sympathetic officer to give autonomy a good start and support the new constitution with his encouraging help. As the new Governor when the new constitution is inaugurated, his duties will be more arduous. The duties of Governors are now-a-days no bed of roses. They have to perform most odious tasks and even when they are conscientiously and justly doing their duties they are abused and reviled and their work depreciated. But I feel confident that though the new constitution will be worked by the Chief Minister there and his Cabinet, the tower of strength will be Mr. Hallett behind them and I have every confidence that he will make a great success of his gubernatorial office as he has done of the many offices which he has held up to now with great distinction. (Applause.)

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Leader of the House): Sir, I wish to add my congratulations to yours on the Honourable Mr. Hallett's appointment as Governor of his old Province of Bihar. Our very best wishes go with him in his new office. I hope that during his five years' tenure, nature will be kind to his province and that flood and earthquake will not add to his heavy task. I also hope that there will be no political upheaval and that Mr. Hallett will be able to devote his great abilities to making the new provincial constitution a striking success. I also hope, and perhaps not in vain, that in his new sphere Mr. Hallett will not come to think of some of us as living in cloudland, as being entirely cut off from provincial realities and as being meddlesome and futile. Mr. Hallett is going shortly on leave. We wish him a smooth voyage and a pleasant holiday,—which I think will be the more enjoyable because he will have the consciousness that he at least cannot be accused of interfering in political elections,—and a safe return to his arduous duties.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan): Sir, I on my own behalf and on behalf of my Party offer our hearty congratulations to the Honourable Mr. Hallett, who has been very courteous to all of us in this House, on his appointment as Governor of Bihar. We wish him all success in his new career and we hope

that in his new appointment he will show the public that the special powers which have been conferred upon the Governors will be used only in case of great emergency. We wish him every success and every fame in his new job and peace and prosperity to Bihar under his rule.

THE HONOURABLE KHAN BAHADUR SHAMS-UD-DIN HAIDAR (Bihar and Orissa : Nominated Non-Official): Sir, I have much pleasure in associating myself with the sentiments of appreciation and genuine satisfaction expressed by the Honourable the President and the Leader of the House on the appointment of the Honourable Mr. Hallett as Governor of the Province of Bihar. I know the pleasure is shared alike by all the Members of this House. But my position, Sir, is a bit different.

I know the Honourable Mr. Hallett more intimately and for a much longer time than most of the Honourable gentlemen in this House are privileged to claim. I have known him since the year 1909—a period of 27 years. In the early days of our service, we have lived side by side in canvas in the same mango tope, and later on it was my unique good fortune to have been closely associated with him in the work of administration of some of the important districts of the province to which after a break of four years or thereabouts he goes back as its head. It was so ordained that in the charge of some of these districts either he preceded me or I preceded him. These districts were Gaya, Purnea and Patna. In the districts in which he preceded me I found that people of all classes, rank and persuasion had nothing but praise for him, his ability and his great nobility of mind. In spite of being thus overshadowed, I tried to emulate him, though I must confess, with little success. As for his activities in this House, it is not necessary for me to speak at any length after all that has fallen from the lips of the Honourable the President. On all questions relating to his Department he has shown a rare insight and mastery of the subject and the courteous and able manner in which he has marshalled his replies and arguments has evoked the praise of one and all of us. Mr. Hallett is an officer of towering ability, great tact and never-failing courtesy, who in my part of the country is known as the modern "Nowsherwan" for his great sense of justice, equity and fairness. (Applause.) I feel sure his experience of Bihar, his minute knowledge of the details of the administration of that province, his knowledge of men, his great tact and sympathy for the aspirations of all right-minded people will make the working of the autonomy which is to come in April next so smooth and successful as to draw the admiration of both officials and non-officials and the people at large. Sir, I on behalf of myself and the people of Bihar heartily congratulate Mr. Hallett on his appointment as Governor of one of the important provinces of British India and devoutly pray that he may live long to win greater honour and still greater advancement. (Applause.)

THE HONOURABLE MR. M. G. HALLETT (Home Secretary): Sir, it is embarrassing to have to listen to speeches such as those which have been so kindly delivered by you and other Honourable Members of this House. It is still more embarrassing to have to reply to them. I will therefore be as brief as possible. At the outset, I must correct one mistake of fact which occurred in your speech, Sir. By your remarks you implied that I had spent most of my time in the

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Secretariat. That is not correct. My Honourable friend, Khan Bahadur Shams-ud-Din Haidar, who has known me, as he has said, for 27 years can testify to the fact that I have been District Officer of five districts in Bihar and Commissioner of two divisions, and I claim that to be a great asset and know that that experience will be a great help to me when I go back to my Province to the office of Governor. To be brief, I will merely thank this Council for the very kind way in which they have offered me their congratulations and good wishes and say that I shall always look back with pleasure to these four years and to the very pleasant time I have had as a Member of the Council of State. I have listened with interest to many interesting debates in this House and I have always received the full support of all Honourable Members of this Council to any important proposals which I have had to put before them. We have also been associated together in many social gatherings. In fact, the Council of State is a very pleasant social club. We are all good friends, and even if we differ, we are still good friends. I shall always look back with pleasure to these years of my life in the Council of State. I trust I shall meet many of my friends from this House when I am at Patna or Ranchi. Sir, I thank you and all Honourable Members of this House for their very warm congratulations. (Applause.)

RESOLUTION *RE* PREVENTION OF THE GROWTH OF COMMUNISM.

THE HONOURABLE THE PRESIDENT: We will now proceed to the discussion of the Honourable Sir Phiroze Sethna's Resolution. I understand you have a point of order, Mr. Banerjee?

THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE (East Bengal: Non-Muhammadan): Sir, I rise to a point of order before the Resolution is moved by my friend the Honourable Sir Phiroze Sethna. I invite your attention first to rule 23 (I) of the Legislative Rules. It reads as follows:

"Every resolution shall be in the form of a recommendation to the Governor General in Council".

Therefore, Sir, I ask for your ruling whether my friend can move the first part of the Resolution which is not a recommendation to the Governor General in Council but merely requests this Council to disapprove the actions of private bodies and private individuals who might have expressed ideas not in any Legislature nor in the discharge of any duties assigned to them by the Government. The portion reads as follows:

"This Council expresses its strong disapproval of the communistic ideas advocated and propagated by the President of the Indian National Congress and others".

The second point on which I wish to have your decision is whether this Council has got any *locus standi* to approve or disapprove of the action or of the expressions of views by individuals like the President of the Indian National Congress or by organised bodies like that of the Congress. I do not think, Sir, that it is the business of this House constituted under the Government of India Act, 1919, to pass a Resolution approving or disapproving the views expressed by individuals in their personal capacity and not in the discharge of any duty assigned to them either by the Government or by any

Act of the Legislature. I think if we discuss the first part of the Resolution today in this House it will lead the door wide open in future to bring before this House such resolutions approving or disapproving actions of various leading men and personalities.

The third point I wish to raise is that whether a Resolution admitted by you outside the Chair has got the same sanctity as a decision from you while occupying the Chair. Sir, the Resolution I know has been admitted in its present form by you for discussion in the House but I think the Members of the House are not precluded to ask for a ruling from the Chair as to whether the second part of the Resolution in its present form does not militate against Standing Order 58 (a) as raising two distinct different issues, *viz.*, the adoption of measures for combating unemployment of the lower middle classes and, secondly, the adoption of measures for the reduction of poverty and distress of the agricultural labour population.

THE HONOURABLE SRIJUT HERAMBA PROSAD BARUA (Assam: Non-Muhammadan): I would like to raise another point of order.

THE HONOURABLE THE PRESIDENT: I think it will be convenient if I dispose of this point of order first and then hear other Members. The Honourable Mr. Jagadish Chandra Banerjee has raised a very important point of order. I am grateful to him for extending me the courtesy of bringing this matter to my notice at the last hearing. I requested him to supply me with a copy of the speech which he proposed to make, but I was not fortunate in securing a copy.

THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE: I had only one copy.

THE HONOURABLE THE PRESIDENT: That is what I am mentioning, and so if I do not do sufficient justice to his point of order it will not be my fault.

So far as I understand, he has raised three points in his speech. The first is that this is not in the form of a recommended Resolution as provided by rule 23 (I). The second point he raised, if I understood him aright, is whether the Council has got any *locus standi* to approve or disapprove of the action or expression of opinion of individuals like the President of the Indian National Congress or other private bodies. The third point which he raised, and I feel my inability to follow him, is that a Resolution admitted by the President outside the Chair—I do not know what he means by outside the Chair—has got the same sanctity as a decision from the Chair.

As regards the first point that the Resolution has not been drafted in proper form, I am entitled to agree with him that the Resolution as it stands does not comply with the provisions of rule 23 (I) of the rules framed under the Government of India Act, 1919. I shall therefore suggest, after disposing of the other points, a few alterations in this Resolution and I feel sure that the Honourable Sir Phiroze Sethna will accept my recommendation.

As regards the second question, whether the Council has got any *locus standi* to approve or disapprove of the action or expression of views of individuals like the President of the National Congress or private bodies, I say this is a very important question and my answer is in the affirmative and that the Council has a right to discuss propositions affecting public interests. In order that

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you may correctly follow my decision I will first refer you as regards this second point to Standing Order 59. Under that Order the admissibility of all Resolutions rests with the President. That Standing Order says :

"The President shall decide on the admissibility of a resolution and may disallow any resolution when in his opinion it does not comply with the Standing Orders and shall disallow any resolution if it infringes the rules as to the subject-matter of the resolution".

It is therefore necessary for me to decide whether Sir Phiroze Sethna's Resolution does not comply with the Standing Orders in any way or infringes the rules as to the subject matter of resolutions. Now, the restrictions regarding the admissibility of resolutions have been prescribed within the four corners of the Legislative Rules and the Standing Orders. I do not find that this Resolution of Sir Phiroze Sethna in any way offends against the restrictions imposed under rule 23 (1), (2) and (3) which refer to matters affecting the relations of His Majesty's Government or of the Governor General or the Governor General in Council, with any foreign State ; any matter affecting the relations of any of the foregoing authorities with any Prince or Chief under the suzerainty of His Majesty or relating to the affairs of any such Prince or Chief or to the administration of the territory of any such Prince or Chief ; and any matter which is under adjudication by a Court of Law having jurisdiction in any part of His Majesty's dominions. So under rule 23 this Resolution is perfectly admissible. But we have to consider the Standing Order 58 which states :

"Subject to the restrictions contained in the rules (that is rule 23 to which I have just referred) and to the provisions of these Standing Orders, any member may move a resolution relating to a matter of general public interest :

"Provided that no resolution shall be admissible which does not comply with the following conditions, namely":

But these conditions do not affect the Resolution. The only question therefore for me now to decide is whether Sir Phiroze Sethna's Resolution relates to a matter of general public interest which could be discussed in the House. As regards the objection as to the *locus standi* of the Council to approve or disapprove, I think the Honourable Mr. Banerjee is labouring under some misapprehension in the matter in thinking that this Resolution refers only to approval or disapproval of the action of a private individual. The President of the Indian National Congress made that statement not in his private capacity but in his capacity as President of a most important political body, and we are not concerned with any private statements which he has made to newspaper editors or others. The President of the Congress made a definite statement about the adoption of communistic ideas and principles and advocated the same publicly and most vehemently and said that such principles should form in future the accepted policy of the people of India. The enunciation of such a revolutionary policy certainly, in my opinion, is a matter of great public interest and it comes within the purview of Standing Order 58, which says that any member is entitled to bring forward a Resolution relating to a matter of general public interest. I therefore hold that this being a matter of general public interest, the Resolution is in order.

As regards the third point I am not quite able to follow, that a Resolution admitted by the President outside the Chair has got the same sanctity as a decision given from the Chair. I do not quite follow the Honourable Member's meaning and argument, but if he means that the President is precluded from admitting a Resolution relating to a matter which has been moved at a public political meeting, then I entirely differ from him. The President has the power of admitting any Resolution subject to the Standing Orders explained above. That power is further subject to the control and final decision of the Governor General. He may disallow any Resolution in the exercise of his prerogative. This Resolution has been on the list of business for nearly two or three weeks. The Governor General has not exercised his prerogative in disallowing this Resolution and I am therefore fortified in my conclusion that I was right in admitting this Resolution of such an important character for debate and discussion in the House.

So far as the Resolution is concerned, as I hold that the first part is not correctly framed, I would request the Honourable Member, Sir Phiroze Sethna, just to slightly alter his Resolution. If the Honourable Member, instead of saying :

"This Council expresses its strong disapproval of the communistic ideas advocated, etc.",

will say as follows, I maintain it will be in order :

"This Council recommends to the Governor General in Council that in order to prevent the growth of communistic ideas advocated and propagated by the President of the Indian National Congress and others well considered measures should be adopted as early as possible for relieving unemployment, particularly among the educated lower middle classes, and for reducing poverty and distress in the vast agricultural and labour population and for promoting their welfare generally."

(To the Honourable Sir Phiroze Sethna): Do you follow ?

THE HONOURABLE SIR PHIROZE SETHNA : I do, Sir.

THE HONOURABLE THE PRESIDENT : I shall now be glad to hear the other objections.

THE HONOURABLE SRIJUT HERAMBA PROSAD BARUA : Sir, I was going to ask if a Resolution which contained arguments was in order under Standing Order 58 (b) and whether the first part of the Resolution did not militate against that provision in Standing Order 58 (b).

THE HONOURABLE THE PRESIDENT : I cannot see at all the Honourable Member's point of order. Part (b) of Standing Order 58 says :

"It shall not contain arguments, inferences, ironical expressions or defamatory statements, nor shall it refer to the conduct or character of persons except in their official or public capacity".

THE HONOURABLE SRIJUT HERAMBA PROSAD BARUA : Sir, I contend that the first part is rather argumentative ?

THE HONOURABLE THE PRESIDENT : No, I hold it is not.

THE HONOURABLE MR. P. N. SAPRU (United Provinces Southern : Non-Muhammadan) : On a point of order, Sir. Under Standing Order 69, I submit that a part of the Resolution of Sir Phiroze Sethna is out of order. I had the honour of moving a Resolution on Unemployment on the 25th March, 1936 and, if you, Sir, will look at Standing Order 69, you will find that the

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present Resolution is therefore out of order. That Order says that when a Resolution has been moved, no Resolution or amendment raising substantially the same question shall be moved within one year. I submit, Sir, that the first part of the Resolution is in the nature of a preamble. The substantive part of the Resolution is that measures should be taken to relieve unemployment. I therefore submit that the Resolution of Sir Phiroze Sethna is out of order; at any rate a part of that Resolution is out of order.

THE HONOURABLE THE PRESIDENT: You are referring to a Resolution which you moved in Delhi?

THE HONOURABLE MR. P. N. SAPRU: Yes, Sir.

THE HONOURABLE THE PRESIDENT: Standing Order 69 (I) says:

"When a resolution has been moved, no resolution or amendment raising substantially the same question shall be moved within one year".

In order to ascertain this, we will see what the Resolution of the Honourable Mr. Sapru was. That Resolution was:

"This Council recommends to the Governor General in Council to give effect to the recommendation of the United Provinces Unemployment Committee, that the Government of India should take steps which would relieve unemployment among the educated classes of India".

The Resolution which I have just read referred to the Report of your distinguished father and other members of that Committee. That Resolution purported to say that steps may be adopted as recommended in the Report for the purpose of relieving unemployment and nothing more. Though Sir Phiroze Sethna's Resolution refers to unemployment in an indirect manner, it has nothing whatsoever to do with the Resolution moved by the Honourable Mr. Sapru in April last. This Resolution says:

"This Council expresses its strong disapproval of the communistic ideas advocated and propagated by the President of the Indian National Congress and others, and recommends to the Governor General in Council that in order to prevent the growth of such ideas, well-considered measures should be adopted as early as possible for relieving unemployment, particularly among the educated lower middle classes, and for reducing poverty and distress in the vast agricultural and labour population and for promoting their welfare generally".

It refers only incidentally and in an illustrative manner to the question of unemployment. It says in order to stop communistic propaganda if relieving measures like those stated in the Resolution of a general character are adopted it will prevent the growth of this objectionable propaganda. It is entirely a distinct proposition. It is not substantially the same question which is prohibited under Standing Order 69 and I therefore rule that the Resolution is in perfect order.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN (West Punjab: Muhammadan): On a point of information, Sir. As the Resolution has now been re-drafted, my request is to waive the time limit and allow us to send in any amendment we like with regard to the wording of the Resolution.

THE HONOURABLE MR. V. C. VELLINGIRI GOUNDER (Madras: Non-Muhammadan): I want to place the same point before you, Sir. With your permission, to move an amendment.

THE HONOURABLE THE PRESIDENT: It is true that the Resolution has been amended, but I may assure the Council that it does not affect the substance and the contents of the Resolution. The substance and contents of the Resolution remain unaffected. Only the Resolution proceeded with the expression of disapproval without bringing in a recommendation to the Governor General in Council in that particular form which has been prescribed by rule 23. All the same there is only a formal change in the Resolution. I shall allow Honourable Members to move any amendments they desire relating to the wording of the Resolution even though the required notice has not been given, provided I find those amendments are relevant and do not affect the original Resolution.

THE HONOURABLE SIR PHIROZE SETHNA (Bombay: Non-Muhammadan): Mr. President, I thank you for your decision on the points of order that have been raised. I would like to admit that on second thoughts I myself came to the conclusion that a Resolution must not express an opinion but make a recommendation, I therefore certainly accept your ruling, Sir, and will move the Resolution in its amended form as follows:

"This Council recommends to the Governor General in Council that, in order to prevent the growth of communistic ideas advocated and propagated by the President of the Indian National Congress and others, well-considered measures should be adopted as early as possible for relieving unemployment particularly among the educated lower middle classes, and for reducing poverty and distress in the vast agricultural and labour population and for promoting their welfare generally".

This House and the Government must have noticed ominous portents on the political horizon in this country. Recently, socialistic and communistic ideas have received an impetus from the vigorous propaganda carried on by Pandit Jawaharlal Nehru, President of the Indian National Congress. Considerable stir, excitement and alarm have been caused by that propaganda among those who belong to what are called capitalists, propertied classes or classes with vested interests in the country. The rise of socialism or communism is not quite new in this country. There is a distinct socialist party within the Congress organisation which has been carrying on its activities and making a good deal of noise within recent years. Its influence within the Congress and outside is steadily growing, and the leaders of that party seem to be confident that the Congress will become a socialistic organisation in the very near future. Communism also, though perhaps not so active, and growing in influence, seems to be capturing the minds and hearts of an increasing number of young men. The House will remember that some years ago a prosecution was instituted by Government against some communists and the result of that trial shows that it would be folly to think that communistic ideas have taken no root at all in this country. Nevertheless, until Pandit Jawaharlal Nehru became the President of the Congress and began his propaganda in favour of what it is difficult to decide, whether it is socialism or communism, socialistic or communistic ideas did not receive widespread or close attention from those who believe and feel that such ideas are extremely harmful and are calculated to retard not only the political but the entire national development of India.

Pandit Jawaharlal Nehru enjoys amongst his countrymen an amount of influence and popularity which cannot be claimed by any other socialistic or

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communistic leader. He is undoubtedly a man of parts. He has played an important role in Congress politics. Ever since the adoption by the Congress of direct action, either in the form of non-co-operation or civil disobedience, he has devoted himself to the interests of India, as he sees them. He is an ardent national worker and leader and has suffered greatly, having gone to jail seven times. Nobody can question his sincerity, his earnestness, his patriotism, his devotion to his cherished ideals, his many qualities of head and heart, his spirit of self-sacrifice. He also enjoys the prestige of being a member of a prominent family. In 1930 he became the President of the Congress for the first time at the age of 40 and this year for the second time, the honour and the responsibility of the Presidentship of the Congress has fallen on him. Such being his abilities, his merits, his influence, and his position in the public life of India, it is not at all a matter of surprise that his advocacy of socialism and communism have strengthened the forces which seek to destroy the existing political, social and economic order, and raise on its ruins a new order, socialistic or communistic. I am using both these words, because it is not quite clear whether he himself makes any distinction between the two. He calls himself a socialist but the ideas which he has propagated and advocated in his presidential address at the Lucknow Congress and in the speeches he has delivered at Bombay and elsewhere, border so closely on communism that it would be no mistake to describe him as a socialist of the communistic brand. There can be no doubt whatever that by whatever name his particular 'ism' may be called, the result of his propaganda has been to give a fillip to both socialistic and communistic ideas, and naturally and inevitably, by way of reaction, to create alarm among large sections of the Indian people and to bring the question of countering and opposing these ideas within the sphere of imperative practical politics.

Till now, all those who are opposed to socialism or communism have not thought it necessary to express their own views and feelings and do anything to combat these views and to protect our people from their ruinous effects. But as I have started by saying, the portents are ominous and it would be criminal and suicidal folly on the part of all those who are convinced that Socialism and Communism are wrong politics which cannot but engulf this country into a revolution, a class warfare, to sit quiet any longer, not to organise and marshall their own forces in order to check, to combat and ultimately to destroy these new-fangled, dangerous ideas imported from the West, particularly from Bolshevik Russia. It is because I realise and realise most keenly the danger that threatens the future of this country by the growth and spread of these ideas, that I have brought forward this Resolution and I am sure that this House will join with me in expressing its strong condemnation of the communistic ideas advocated and propagated by Pandit Jawaharlal Nehru. The House will notice that my Resolution does not content itself with a mere expression of disapproval. It is not a mere negative Resolution. In the second part of the Resolution I make some proposals for which I claim no originality for these proposals are generally regarded not only as a cure but as a preventive against the spread of communistic ideas.

Let us see what views and ideas Pandit Jawaharlal Nehru has been advocating and propagating with his characteristic ardour, vehemence and persistence. In his presidential address at the Lucknow Congress, he said :

"I am convinced that the only key to the solution of the world's problems and of India's problems lies in Socialism. . . . I see no way of ending the poverty, the vast unemployment, the degradation and the subjection of the Indian people except through socialism. That involves (*mark these words*) vast and revolutionary changes in our political and social structure, the ending of vested interests in land and industry, as well as the feudal and autocratic Indian States system. That means the ending of private property, except in a restricted sense, and the replacement of the present profits system by a higher ideal of co-operative service. In short it means a new civilisation radically different from the present capitalist order. Some glimpse we can have at this new civilisation in the territories of the U. S. S. R. I look upon that great and fascinating unfolding of a new order and a new civilisation as the most promising feature of our dismal age. If the future is full of hope, it is largely because of Soviet Russia and what it has done, and I am convinced that, if some world catastrophe does not intervene this new civilisation will spread to other lands and put an end to the wars and conflicts which capitalism feeds".

Then referring to the question of the forming of a united front against imperialism, he says :

"The essence of a joint popular front must be uncompromising opposition to imperialism and the strength of it must inevitably come from active participation of the peasantry and workers".

This is what he said in his address and he sang the same tune throughout his tour in Bombay and elsewhere. He is reported to have said in reply to a question put to him at a Bombay meeting, that his socialism is virtually indistinguishable from communism. Let us analyse the statements made by him which I have quoted. He speaks about ending private property "except in a restricted sense". The expression "except in a restricted sense" is quite vague, and I wish that for the sake of clarity of thought and definiteness of his own position, he had amplified and elaborated the nature and extent of private property which he is willing to permit. Even in Russia all private property is not completely destroyed under the Soviet system. Again he wants that all anti-imperialist forces should be organised and joined together, but in the same breath he says that the strength of such a united front must inevitably come from the active participation of the peasantry and workers. What is the drift of it all? What does it mean? It can obviously mean nothing else than that all people including those owning property and having vested interests should combine to destroy imperialism, but that when once imperialism is destroyed the peasants and the workers should dominate and turn against those very people who have given their co-operation in destroying imperialism and abolishing private property and vested interests. That means the rule and the inevitable dictatorship of the proletariat. If he is to be taken to mean that the anti-imperialist combination will, from the start, exclude the co-operation of propertied classes and of men with vested interests, on the ground that no genuine or substantial co-operation can ever come from them in fighting imperialism, the conclusion that follows is the same, namely, that the ultimate goal is to establish the domination or dictatorship of the workers and the peasants, and then to use that domination and dictatorship for abolishing private property and vested interests. Pandit Jawaharlal Nehru does not say in so many words that this is communism. He is shrewd

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enough not to do so. But all those who will carefully and critically weigh the language that he has used cannot resist the conclusion that the real and obvious trend of his policy is the establishment of a communistic order fashioned more or less after the Russian model.

I have so far shown the real nature of Pandit Jawaharlal Nehru's views and ideas. He does not seem to be absolutely clear about his own position. Nevertheless, there seems no doubt that his ideology is almost identical with that of communism. He is out for a radically different social and economic order, built upon the ruins of the capitalistic order. And this fundamental change he seeks to bring about by revolutionary methods, and not by a reconciliation of capital and labour. Indeed he thinks that such reconciliation is impossible and that therefore a class warfare is inevitable.

At this stage, the House will, I hope, bear with me if I enter into some theoretical discussion of communism and socialism. I may at once state that the tendency today is to sympathise with and commend the social purpose which socialism has in view and I endorse that view. Every sensible and reasonable man recognises that there is terrible and heartrending poverty in this country. There can be no doubt whatever that Indian society must be so improved and reconstructed that poverty if it cannot be altogether removed it might at least be reduced by human efforts, individual or collective and institutional to such an extent as cannot be avoided. The extreme social and economic inequality must also be removed, and the entire social relationship between class and class based on absolutely fair and equitable principles. The endeavour must be that every person who is willing to work and can fit into a job, might be provided whenever possible with employment and everyone must be in a position to eke out a reasonably comfortable existence. With such a goal of human life, of human endeavour and of human organisations, everybody would have the fullest sympathy. And it is because this ideal is now generally recognised that modern governments and states show an increasing tendency to adopt this really practicable and reasonable part of the professed socialistic programmes. A carefully adjusted socialistic programme without trying to destroy private property, without showing any unfairness and hostility to capitalism, without seeking to foment class struggle and to do away with capitalism altogether may not be open to any objection. In a modern state with its ever increasing and complicated national and international interests and relationships, the old conception of a purely individualistic state with its functions united to those which are quite elementary, has really become out of date. The functions of the state have today necessarily become much wider and include several which if rightly analysed are socialistic. To this extent, therefore, there can be no quarrel with the socialisation of the state and the government. But socialists and communists go very much further than this and they think and maintain that almost all sides and activities of life must be subjected to a severe and complete socialistic regimentations and the whole society must be reduced to a single class or rather that society should be a class-less one. To this, we feel ourselves bound to be opposed, not because vested interests are involved, but because anti-socialists are selfish grabbers after wealth and privilege, not

because they are devoid of any social feeling and aspirations, but because socialism, except to the limited extent to which I have referred will lead to a state of society in which all individual liberty, initiative, sense of responsibility, incentive to improvement and enterprise will become extinct. Socialism in the unqualified and unrestricted form in which it is advocated is impossible without excessive governmental control and regimentation and such control and regimentation is an evil which men cannot or ought not to submit to. These objections apply with greater intensity, greater force to communism. And above all there can be no compromise whatever with a school of thought or party organisation which would seek to impose such a revolutionary transformation of society by force. Capitalism may not be all what it should be. There are undoubtedly bad capitalists as there are good ones. Capitalism might well be improved and liberalised. Capitalists must certainly realise that the wealth they enjoy and the advantages they command are gifts which should be used by them as much as they can for the benefit of those to whom wealth and such advantages are denied. But because capitalism is not yet what it should be and some capitalists are not what they ought to be, it does not follow that capitalism and capitalists must be destroyed root and branch, that they should be given no quarter whatever and that the masses must become the real masters of the destinies of human society.

There is one further consideration, though not of a purely theoretic character to which I wish to draw the attention of all those who so recklessly preach the gospel of socialism and communism. Do they think that the ancient culture, the ancient thought, the ancient traditions of this land can be so completely wiped out as to give place to such an utterly alien ideology and mode of thinking and manner of social life as socialism or communism. There is not a single text or statement in the vast and varied Hindu or Muhammadan literature in which anything like communism or socialism is advocated. You can improve the past but you can never cut yourselves entirely adrift from it. If this can be said of India it is equally true of some Western countries. For example, communism is foreign to the whole French temperament. The French people have a far too highly developed sense of property to fall an easy prey to the doctrines of Karl Marx. Thrift has always been one of the French virtues which accounts for France having the strongest middle class of any country in the world. Years of depression have only accentuated it. The French working man counts his sous far more assiduously than his English prototype counts his half pennies. His consuming passion is to have a secret hoard. Notwithstanding we have to recognise that communism is forging ahead even in France of late years, yet it is generally believed it cannot ultimately thrive in that country as it has done in Soviet Russia. I am hoping it will not only never thrive but that it will be nipped in the bud in this land. After the overthrow of the Kaiser, Germany was for a while in the grip of communism. She has however now changed her outlook in political matters in regard to the doctrines of communism. Communism is today regarded in the whole of Germany as its public enemy No. 1 and so must we in India. The very recent history of Spain is a lesson to the world as to the horrors that follow in the train of communism, and that is the least that can be said about it.

THE HONOURABLE MR. P. N. SAPRU : The Spanish Government is not a Communist Government, it is a Liberal Government.

THE HONOURABLE SIR PHIROZE SETHNA : I beg to differ.

THE HONOURABLE THE PRESIDENT : Order, order. Don't argue, go on with your speech.

THE HONOURABLE SIR PHIROZE SETHNA : I now come to the second and constructive part of my Resolution. My recommendation is that proper measures should be taken to arrest the growth of these communistic and socialistic ideas. It is a universal and undeniable truth that no revolutionary ideas ever grow except in favourable circumstances. The history of the socialist and the communist movement in the West clearly shows that they would not have taken root there, but for certain predisposing causes. The rise and growth of these ideas in our own country is no doubt partly due to the impact of Western thoughts and influences. Many feel a great fascination for Western history, Western thought, Western culture and Western institutions. They are so much divorced from their own culture, thought and traditions, that they seem to think that whatever is Western is universally true and applicable to their own country. Some of them are so much intellectually and emotionally enslaved by communistic and socialistic ideas that their sense of historical perspective is almost lost. They have no sense of reality and are utterly ignorant of the vital principle of their own historical growth and development. They live in a mental life of their own and think that such ideas, superficially glamorous as they are, can be easily adopted in this country and bring about a millenium.

When two countries are brought together and have such close associations as those between England and this country, it is but natural that mutual actions and reaction of thought should take place between them. But this accounts only partially for the genesis and growth of the socialistic and communistic ideas in India. The vital causes must be sought elsewhere. They are to be found in increasing unemployment, particularly among the educated middle classes and in the dire poverty and distress among the vast bulk of the population. If there had been no such unemployment and if the British Government had long ago taken measures to reduce the poverty of the people and raise their standard of living, I have no doubt whatever that this problem of meeting socialism and communism would not have arisen at all ; at any rate it would not have reached any serious proportions and such gravity as perhaps is the case today. More than two generations have passed since that Grand Old Man of India, the late Dadabhai Nowroji drew the pointed attention of Government to the poverty of India and constantly impressed upon them the duty of removing it. But his voice and the voice of those who joined him or followed him in urging that this poverty is a canker eating into the vitals of India and undermining the foundations of British rule, has been a cry in the wilderness.

It is only recently that Government seems to have been awakened to the vast and deep seriousness of the problem of Indian poverty. The situation however is not yet hopeless and can be brought under control by the adoption of proper measures. These measures must be taken promptly. Any further

delay will make the situation so hopeless as to be beyond improvement. It is the apathy—the culpable apathy—of Government in this respect that is really responsible for the growing hold of socialistic and communistic ideas upon the people, in particular upon the youth of this country. The immediate problem before Government is to concentrate their resources and attention for relieving unemployment, reducing poverty and in general improving the economic condition of the people. With regard to unemployment, the United Provinces Government is entitled to gratitude for appointing a Committee to consider the question of unemployment. This Committee under the Chairmanship of the Right Honourable Sir Tej Bahadur Sapru have gone into the question with a thoroughness and in a practical spirit which does them credit. What is wanted is to implement their recommendations. Again, the Punjab Government has set out about creating an unemployment bureau as a step towards the relief of unemployment which is a step in the right direction and the Governments of other provinces should follow suit.

Fortunately we have at the head of Indian affairs a Viceroy who takes a keen interest in the material welfare of India and whose one ambition seems to be to raise their standard of life of the people. His report on agriculture, when he presided over the Agricultural Commission, is a monumental document. If measures are taken in accordance with the recommendations in that report, with regard to the improvement of the condition of the agricultural population, and in accordance with the Sapru Committee's recommendations, as regards unemployment and further if the recommendations of the Labour Commission are also carried out, the country feels confident that within a short time socialistic and communistic ideas will die an inevitable death, for want of sustenance but not until and unless such measures are taken. In this connection it is gratifying to note from a reply given by the Honourable Sir Frank Noyce in the other place on the 7th of this month that Sir Tej Bahadur's Report on Unemployment is being examined from an all-India point of view and that the Government of India would do everything in their power to expedite its consideration. This is hopeful and assuring.

The new constitution will soon be functioning. As it has given no satisfaction, the political and constitutional problem will remain and continue to give a lot of trouble. But the constitutional and political problem by itself will not promote the growth of socialistic and communistic ideas, if it is not aided by social and economic discontents. Let Government remove these discontents and remove them quickly and then it will be found that the socialistic and communistic ideas have lost all the hold that they have obtained at the present moment. Repression will not succeed in destroying these ideas, without a proper constructive programme for removing unemployment and reducing poverty as much as it is humanly possible to do so. Repression by and in itself will simply result in bringing more recruits to the ranks of the communists and socialists. My Resolution gives a friendly but a serious warning to Government that if they neglect these questions any longer they will do so at their own peril and with dire consequences upon the future of this country.

Sir, I beg to move my Resolution.

THE HONOURABLE DIWAN BAHADUR SIR RAMUNNI MENON (Madras: Nominated Non-Official): Sir, in discussing the subject of communism—

THE HONOURABLE MR. V. C. VELLINGIRI GOUNDER: I wish to move an amendment—

THE HONOURABLE THE PRESIDENT: You can move an amendment when I call upon you to speak. Meanwhile, I thank you for sending me a copy of your proposed amendment.

THE HONOURABLE DIWAN BAHADUR SIR RAMUNNI MENON: In discussing the subject of communism, it will be well to bear in mind that communism embodies a certain ideal of society and also a method of achieving it. However repugnant to our ideas the communistic conception of society may be, we cannot help recognising the fact that a communist society actually exists now in a very large country, a country which in area covers a sixth of the habitable surface of the globe and in population contains 160 millions. That country has established international relations with other nations and is a member of the League of Nations. I think that fact must be fully recognised and it is certainly a great achievement for communism. But notwithstanding this achievement of communism, the opposition which is shown by other nations to the introduction of communistic ideas into their territories is a fair measure of the dangers that are inherent in communism. The dangers which are generally associated with communism arise not so much from the ideals of communism as from the revolutionary methods, with their inevitable accompaniments of suppression of individual liberty, massacre, cruelty and persecution, by which the communist seeks to impose his system on society. That these dangers are real enough is clearly shown by the experience of Russia. The view is sometimes expressed—I think the Honourable mover himself referred to it—that communism is an exotic growth alien to the culture and traditions of this country and is not likely to take root in it. I have not been able to follow whether the Honourable mover accepts this view or not. In any case, the example of China should be a sufficient warning to us not to accept this doctrine at its full face value. I think there will be general agreement with the contention advanced by the Honourable mover that no effort should be spared either by the Government or by the citizens in counteracting the menace of communism. The remedial measures proposed in the Resolution are no doubt in the right direction and I do not wish to say anything which will detract from their value. But I am bound to point out in fairness to the Government that at least in regard to the problem of unemployment among the educated classes the Governments, both Central and Provincial, have already shown their concern and have declared their intention to solve it to the best of their ability. The application of this and the other remedial measures will certainly be an expensive process and it is not quite clear to my mind how the enormous sums of money which will be required for this purpose are to be found. But quite apart from this consideration, I should like to point out that the measures proposed are at the best mere palliatives. To my mind the only effective cure for communism is a thorough change in our present-day outlook, social, economical and political. The only effective antidote is a thorough-going readjustment, social and

economical, based upon a democratic political foundation. Now, it will be perfectly clear to anybody who thinks on this subject that in the process of this readjustment the possessing classes will have to make much greater sacrifices than they have made in the past. That fact must be thoroughly recognised. It is also clear that the process of readjustment can only be a slow, gradual and evolutionary process; but if we are convinced that the remedy lies in the direction that I have indicated, I think we can all help in the process by utilising every opportunity that may occur to us, however small or insignificant it may appear to be. I think the Council will have opportunities of showing its concern for the masses. It has had opportunities in the past, it will have opportunities in the future. For example, it may very well happen that the Council will have opportunities of facilitating the enactment of beneficent social legislation. There is one other point which I should like to refer to. I have often noticed—it is not necessary to be in this Council to notice that—that whenever the budget is presented one of the most insistent demands made is for the reduction of the income-tax and the removal of the surcharge. These are taxes which bear on the comparatively richer classes of the population. If such a demand is made in the future, say, at the time of the next budget, the Council will have an opportunity of showing its concern for the masses by coming to a proper judgment on this question. It can consider and decide how far a demand of this kind is consistent with the legitimate claims of the poorer classes. In any case I am convinced that it is by the promotion of measures which are calculated to reduce or remove the social and economic inequalities which now exist in the country that the salvation of India from communism will be achieved. I therefore in a general way support the Motion brought forward by the Honourable mover, however imperfect its scope may be.

THE HONOURABLE KHAN BAHADUR DR. SIR NASARVANJI CHOKSY (Bombay: Nominated Non-Official): Sir, while supporting the Resolution which my Honourable friend Sir Phiroze Sethna has moved, I should like to envisage the fate of India if communistic ideas prevail and are adopted in this country. What will be the fate of India? How will India be governed and what would be the state of the population, our rights and privileges. In the first place, India will be governed not by governors, not by councils, but by secret cliques. There will be no gazettes, and no orders passed, for the information of the public. Only those within that small clique would know the secret edict. To assist it there will be a most ruthless organisation that the world has ever known, namely, the secret police, which is known in Russia by the name of OGPU. No man dare defy it, no man dare disobey its orders. Whoever has the temerity to do so would be at once hauled up for a secret trial or perhaps put out of existence without any trial at all. That is the state at present in Russia. Then, Sir, it has been said that a communist state will be the paradise of workers and peasants. It is nothing of the kind. Every able-bodied man or woman will have to serve the state. There will be no personal liberty, no choice of any profession, no kind of privileges. Everybody will have to work as dictated. Refusal will entail imprisonment. In Russia at the present day there are enormously large factories of all kinds where men and women are employed. It was once said that in a communist state wages

[Sir Nasarvanji Choksy.]

will be equal for all. This has been found to be impractical as at the present day the workers who are intelligent and who turn out excellent work are being paid at a higher rate than the ordinary workman. They are however mulcted in income-tax to the extent of 60 per cent. ! They go up a step higher in rank in the hierarchy and are looked upon as persons of importance. If a worker is slack, his name is boarded up, not only in the factory, but in prominent public places where people resort for amusement.

Then, Sir, with regard to the peasantry, what will be its fate ? All landlords, zemindars and peasants with property will have to give up all they possess to be absorbed by the State. They will become common labourers. Most of the big landowners called "Kuluks" refused to submit to this tyranny ; they were consequently sent out to work in the mines of Siberia or to construct roads, and their lands expropriated. All the property of the large and small peasantry was confiscated by the State. The owners were made to cultivate their lands for the State and to accept what the State chose to give them. The result was that there were some terrific outrages and open rebellion that were savagely put down. Then famines and epidemics followed. And in a burst of excitement the peasants slaughtered horses, bullocks, pigs, and even poultry. Up to this day Russia is suffering from great shortage of meat and meat products. Such, Sir, will be India's paradise of peasants ! Then the eyes of the Soviet were opened and out of the communal farms that it had established, it gave up small pieces of land to each family to cultivate and rear animals and thus to become once again a small peasant proprietor.

Then, Sir, coming to the intelligentsia and the bourgeoisie, they were ruthlessly destroyed. Does India want its lawyers, merchants, doctors and scientists and others to be wiped off the face of the earth ? And now Russia has to regret the great loss and is now recreating the very classes that it destroyed. It has to pay a heavy price for this regeneration.

Then, again, we come to another very important factor, namely, religion. In India's communist state there will be no religion. Its temples, churches, mosques, fire temples, etc., will be ruthlessly destroyed or put to other uses. Priests, Brahmins and Mullahs and Maulanas will be no more. Can any one, Sir, envisage such a state of affairs ? The rising generation in India will thus know nothing of religion as the present generation in Russia. It has never heard of Christianity, or Muhammadanism, or Hinduism. That is the condition that is prevailing there at present. And I ask, Sir, whether those who favour communism wish India to come to such a pass ? If there be no religion, what would be the state of morality and of the sacredness of marriage ? Any couple can go today to a registrar to be married as man and wife and within 24 hours obtain a divorce as well ! Will our Hindu or Muhammadan or Parsi or European friends submit to such rule ? I hope not.

Thus, Sir, the moral code is extremely lax. People are not by any means happy. They are being driven like slaves ; to oppose the slave mentality would mean to invite punishment. Is there any leader in this country who wishes that India should sink to such a level ? And what then will be the condition of

India ? The number of men and women who have been ruthlessly massacred in Russia without inquiry has been enormous. Are we prepared to pay such a price for a communist state ? All the old civilisation of India will disappear. We shall be put back into the dark ages, without happiness and without liberty. I certainly believe, Sir, that anybody who urges or provokes such ideas among the immature or half-educated youths is not a lover of India. He may be a worshipper of other gods and believe in other cults.

That, Sir, I think will be the condition of India if these communistic doctrines are allowed to pervade and were adopted. May this country which we all love be spared such a calamity.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan) : Sir, I rise to support the Resolution. India is a country in which the doctrines of socialism and communism are not as acceptable, either on religious or social grounds, as they are followed in the other countries to which the Honourable mover has referred. It would amount to breaking up the caste system, the social system and the national system, which have a deep root and have stood fast from time immemorial. We have the Varnashrama system, the Ruling Princes, and so forth, and by moving this kind of Resolution it is possible to destroy communistic doctrines. My friend, the Honourable Sir Phiroze Sethna in moving his Resolution has argued so ably and exhaustively in its support that there is little left for me to say. Even now, Sir, we find that those who have adopted super-democratic forms of government are going from bad to worse. That is what I felt while I was in Germany and in Italy. Of course, present-day doctrines of communism and socialism are much more advanced than those of democracy. But what do we find there ? I might cite an example which will prove how extreme democracy is working in some of the European countries. While I was in Hamburg, I bought some toys from a merchant whom I found in a very depressed mood. I asked him whether he was a Jew to which he replied in the affirmative. I put him a question as to how he liked the regime which he apparently found it embarrassing to reply to in the street. So in order to give him a chance to talk I asked him to bring some of the toys to my hotel. That very night he came to my hotel and said that as we were now behind closed doors he could tell me candidly that he was fed up with the Government and that Jews were being persecuted in a manner which is now well known to all the world. In the end he told me that he was leaving Germany in another three or four weeks, and was migrating to Palestine. He told me that I must have taken him amiss for not having replied to my question. But he observed that if we had been seen taking the matter over in detail he and I would have been arrested. That is an example of how extreme democracy is practically working. In Russia we have seen that even the friends and supporters

of M. Stalin have lately been shot. Nobody knows there what their fate will be, and to treat everybody at par is a thing which cannot be well understood by us in India. I therefore wish that Government should take up the question of unemployment seriously. Sir, people, particularly in the villages, who cannot support themselves, are easily misled. We have a proverb amongst us (Marta M50CS

[Rai Bahadur Lala Ram Saran Das.]

kiya na karta) which means that a man who is hungry and cannot make two ends meet will either become a thief or will take up some line which the general public will disapprove of. I understand that even on the Sapru Report there is going to be a further inquiry. If I am mistaken in my information, I hope that the Honourable Member from the Government side will put the right. I understand that even on the Sapru Report Government contemplate asking some other expert to examine and report upon the recommendations of that Committee. The public impression is that the Government are not serious in the matter and that instead of directly shelving the report, they are doing so indirectly. I therefore wish that this question should be soon solved, and if this question is solved satisfactorily, the people who aim at communism and socialism will fail in its aim. It will be a good thing if in India the question of unemployment receives the very careful and sympathetic consideration of the Government. Why should not the people who are unemployed get some subsistence allowance from the Government? I do not know why Government are not adopting the same policy as has been adopted by the Government in Britain.

Another point, Sir. The present taxation in the country is so heavy that it is very nearly creating discontent. The taxation should be lightened so that people will be enabled to lead a comfortable life.

With these words, Sir, I support the Resolution.

THE HONOURABLE MR. V. C. VELLINGIRI GOUNDER (Madras : Non-Muhammadan) : Mr. President, with your permission, I beg to move :

“ That after the words ‘ the growth of ’ the words ‘ novel socialistic ’ should be added and that the words ‘ advocated and propagated by the President of the Indian National Congress and others ’ should be omitted.”

THE HONOURABLE THE PRESIDENT : When I informed Honourable Members that though notice has not been given, I will admit amendments, I meant those amendments which are in the nature of a formal character—changing words and expression. Your amendment seeks to delete the most important part of Sir Phiroze Sethna's Resolution in connection with the speech made by the President of the Congress. I cannot allow such an amendment without notice. If your intention was to move this amendment, you could have given notice long ago as this Resolution has been known to you for nearly three weeks. If your amendment was only meant to change the wording, I would have given you permission. I have also given my ruling on the point of order raised by the Honourable Mr. Banerjee that this Resolution and the words which you now propose to delete are in perfect order and that such a Resolution could be moved in the public interest. You want now to circumvent in a way the effect of my ruling given on the most important point that a Resolution of this character is permissible. I therefore disallow your amendment. But you are entitled to speak on the main Resolution.

THE HONOURABLE MR. V. C. VELLINGIRI GOUNDER : Sir, although I agree with the Honourable Sir Phiroze Sethna in the object which underlies this Resolution, I am unable to support the Resolution for the following grounds. Sir, the first part of this Resolution is, in my opinion, an unnecessary

irritant to the atmosphere already created. If the object of Sir Phiroze Sethna's Resolution is to relieve unemployment and distress in the country today, it will be served by the omission of the first part which purports to be a preamble. This is absolutely redundant and merely contains an argument which the mover could incorporate in his speech if he so desires. Sir, if a preamble is permitted in a Resolution, this will place endless obstacles in the way of those who desire to work on a better understanding between Government and the best organised political party in the country. Government themselves ought not to encourage such attempts. In the case of similar Resolutions moved by Members, certain statements are generally added as argument in support of the Resolution. I have noticed that the arguments in certain Resolutions are omitted by the Government. And yet I observe that it is very strange that a preamble of this nature should be permitted in this Resolution.

Sir, I therefore strongly oppose the Resolution.

THE HONOURABLE MR. A. G. CLOW (Industries and Labour Secretary) : Sir, this is a very comprehensive Resolution and in the short time at my disposal I cannot deal with more than one or two aspects of it. I would begin by referring to the part I like least and that is perhaps the most important part, which refers to communistic ideas, for in the form in which the Resolution is expressed and particularly after the amendments which my Honourable friend Sir Phiroze Sethna has made in it, it tends to suggest to my mind that the main reason for pursuing social welfare and social justice is to prevent the spread of communism. Now, I am sure Sir Phiroze Sethna would be the first to recognise that we started on this task in earnest long before communism was heard of and that we should go on with it even if communism had never appeared above the surface. In other words, there are much better reasons for pursuing the aims he has in view than the danger of communism. Of course I do not deny, I should be the last to deny, that one result of redressing the great social inequalities that confront us on every side and of securing better justice for those who work sometimes under intolerable conditions of life will be to make less likely that revolution for which some in this country are working. Justice, pursued for its own ends, affords a valuable insurance against the spread of subversive ideas. I am sure that is what is behind Sir Phiroze Sethna's Motion, as he showed from his speech, and I would only wish it was universally recognised, particularly by those in positions of power in industry. I have heard complaints, for example, about labour legislation, as if it was something that was bound to do injury to the employer. But the more far-seeing employers have co-operated in this legislation and have recognised that in the long run it is as much in their interests as in that of labour.

There are two points in the main part of the Resolution with which I have some concern, unemployment and the welfare of labour. On the first I do not propose to say much. We had, as the Honourable Mr. Sapru reminded us, a full debate on this only a few months ago, and as the House is aware, the recommendations of the Sapru Committee are receiving very earnest and

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sincere examination. I was not at all clear what my Honourable friend Lala Ram Saran Das was referring to in his reference to some other Committee. But perhaps he will elucidate the point later.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: I was referring to the Sapru Committee and to no other.

THE HONOURABLE MR. A. G. CLOW: I am sorry, I misunderstood the Honourable Member to say that some other Committee was contemplated.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: What I said was that some other expert is being invited to examine the Report of the Sapru Committee.

THE HONOURABLE MR. A. G. CLOW: My Honourable friend the Leader of the House did refer to certain experts who are being brought out for certain purposes in his speech in March, and he will doubtless deal with that when he gets an opportunity of dealing with this Resolution.

What I would like to deal with is the question of labour welfare. As the Honourable mover knows, that is a provincial subject and under the new constitution it will remain so. But we have in the Central Government a responsibility which to some extent we shall retain for labour legislation, and I should like to remind the House of the progress that has been made in recent years in this matter. Sixteen years ago I sat in that gallery and saw the last session of the Imperial Legislative Council in this Chamber, and I ask Honourable Members to cast their minds back to the position in labour matters at that time. We had a Factories Act which allowed a 12 hours day; we employed children in large numbers from nine years of age upwards in the factories; we had no regulation of hours in the mines; there was no prohibition, as there is today, of child labour in the mines. Child labour is now completely excluded from mines and very largely excluded from factories, partly by legislation and partly by employers. We had no such thing as workmen's compensation; we had no law of trade unions; we had nothing dealing with trade disputes, and we were not within sight of that important charter in the matter of wages that passed through this House last session, the Payment of Wages Act. I think, Sir, for the period of the Montagu-Chelmsford Reforms, that is a very creditable record and I hope and believe that, under the new reforms, when the Provincial Councils will be strengthened by labour members and members of the depressed classes, matters will not remain stagnant in that field.

But I would try to impress on the House that the power of legislation is very limited. It is a weapon by which you can achieve much less than some of its ardent advocates imagine; and it is to employers and labour, and particularly to co-operation between them, that we must look largely for labour welfare. I do not believe that that co-operation will ever be secured so long as employers act, and there are some in India today who want to act, simply as dictators, and so long as our labour is to a large extent illiterate and unorganised. There is among some employers an attitude in which they do not want to deal with outsiders in trade unionism; and if workers from within

the factory or mill start to act as leaders, sometimes they are victimised. Now there is, in India particularly, a tremendous need for the collective expression of labour's needs and for its consideration, and if a healthy trade unionism could be developed it would be, as it is in England today, one of the strongest bulwarks against communism. (Applause.) I know perfectly well that, as many employers urge, the trade unions we have in India today are poor things compared with the British trade unions. But I do not believe they are going to grow to strength by a process of discouragement and repulse, and I am convinced that this need for collective expression is there and must be met. We must recognise that labour must state its case somehow and we must recognise more than that; we must recognise that it is not merely a commodity hired for the purpose of carrying on an enterprise, but that it is a living part of the enterprise and that it is contributing to that every bit as much—some would say much more than the shareholders; it contributes today not merely its purse, which often it does not have, but its living and working days. And I am sure that readiness on the part of those in positions of influence and authority in industry to recognise this need and to admit this claim will do more to defeat communism than any labour laws that we can pass. (Applause.)

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 THE PRESIDENT: The debate will now resume on Sir Phiroze Sethna's Resolution. As there are other Resolutions lower down in the list and as I am anxious that no disappointment should be caused to other Honourable Members, I would request Honourable Members to be as brief as possible.

THE HONOURABLE MR. P. N. SAPRU (United Provinces Southern: Non-Muhammadan): Mr. President, may I first, with your permission, congratulate the Honourable Mr. Clow on the admirable speech which he made this morning. (Applause.) We know that Mr. Clow has a good heart and has a human outlook. Sir, his speech shows that the British official can on occasions take a broader view of social and economic problems than the Indian politician. I am sorry that Sir Phiroze Sethna has based his case for a more human and constructive economic policy merely on the ground of opposition to communist ideas. For me, Sir, the social and economic question is fundamentally an ethical question. No one who has a heart can fail to sympathise with the demand for greater equality, with the demand for equality of opportunity, on the part of the common man, and therefore as one who thinks that economic freedom is necessary in order that the individual might be able to express his highest self, I find myself in disagreement with Sir Phiroze Sethna and the point of view which he has represented to the Council this morning. Sir, reference has been made by Sir Phiroze Sethna to the respected leader of the Congress organisation. Now, Pandit Jawaharlal Nehru's politics is not my politics; his ideology is not my ideology. I am free to confess that with much of what he has said in recent months I am not in agreement. While I have great respect and admiration for his intellectual and literary gifts, for

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his high personal character, I feel that he has by his utterances not made it easier for parties of the left and the left centre to unite and work together. Sir, we find that in the modern world the forces of the right are gathering strength everywhere and talk of the character in which some of our more ardent socialist friends indulge only helps to strengthen those forces. We cannot be indifferent to what is happening in the world around us. Democracy, free speech, free right of association, free press, all these have disappeared in Germany and Italy and other large parts of the world. Democracy is fighting for its existence in Spain against the barbaric forces of fascism. It is a democratic administration which is fighting in Spain against these barbaric forces and certainly as one who values liberal principles, my sympathies are entirely with the Spanish Government. We have to work, Sir, for the establishment of the liberal democratic state at a difficult period in the history of democracy in the world. Extreme revolutionary movements produce extreme reactionary movements and in a straight fight between reaction and revolution, there is no guarantee that reaction will not triumph. It is therefore in my humble judgment incumbent on those who believe in the left and the policies of the left to say or do nothing which would strengthen the forces of reaction and fascism. Now, Sir, it is from that point of view that I would attack Pandit Jawaharlal's ideology. It is fashionable to decry the reformist mentality, but I am rather old-fashioned enough to believe that there is no alternative to it. I believe that provided the step taken is a step in the direction of the goal, we should not spurn it, because it does not go far enough. It is not easy to change human nature and successfully attack inherited prejudices and those of us who believe in the policies of the left, do no good to progressive causes by belittling what little can be achieved and indulging in language which is unnecessarily calculated to disturb the equanimity of classes and interests which are in an effective position in this country to block all progress. Talk of this character, Sir, makes practical reform at any given moment difficult. Therefore, Sir, I as one who believes and believes earnestly that our objective must be to secure a greater measure of social justice, a greater measure of economic justice, disapprove of the line which the respected head of the Congress organisation has taken. The precise grounds on which I am opposed to communism may or may not be the same as those which appeal to Sir Nasarvanji Choksy. I am quite sure they are not the same. I reject communism because I do not believe in the materialistic interpretation of history. I reject communism because I do not believe in class-war world revolution or the Dictatorship of the Proletariat. But there are certain fundamental ideas which underlie socialism with which as a good sound Liberal one has to have some sympathy. I was reading the other day a report of the proceedings of the Liberal Summer School and I came across a remarkable sentence there. Sir Walter Layton in the course of his address said :

"If I had to choose between communism and fascism I would not hesitate to choose communism, but fortunately I have no such choice to make because there is liberalism still in the field".

These are not my words ; these are the words of a distinguished Liberal whose title to speak for liberalism cannot be disputed. Sir, the Resolution of Sir Phiroze

Sethna does not stop with the disapproval of communism but talks of communistic ideas. Now, Sir, the term "communistic ideas" is very vague. The Resolution is not happily phrased. There are many ideas which would appear communistic to my friend the Leader of the Opposition and to my friend Sir Nasarvanji Choksy but which would not appear communistic to me. For example, take this question of a juster distribution of the national wealth. We want certainly to have a more equitable distribution of the national wealth. Now, Sir, my friend the Honourable Lala Ram Saran Das and the Honourable Sir Phiroze Sethna would look at the economic question from the purely productive side. Communists would look at it from the purely distributive side. But I think that the economic question has to be viewed from both the productive and the distributive sides. We want both greater production and a juster distribution of what we produce. Therefore, Sir, I feel that the language of this Resolution is not very happy.

Besides, Sir, I think we are not justified in condemning an individual who is not present to defend himself. I do not know whether, strictly speaking, from the point of view of ideology Pandit Jawaharlal Nehru can be described as a communist. I have read his autobiography. Parts of it I do not approve but I think, Sir, there are passages in that autobiography which indicate that he is not prepared to reject the fundamentals of the Liberal state. That is to say he wants to preserve the liberal and democratic tradition, and in so far as he wants to do that he cannot be called a communist.

THE HONOURABLE THE PRESIDENT : But he has communistic ideas.

THE HONOURABLE MR. P. N. SAPRŪ : Not necessarily, Sir. He believes in the elimination of the profit incentive from life but his ideas on the question as to how that profit motive in life is to be eliminated are in rather a nebulous state.

Now, Sir, there is another reason why we must oppose this Resolution. It is not the business of this Council to condemn individuals, however eminent they might be. The principle of the Resolution is wrong. I have a great dislike for Dr. Ambedkar's politics. I think, Sir, he is doing a great deal of mischief. I also think, Sir, that Hindu integrity is worth preserving. Therefore, if you pass this Resolution I could bring forward a Resolution next day condemning Dr. Ambedkar.

THE HONOURABLE THE PRESIDENT : But the Resolution refers to policy.

THE HONOURABLE MR. P. N. SAPRŪ : I can also refer to policy. What is there in future to prevent me from condemning certain communal organisations with which I do not agree ? We can discuss communism as a social fact. We can discuss socialism as a social fact. But I think it is not right for us to discuss individuals who are not present to defend themselves and whose ideology we may perhaps not be representing very accurately. Sir Phiroze Sethna, for whom I have great respect, will forgive me if I cannot approve of the fascist mentality which would deny to individuals the right of free expression of views. The Liberal state—and that is the basic difference between it and the totalitarian state—stands for a free expression of views. And I suggest to Sir Phiroze Sethna that we are not showing a Liberal mentality

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by this kind of talk. The Council is not a Socialist League, a Liberal Federation or a Conservative Association. It is for these organisations to fight or defend Pandit Jawaharlal Nehru. I therefore think, Sir, that the principle of this Resolution is wrong and I should be sorry if it were accepted because it would set a bad precedent. Sir, I feel I cannot be a party to a Resolution which is personal in its character and which will create endless troubles for us in the future.

Sir, in the second part of his Resolution Sir Phiroze Sethna recognises that there is a social problem. I congratulate him on his conversion to this point of view. Sir, there was a debate on unemployment a year and six months back in this Council. The Honourable Lala Jagdish Prasad had moved a Resolution on unemployment and the line that Sir Phiroze Sethna took was that this question of unemployment had been exaggerated, that Government could do very little to solve this problem of unemployment, that it was for private agencies to help in the solution of this question, that the Government of India at all events were not in a position to contribute anything to the solution of this question of unemployment. He voted against that Resolution on unemployment. Now, Sir, he has evidently changed his views. Why has he changed his views? Is it because of the Saprū Report or is it because of economic unrest? Well, Sir, if it is because of economic unrest, then I am rather glad because it shows that all this collectivist talk in this country has had some effect upon Sir Phiroze Sethna who was at that time an extreme individualist. Well, Sir, I was not an extreme individualist then. I took the line that I believed with Sir Walter Salter in an ordered society and he and I differed. Sir Phiroze Sethna has grown wiser during these last 18 months and now that there is this talk of communism he says to Government: "Well, you must do something, otherwise we capitalists of Bombay will be nowhere". Well, Sir, I suggest in all seriousness that these social and economic questions ought to be debated in a different spirit altogether. They raise some fundamental questions,—questions of social justice, ethical questions. They raise questions which challenge one's creed and I suggest, therefore, Sir, that if we want to do social justice in this world it is not because we are frightened by communism but because we are men who believe that there must be justice in this world. Sir, personally I believe in the moral government of the universe and as one who values certain ethical principles I cannot be a party to a Resolution the phraseology of which I cannot regard as happy. There are many grounds on which I am prepared to attack communism. I reject, as I have said, the basic theory underlying communism. But the precise grounds on which Sir Phiroze Sethna would base his attacks do not appeal to me. Therefore, Sir, I would consider it my duty to oppose this Resolution. But while doing so, Sir, I would also urge that we have a special responsibility in regard to these economic matters. Indian poverty is a terrible fact and we shall never have in this country a healthy society, we shall never have in this country a stable society, until we are able to give to the individual what he lacks today, namely, real economic freedom. That is the fundamental problem before Government; that is the fundamental problem before liberal

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democracy everywhere—to give to the individual a reasonable assurance that provided he is prepared to work, he will have a living wage.

Sir, with these words, I oppose the Resolution of Sir Phiroze Sethna.

THE HONOURABLE SIR DAVID DEVADOSS (Nominated: Indian Christians): Sir, I had no intention of intervening in this debate when I came here, but as I find that the discussions are taking a very narrow course, I think it my duty to say a few words. Sir, if one wants to know what communism means, I would ask him to have a cursory study of Sherwood Eddy's book, *Russia Today*. Communism took a firm hold in Russia for the simple reason that most of the people were ground down by poverty. The rich and well-to-do took no interest in the poor people who were in a very large majority, and when the revolution came, naturally those people who were down-trodden got the upper hand and they ill-treated the well-to-do people. The well-to-do peasantry, called "Kulaks", were completely done away with in the most atrocious manner. In India we have about 60 million people called the Untouchables. I would call them the labour of India. Unless we do justice to these people, these communistic ideas might spread among them, and what would be the result? The remedy asked for by Sir Phiroze Sethna is to provide some appointments for the unemployed. Will that cure the evil? Sir, if you want to get rid of the trouble that may arise in India probably in the course of years, you would have to do away with this untouchability altogether. Raise the people, level them up, not level them down. Communism means levelling everybody to a dead level. Everybody has to go and work in the fields. No zemindars, no capitalists, no professional people, would be left; everybody must go and work in the fields as ordinary workmen. Even Russia is now recognising the value of intellect, of professions and so on. But that is after a very hard struggle. The real remedy then lies in our doing justice to these depressed classes. First of all, they must be treated as men, not as worse than dogs. Secondly, they must be given something with which they can live. They have not got a living wage. Most of them hardly get one meal a day. I am not exaggerating the real state of things when I say that most of these people probably have only one meal a day. Give them two meals a day; let them have something to live in. Most of them have no houses. Most of these people sleep under banyan trees or somewhere in the forests. It is our duty, not merely of the Government's. It is all very well to blame the Government for not doing this and that. What can the Government do? Even if Government wants to do this, who is to find the money? After all, other people will have to find the money. My submission is that all the well-to-do people should do as much as possible to elevate the depressed classes from the state in which they are to a better standard of living, to better comfort, and give them hygienic conditions. Sir, in my own province, I may say that people want water. The well-to-do people have all the wells to themselves. The untouchables cannot take water from these wells. I am sure the Honourable Diwan Bahadur Gopalaswami Ayyangar, the first Member of the Board of Revenue, will bear me out when I say that a good deal of agitation has been going on for drinking water. They have to go to small ponds to get water. Wells are denied to them, tanks are denied to them, and conveniences which would make life worth

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living for them are denied to them. Under such circumstances, how can we expect these people to be good citizens and to be loyal to others? Some education is now spreading amongst them. Till now they were kept down on account of ignorance. When education is spreading and light is dawning, if communistic ideas spread among them, what would be the state of India? There are about 60 millions of them, and unless you improve their condition, the state of India would be very unhappy indeed. Therefore, my submission is this, that all well-to-do people, zemindars, capitalists and others, should do their very best to improve the condition of these poor people—the depressed classes. Untouchability must be taken away; these people must be allowed to go along roads. They must be treated much better than dogs. Dogs are allowed to go along public streets. In some towns in the Madras Presidency, human beings cannot go along the streets. (*An Honourable Member*: “Shame!”) I can even go further, but I should be taking up the time of the Council. I can mention a case where a Judge of the High Court, who unfortunately belonged to one of these classes, was not allowed—at least he did not do so—to go through one of the streets in Calicut which is a municipal town of some importance simply because he had the misfortune to belong to a particular class though he was a Judge of the Madras High Court. With such a state of things, how can you expect things to be all right? Therefore, though I am prepared to support this Resolution, yet I consider it a very narrow one. Conditions must be changed if you want communism not to spread in India.

THE HONOURABLE KHAN BAHADUR NAWAB CHAUDRI MUHAMMAD DIN (East Punjab : Muhammadan): Sir, I have not had the opportunity of studying communistic literature myself, but I understand communism aims at complete abrogation of the system of individual property and of the prevalent system of family and religion. It thus aims at a fundamental change in the structure of human society and considers force as a legitimate means of carrying out that policy. Our present social and economic structure may need changes and improvement but the introduction of communism will destroy the springs of all noble actions of human beings. To meet this danger, the wisest course will be to take the wind out of the sails of communistic propagandists by carrying out in advance the social and economic reforms in matters which are likely to be the chief points of attack of communistic agitation. The most important matter requiring the serious attention of the Government is the question of the educated middle classes which should be tackled as early as possible. The land revenue and rent system should be improved and made more elastic so that the agriculturist may find it easy to pay the Government dues out of the produce of his holding. Sir, I read in the *Statesman* the other day that nearly 140 estates are being sold for non-payment of land revenue at Serajganj in Bengal. I have been a Collector in the Punjab and Indian States for the last 30 years. I have never felt the necessity of selling any holding for non-payment of revenue. The Punjab system, of course, allows us to give liberal suspensions and remissions. These people who are being expropriated would certainly go about and create discontent. The economic burdens of the poorer classes should be lightened where possible. Rural debts should be examined with a view to the capacity of the people concerned to pay and greater

regard should be paid to the protection of the interests of labourers. Such reforms though distasteful to many if carried out, will certainly form a very much stronger bulwark against the much more distasteful evil of Bolshevism. Sir, the essentials of life are labour and love and joy and peace. These are man's birthright and what men live by. A wise Government should always be ready to help its subjects to enjoy their birthright and we know that the Government of India have not been unmindful of their duty in this respect. But renewed efforts are required to save India from the evils of communism. We must however realise that it is not possible for the Government to tackle the whole problem by itself. Unofficial support and co-operation will have to be obtained very largely, especially in matters where social questions are involved. Many social schemes have failed owing to non-co-operation on the part of our countrymen. Persuasion rather than force will be more effective.

With these words, Sir, I support the Motion made by that far-sighted gentleman, the Honourable Sir Phiroze Sethna.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN (West Punjab : Muhammadan): Sir, no place could be more suitable than this Honourable House, or time more appropriate, for bringing forward such a Resolution as is under discussion today. As you know, Sir, we all here represent vested interests. We represent constituencies where voters are either capitalists or big landlords. Therefore it is natural that we should pass a Resolution condemning communism in any shape or form. As far as the underlying ideas are concerned, I entirely agree with the mover of the Resolution, but I take strong exception to the wording of the Resolution. In the first instance I agree with my friend Mr. Sapru that it is not wise to bring in any individual under discussion in this House. This has been a well-established practice both in the other place and in this House, that we should avoid discussing the conduct or ideas of a person who is not present here or who is not represented and is not in a position to answer to the charges which are brought against him. However, so far as the Resolution itself is concerned, there are some other grounds also why I do not agree with the wording of the Resolution. In my humble opinion the way to fight communism is not by bringing forward resolutions or by making recommendations to the Government to take certain steps to that end. I think it will be much nearer the mark if some Resolution were before the House that His Excellency the Governor General recommends to the Honourable Members of this House who are capitalists or landlords that they should realise that they are passing through difficult times and if they really desire to fight communism they should help the Government actively in adopting such measures as will lead to an equalisation of wealth to some extent. As a matter of fact I would submit that if communism has not taken a very strong hold in this country it is entirely due to sentimental grounds. There is no country in the world where religion is still such a strong power as in India, and as communist ideas are against the tenets of all religion, naturally those ideas have not obtained popularity here to the extent they would otherwise have done. But, as Pandit Jawaharlal Nehru said in one of his recent speeches, *Hari Bhajan* is all right but what people want is bread. How long can we go on relying upon these forces of religion and sentiment to

[Raja Ghazanfar Ali Khan.]

fight these new ideas? Of course it is a good thing that the Government should take steps to relieve unemployment among the educated middle classes, but will that be a sufficient remedy against the spread of communism? Of course not. Because after all that only means giving a few jobs to a limited number of educated men. But what about those millions of people who are either working as labourers in industry or on the land? The Government can only take some measures if they feel that the landlords and the capitalists also realise their own responsibility and, instead of putting obstacles in the way of such measures, support them, and then Government will be able to provide measures by which everybody in India will have enough to eat and enough clothes to cover their naked children and to provide other small reasonable necessities of life. Sir, the other day I was reading a speech which was delivered by His Excellency the Governor of the United Provinces replying to an address presented by the National Agricultural Party. I cannot quote his exact words, but what His Excellency said was that it is only when people begin to feel that life is not worth living that they in desperation are prepared to entertain new ideas however revolutionary they may be, but the moment you make people feel that life is worth living they will not welcome any movement which would upset the existing order of things. Therefore what is required is that the landlords should begin to think that they cannot continue living in selfishness for all time and capitalists should know that they cannot continue to accumulate wealth until the time when people become desperate and a revolution is likely to come, whatever steps Government may take. Therefore I would appeal to my Honourable friends here, landlords and capitalists, that they should not only consider it their duty but should tell their constituents that these ideas cannot be got rid of in India merely by expressing noble sentiments. Of course, Sir, as a Mussulman I am not afraid of a reasonable form of socialism, because I am proud to say that it was my religion fourteen hundred years ago which brought into this world the real and reasonable doctrines of socialism. If socialism means equality, if socialism means the removal of those disabilities which have been described by my Honourable friend from Madras, if socialism means that everybody should distribute his wealth in such a way that nobody should starve and nobody should get extremely rich, then I am proud to say that it is my religion which taught those doctrines to the world. Sir, before I sit down—I am sorry my Honourable friend Mr. Sapru is not here—I must express my regret that he brought in the policy and politics of Dr. Ambedkar without any reason or relevancy. Dr. Ambedkar is perfectly justified when, on finding six crores of his followers in sad plight, as has been so well described by my Honourable friend from Madras, and on finding all his attempts at bringing about political pacts fail to give any practical relief to his community, he seeks some other remedy. Sir, I think the best way to fight communism is that everyone of us should feel that it is much better to be satisfied with comparatively lesser than we have got at present provided we can retain it permanently than to be greedy and to keep all that we possess whether rightly or wrongly.

Sir, I support the Resolution.

THE HONOURABLE MR. M. G. HALLETT (Home Secretary): Sir, I have listened with great interest to the debate that has been going on today. It is in many ways one of the most interesting debates which we have had during the time I have been in this House and they have been on the whole fairly numerous. Sir Phiroze Sethna made a very interesting analysis of a somewhat difficult document, Pandit Jawaharlal's speech at the Lucknow Congress. With much of what he said in regard to that I agree, for I have studied that document with some care. He went on to give an interesting description of communism and socialism. He did not, I regret, develop much the constructive side of his speech. He was more content with the destructive side, pointing out the dangers of communism and that ally of communism which is now called by the name of socialism. What exactly the difference between the two is is rather difficult to say. Socialism in the old days connoted nothing particularly bad. Now it is sometimes used as an euphemism for communism and communism in my opinion connotes something subversive, something revolutionary. However, although Sir Phiroze Sethna did not develop the constructive side of his Resolution, we had the advantage of other speeches since which have met that point. Sir Ramunni Menon made the point that we have got to take new ideas, to develop a new outlook, on certain points. Sir David Devadoss mentioned the question of the depressed classes which I understand is or was the pressing problem in his own province, although as far as I know his Government have done a great deal to alleviate the lot of those depressed classes. We have had a further interesting suggestion from the last speaker who pointed out that the whole remedy does not lie in the hands of Government, it is also for the classes in this country, whether zemindars or industrialists, to take their share in this work of alleviating the lot of those who are less well off than themselves. Thus the debate has taken a very interesting line. It is a rather difficult matter for me to speak on. Communism, orthodox communism, communism of the Russian brand, in regard to that the policy of Government is I think quite well known. We regard it as public enemy No. 1 or public enemy No. 2. Two of the three enemies that I have been dealing with for the last four years have been communism and terrorism. Communism of the Russian brand, communism as advocated by the Communist International, involves a revolution by force and the upsetting of the existing form of government and the upsetting of the existing social structure of the country. It was found at the time of the Meerut case in the High Court at Allahabad that the methods by which the Communist Party of India seeks to achieve their object included strikes, a combination of strikes and demonstrations, a combination of strikes and armed demonstrations; and finally the general strike conjointly with armed insurrection against the State power of the bourgeoisie. The whole programme showed, without a shadow of doubt, that the programme laid down is the overthrow of the existing order of society and Government by the use of force with ultimate resort to arms. That being the objects of that particular party, it obviously became the duty of Government to deal with it. They did so in August, 1934 when we proclaimed the Communist Party of India as an unlawful association. Since that date we and the Local Governments are continually taking action against that party or against the members of it. There have recently been some cases where persons were prosecuted in Bombay for assisting the operations of the Communist Party of

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India which resulted in their conviction. We are constantly taking action to prevent the importation into India of literature prepared in foreign countries which advocate pure communist doctrines. In Bengal where there has been an increase in communist agitation in recent months—there is nothing at present very serious, but it is an agitation which may grow in intensity—the Local Government have had to take action to extend one of the “repressive” laws to Calcutta to enable them to control the persons, who are trying to stir up the peasants and workers by advocating communist doctrines and by the use of communist slogans. This House has supported legislation which we have put before it designed to deal with this menace and as a result the Criminal Law Amendment Act of last year has come on to the Statute-book. In dealing with this brand of communism, we are dealing with pure revolution, or rather attempts at revolution, attempts to overthrow the existing Government and the existing social structure by a revolutionary movement. But now we get on to something which is more difficult. The Honourable mover’s Resolution uses the word “communistic” instead of communism. The termination “communistic” means I suppose something less than communism, something which is leading up to communism, but which is not yet pure communism. The stage that it refers to is the stage of the dissemination of ideas. We cannot prosecute people for merely having ideas in their head. We can only deal with them by the penal laws when they take definite action. Whilst a dissemination of those ideas may lead, especially in a country where a large proportion of the population is uneducated, to the creation of conditions such as unfortunately exist in certain European countries at the present time, we must also recognise that the spread of those ideas cannot be controlled by repressive legislation by penal action and therefore there is a great deal of force in what the Honourable mover has recommended—that we should take action to remove the grievances of the agricultural and labouring classes, so that they may not become a suitable field for the inculcation of more revolutionary ideas. But in admitting that I must also say I entirely agree with my colleague Mr. Clow that all the measures which he has recommended are measures which we have undertaken in the past quite irrespective of this menace of communism and which we should continue to take even if the word communism entirely disappeared from the language, and if communism was no longer a menace in this or in any other part of the world. We have as a Government always aimed at doing something to improve the lot of those whose lot needed improving, of helping the under dog. But I think there is sometimes a certain amount of misapprehension or lack of appreciation of what Government is doing. Mr. Clow has dealt with one aspect of the question. He has dealt with the side in which he is an expert, with the lot of the town worker, of the factory worker, and he has pointed out that a tremendous lot has been done in the last 10 or 15 years to improve his conditions. Take another aspect of the question—the lot of the agriculturist. There was a debate—not a very interesting debate, I admit, in another place the other day on the very interesting question of rural indebtedness, a question on which I shall be only too glad to hear what ideas people have. That is a question which has always been before Government for many years. Long before I ever came to this country, Lord Curzon started the co-operative movement and that movement was designed to improve the lot of the

agriculturist. It did so possibly only to a limited extent. It was hampered no doubt by the economic difficulties and financial difficulties which arose after the catastrophe of 1914-18 but it was designed to improve the lot of the villagers and I think we may claim that it has done so. In more recent times we have had various committees which have considered this problem and during the last two or three years when the economic crisis has been acute, Local Governments have devoted very special attention to this problem of rural indebtedness and of saving the cultivator from the great burden of debt under which he labours. During recent years some 30 Acts have been passed by Local Legislatures. Whether these are all good Acts one cannot yet say, but the effects of these Acts are being very carefully watched and in course of time I hope we shall be able to evolve something which will really solve that very great problem. If I may quote an example of what is being done in the provinces,—people are very often ignorant of what has been done,—I will read a report which I had from the Central Provinces only the other day. They start off with the question of the realisation of Government dues :

“Government has issued general instructions that leniency should be shown in the collection of Government dues, coercive action being confined to cases of wilful defaulters”.

That meets the case cited by Nawab Chaudri Muhammad Din who complained that estates and holdings were sold up unnecessarily.

Then they have granted liberal remissions and suspensions of land revenue, they have sanctioned the advance of taccavi loans where necessary and are taking steps to see that these loans are collected without undue hardship and at suitable periods. But the main action which they have taken—and their report on this point is particularly interesting is the action they have taken to establish conciliation boards to settle debts between the debtors and creditors. In other words, to serve as a cheap form of bankruptcy court. It was only in 1932 that they decided to undertake this legislation and the Act was actually passed in 1933 and came into force in April of that year. Even in this short time it has done quite remarkable work and this is their description of the work that has been done :

“The main object of the Acts is to conciliate debts on a voluntary basis. This object has been achieved to a very large extent. Five boards have completed their work and there are now 37 boards working in 16 districts. It is expected to establish shortly boards in two more districts so that all the districts in the province except one, will have boards. The rush of applications both from the debtors and creditors in places where the boards are at work and the demand for the establishment of boards in new areas demonstrate that conciliation proceedings are popular and are meeting a genuine and long-felt want.

“Up to the end of June, 1936 the boards conciliated debts amounting to Rs. 279.30 lakhs for Rs. 152.42 lakhs resulting in an average remission of 46 per cent. of claims. The percentage of remission in individual cases is often higher. Besides this, certificates under section 15 (1) of the Act declaring that the creditors had unreasonably refused amicable settlements were issued in 3,985 cases for claims amounting to Rs. 35.28 lakhs. These creditors will not be entitled to costs when they sue for the recovery of their claims and will also be deprived of interest in excess of 6 per cent. simple from the date of the certificate. The existence of the Boards has also had the effect of encouraging the private settlement of debts between parties the extent of which cannot be ascertained but is believed to be not inconsiderable”.

Well, Sir, I think that shows that considerable work has been done in that particular province to alleviate the lot of the agriculturist. Other provinces

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have undertaken similar measures but I have not got full information entirely about them, but I quote this as an example to show that Government are not in the least apathetic in this matter, that they are taking this action not merely in order to fight communism but because it is right to do so, and that they are achieving a very considerable amount of success.

Another matter designed to alleviate the lot of the dweller in the country on which I might expatiate for a very long time is the use which is being made of the grant for village uplift of Rs. 2 crores which the Finance Department have been able to find in the last two years. Some Honourable Member—I think Sir David Devadoss—referred to the lack of water in various parts of the country. Local Governments have been asked to pay special attention to this question and I have no doubt that in those parts where the depressed classes suffer in particular from a lack of water supply, that need will be supplied. Generally, the grant is being spent on numerous projects all of which will tend to improve the conditions of the villager. I admit that the total sum available is not large, having regard to the enormous population of this country. But at any rate it will do something. It will show the villager that the Government are trying to help them in improving the conditions under which they live. The reports which we have received from Local Governments will, I hope, be published shortly, and I hope Members of this House will make a study of them and appreciate what is being done and what success has been achieved.

Well, Sir, that is the present position. We are tackling these problems and will continue to tackle them. And I am myself optimistic enough to hope that when the new constitution starts on the 1st April we shall find our new Governments tackling them with even greater vigour and even greater efficiency, adopting even more suitable methods for dealing with these problems. We must remember that during the period of the Montagu-Chelmsford Reforms, the Ministers in the provinces have done quiet and unostentatious work to relieve and improve the conditions of the agriculturists in the country. In my own province, I know they devoted such funds as were available to the provision of hospitals and the provision of wells. For the work they have done in that respect I do not think they are given sufficient credit. But this leads me to the confident belief that their successors in office under the new constitution will deal with these problems with equal efficiency and will devote themselves wholeheartedly to measures such as those suggested by the Honourable Sir Phiroze Sethna in his Resolution.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Leader of the House): Sir, the Honourable Sir Phiroze Sethna has initiated a very interesting discussion this afternoon and if opinion has generally been with him, it is not because this House is composed of capitalists and big landlords, but it is because, I think, the views which he has expressed are generally considered by this House to be sound and in the best interests of the country. In dealing with this question I hope the House will forgive me if I deal with it in an impersonal manner, omitting all references to personalities. We know that there is no dispute about it in any side of the House or in the country that the problem of poverty is one of the great and fundamental

problems in India. It has been an ancient problem. It is not as if it has suddenly come into existence during recent times. The question that we have to ask here is, "How have Governments in the past dealt with this problem? Have the measures which they have taken been adequate? Have they shown callousness or want of vision in dealing with this problem which has been constantly present?" I should also like the House to consider for a moment that if in the past this problem did not appear so urgent or insistent as it does at present, what are the reasons for it? How is it that suddenly all of us, whether landlords or capitalists, whether socialists or others, think of this problem so seriously and constantly? I will not go into very ancient history. I have not the time. I must be brief in my arguments in order not to bore the House. I will not go into details as to the measures which have been taken by the Government of India in the past, the institution of big irrigation schemes which converted large tracts of barren land into fertile fields. I will not mention, except in passing, the great reforms that Lord Curzon's Government instituted by the establishment of Agricultural and Co-operative departments. Later the Departments of Industries were established and so on. I think it will be recognised that one of the reasons why the agriculturist did not come into his own in the past was that our politics took more or less an urban complexion. Politicians were generally men who came from the towns. Many of them were familiar only in a theoretical way with the requirements of the agriculturist. They were men who were educated and brought up in the cities or in urban areas. Therefore, they insisted largely on problems with which the urban population was concerned. One of the great changes that came was the Montagu-Chelmsford Reforms. For the first time, the vote—I agree only to a very limited extent—was given to the rural areas. As compared to the past a large number of rural voters were enfranchised. For the first time, nation-building departments were handed over to the charge of Ministers responsible to the Legislatures. Public Health, the Medical Department, Education, Agriculture, Co-operation—all these were handed over to the charge of popular Ministers responsible to the Legislature. No doubt, Irrigation, Forests and Land Revenue were generally reserved. But all these other departments were handed over to Ministers. I agree that responsibility was not brought home to them entirely. There was the official bloc; there was the complaint that most of the money was being absorbed by what we call the Reserved Departments, i.e., Law and Order and other departments in charge of Executive Councillors. But the first momentum, the big momentum, that was given to the needs of the agriculturist came from the Montagu-Chelmsford Reforms. Now, the House is entitled to ask—and that was the point that was just mentioned by the Honourable Mr. Hallett—did the Ministers justify themselves? Have they been able to accomplish a good deal to make the life of the agriculturist a little more happy, to put a little more money into his pocket, and to improve his health? I think it will be recognised that within the limits of their resources a good deal of work was done in the provinces to ameliorate the condition of the masses. In dealing with this problem we must remember the times through which we have passed. There have unfortunately been great physical calamities like floods and earthquakes which have strained the resources of Government, which have made it impossible for them to carry out their well laid out plans. Most of us here know what strain has been put on the finances of the

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Government of India because of the Quetta earthquake or what disastrous consequences the Bihar earthquake had on the finances of that province. We must therefore remember that our finances are apt to be upset by unforeseen natural calamities. So, I hope it will be agreed that within their resources, a great deal of work has been done in the provinces. I will mention very briefly something which was done in my province where, as my Honourable friend Raja Ghazanfar Ali Khan knows, there are a large number of big landlords. After the reforms, we have had two big tenancy Acts, giving to the tenants of the Provinces of Agra and Oudh security of tenure. We have had the rents of tenants, since the great slump in prices, reduced by over Rs. 4 crores—by 25 per cent. and in many districts by 50 per cent. The land revenue was reduced by over a crore. That is the extent to which the landholders made their contribution to lighten the sufferings and the wants of their tenantry. We have had a very big scheme of hydro-electric irrigation which is likely to change the face of many districts where irrigation from rivers was impossible. We have had five Acts recently passed dealing with the debt of landholders and tenants. Mr. Hallett has given you some figures about the Central Provinces. He has mentioned that nearly 30 Acts have been passed in the various provinces dealing with this question of agricultural indebtedness. We have not yet had reports as to how these Acts have been working, but the point I wish to emphasise is that this question of security of tenure, of rural indebtedness, of supplying water where it is needed, has been taken up by the provinces and they have within their resources done what is possible. Now, I might be asked, what has the Centre been doing? Well, I will not trouble Honourable Members with many details, but it was the Government of India which appointed the Royal Commission on Agriculture, and we have that monumental report in which a great deal of very valuable information will be found by Honourable Members in dealing with problems of rural reconstruction. We have established an Imperial Council of Agricultural Research, to which the Government of India have already given over a crore of rupees for schemes of research directly controlled by it. We have, as was mentioned by the Home Secretary in his speech, given over Rs. 2 crores for rural reconstruction. Rs. 15 lakhs have been given to encourage the better administration of co-operative societies in the provinces. I agree that these sums are not very large, speaking comparatively. But so far as agriculture is concerned the Government of India have established a central organisation where the Provinces and the Centre can meet and exchange ideas. So far as education is concerned, and that is a fundamental question in connection with middle class unemployment, a Central Board of Education has been established, which has discussed this question and passed a resolution suggesting the ways in which secondary education should be handled in order to deal at the root with the causes of middle class unemployment. That resolution was forwarded to Local Governments with the suggestion that we were quite prepared to meet the cost of getting experts to advise us in regard to the reform of secondary education. The replies of Local Governments have been received. Most of them have accepted our suggestions and we hope that shortly we shall have experts here to advise us in regard to education.

Mr. Clow has already dealt with what has been done in regard to labouring classes in urban areas. But apart from this I should like the House to consider that it will not be possible for any Government in the future to neglect this question, and for the very simple reason that the vote has now been given to 35 million people in India. It will not be possible now for the Ministers of the future to say that they are not able to employ funds because a certain portion has been usurped by the reserved departments. They will not be able to take shelter—I do not say they will want to—behind the Finance or Home Member, because there will be no such persons in the future. Moreover, the man in the village has got the vote. He will see to it that it is not enough that Honourable Members here or outside make fiery speeches and eloquent perorations about his distress and poverty. He will want them to show some definite action to ameliorate his condition. As Raja Ghazanfar Ali Khan said, the remedy will not lie entirely with Government. It will depend on the voter as to the type of man he sends to the Council and as to the Ministers who will be in office. It is necessary to educate our masses, and not only to educate them but to keep them in good health and to put a little money into their pockets. But I can assure Honourable Members that no Government and none of us, landlord or capitalist, can now rest content with things as they exist. I entirely agree that we must adjust ourselves to changing circumstances, that it will be up to us to see that we do our utmost to improve the lot of the tenant in the villages, on whose labour and on whose patience the wealth of the country depends. I think that there is no difference of opinion on that point, but I think that what Sir Phiroze Sethna wished to emphasise in moving this Resolution was that the methods in this country for improving the lot of the people are not the methods which have been adopted in Russia, that if those methods are adopted it is inevitable that there will be disorder and armed conflict, and, as Mr. Sapru said, nobody can say if there is disorder and armed conflict what the ultimate result will be. It is impossible to prophesy that with disorder reaction will not be extreme, that the causes which all of us have at heart, the guarding of liberty, the improvement of the material condition of the people, may not be lost in the supreme necessity of suppressing by armed force an armed revolt. It is therefore not in the interests of the people themselves that we should preach doctrines, especially as Raja Ghazanfar Ali Khan has said, to illiterate people, to the effect that while they are labouring hard to earn a very small pittance by the sweat of their brow the landlord is rolling in wealth and is the real culprit and if he were abolished all would be well; and if the capitalist were turned out the labourer would be happy. Such doctrines might find ready acceptance in a population so illiterate and so poor as that of India, and as some Honourable Member pointed out, there is the lesson of China before us. For years and years the whole country has been split by civil war. And we have the near example of Spain, of what civil warfare means, of the barbarity and inhumanity that civil warfare may lead to. I think therefore that what Sir Phiroze Sethna had in mind was to bring forward before this House the danger of teaching subversive doctrines at the present moment and at the same time to emphasise that the Government and those responsible for the conduct of affairs should take every possible step in order to ameliorate the condition of the masses. I hope I have satisfied Honourable Members that this object has been before Governments

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in the past, that it has been with them at present, and that it will be more and more with them in the future, that everything possible within the resources at our command have been done, that we are alive to the necessities of the situation and I can assure Honourable Members that land-owners in my province, the United Provinces, fully realise that they cannot expect that the old order of things will remain. I think it is in that spirit that I support the Resolution of the Honourable Sir Phiroze Sethna. It is not with reference to the doctrines or to the opinions of any particular individual. It is only on the basis that the Government not only here but in the provinces are doing their utmost for the welfare of the masses and that at this stage we honestly believe that evolutionary changes will be to the benefit of the people and will achieve our ideals and that if there is disorder, if there is armed conflict, we are not sure whether the goal may not recede far far away from us. (Applause.)

THE HONOURABLE SIR PHIROZE SETHNA : Mr. President, I had no idea that my Resolution would excite as much attention on the part of Honourable Members as it seems to have done. I agree with the Honourable the Leader of the House in the observation he made that this is not because Members of this House are men with vested interests that they would be inclined to support my Resolution. He said that every man who has sound views and who has in mind the welfare of his country and its future would necessarily support it.

I may be allowed to deal first with the speeches of the three Honourable Members representing Government and thereafter with the speeches made by my non-official friends. On the Government side the Honourable Mr. Clow, the Honourable Mr. Hallett and the Honourable the Leader of the House have addressed us. The Honourable Mr. Clow has been complimented—and rightly complimented—on the speech he made this morning. Mr. Clow, however, dealt very largely on the subject of labour legislation. I may remind him and I may point out to the House that I have made no reference to labour legislation in my Resolution or in my speech. I am entirely in accord with the Honourable Mr. Clow in the views he has expressed about labour legislation and I think he will admit that the sensible portion of the capitalists in this country have invariably supported him in whatever legislation he has introduced for the welfare of labour. Labour legislation is intended for the welfare of the labouring classes. My Resolution however has for its object the reducing of poverty and distress not only amongst the vast agricultural classes but also amongst the labour population and I have laid stress on that with the view that means might be adopted by Government whereby not only the agriculturist but also the ordinary labourer will earn more than what he is doing today and thereby not be drawn towards communism. There was an impression created by Mr. Clow's speech in the minds of some Members on this side of the House that perhaps he does not favour my Resolution. I think I am perfectly right in holding that Mr. Clow does believe that if the measures that I have recommended in the latter part of my Resolution are given effect to by Government, they will go a great way to preventing the growth of communism and communistic ideas in the country.

We are obliged to the Honourable Mr. Hallett for the information that he has given, as also to the Honourable Leader for all that Government are doing and propose to do in the future. I admit Government are trying to do their best, but I cannot help observing that all this activity on the part of Government is only of recent date, namely, during the last decade or perhaps the last 15 years and I must blame Government for having been remiss in the past and I need not refer again to what I said this morning in regard to what was forcibly impressed on Government by such great Indians as Dadabhai Naoroji and others. I need not now say anything further on this question after we have been told as to what Government are doing and what they propose to do for the agricultural and labouring classes.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Though on a small scale.

THE HONOURABLE SIR PHIROZE SETHNA : My Honourable friend says though on a small scale. We have got to consider the financial resources of the Government, to which the Honourable Leader has referred. Let us hope that in the new constitution conditions will be changed and we will be able to do better.

The Honourable Mr. Hallett in giving us various details has enlightened us with something with which we were not conversant previously, namely, the progress that has been made in one province, the Central Provinces, in regard to indebtedness. That certainly, Sir, has been a step in the right direction and I have no doubt that Mr. Hallett himself when he takes charge of the administration of the Province of Bihar within the next few months he will adopt the same methods himself and also prevail on his brother Governors of other provinces to follow that example.

The Honourable the Leader said that under the Montagu-Chelmsford Reforms it was open to the Ministers within the limit of their resources to help agriculturists, etc., but I hope my Honourable friend will admit that those resources have been very slender and it was not possible for the Ministers to do any more than what little they did for this and for what are called nation-building purposes. Under the new constitution, so much of the revenues has already been earmarked for distinct purposes that the Ministers will not be able, however willing they may be, to spend more money for relief of unemployment and similar objects. However, let us hope for the best. I thank the Honourable Leader for supporting my Resolution and I will now pass on to the criticisms of my non-official friends.

Although two of them have said that they will oppose the proposition, they have not said that they support communism or communistic ideas. They certainly do not, but yet they have not the courage to say that they will support my Resolution. What is the point they make ? They make the point that they must oppose because I have introduced the name of Pandit Jawaharlal Nehru in my Resolution. Why should I not ? My Honourable friend Mr. Sapru told you candidly that he tried to prevail upon me to drop this name. I may inform the House that half a dozen other Members tried to influence me similarly if I expected their support. I however persisted in mentioning the Pandit's name for the very good reason that communism was

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simmering and Pandit Jawaharlal Nehru has set it ablaze after occupying the presidential chair of the Congress. It is, therefore, that I have mentioned his name. Could we talk here of non-violence or civil disobedience without mentioning the name of Mahatma Gandhi and have we not done so scores of times? My Honourable friend, Raja Ghazanfar Ali Khan, said that it is not fair to speak of a man in his absence. We have spoken of Mahatma Gandhi and others very often in their absence and have protested against their actions but neither Raja Ghazanfar Ali Khan, Mr. Sapru, Mr. Gounder or anybody else has ever before complained on that score. Nobody has objected in the past and rightly so.

Why have I mentioned the name of Pandit Jawaharlal Nehru? It is because Pandit Jawaharlal Nehru is responsible and may I add solely responsible for trying to spread the idea of communism and that too only after having occupied the presidential chair a second time. What harm have I done in mentioning his name? I am sure Pandit Jawaharlal Nehru himself would not object to it. On the contrary, fair-minded man that he is, Pandit Jawaharlal would hold that I am justified in mentioning him by name as I have done in my Resolution. But what is at the bottom of it all? I have mentioned that some Honourable Members asked me to drop the Pandit's name, and some of them were candid enough to tell me that if this Resolution had been brought six months ago they would have had no objection to my mentioning the Pandit by name, but it is owing to the coming elections that they wanted me to drop it.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : That shows his influence and popularity.

THE HONOURABLE SIR PHIROZE SETHNA : I have never denied his popularity, I have never denied his ability, and I have paid ample testimony in my speech to his many good qualities but that is no reason why I should not refer to him by name when criticising his views to which we are opposed. Only yesterday's papers announced the intention of the Congress to appoint its President not for 12 months but for three years and they propose to go further that if the Congress as a body does not agree to this suggestion in the case of every President they should at least agree in the case of President Pandit Jawaharlal Nehru.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : That is their lookout.

THE HONOURABLE SIR PHIROZE SETHNA : I know it is their lookout, but it is also our look out and that of Government to see that he does not spread communistic ideas to such an extent in these three years as would absolutely ruin the country.

Some Honourable Members seem to doubt that Pandit Jawaharlal Nehru is spreading communistic ideas? I read out a portion of the speech which

Pandit Jawaharlal Nehru made at the Lucknow Congress, from which I will read only one sentence in the course of my reply. That must give them an indication of what is in his mind. He said :

"Some glimpse we can have at this new civilisation in the territories of the U. S. S. R. I look upon that great and fascinating unfolding of a new order and a new civilisation as the most promising feature of our dismal age".

How can you interpret this otherwise than that he wants us to follow the methods of Bolshevik Russia in India and it is that which my Resolution desires the House and desires Government to prevent as best they can.

I repeat that some friends here say that I should not have mentioned Pandit Jawaharlal's name. I repeat the same friends never objected when Mahatma Gandhi's name was mentioned. The leaders of the Congress themselves, Mahatma Gandhi, Babu Rajendra Prasad and Sardar Vallabhai Patel, have not endorsed the views of Pandit Jawaharlal Nehru which is an open secret. In fact Babu Rajendra Prasad in a speech he made at Patna on the 31st May or 1st June last gave a sharp rebuke to the Congress socialists, which was meant in particular for Pandit Jawaharlal. We do not know how Pandit Jawaharlal has regarded this severe reproof. Babu Rajendra Prasad thought it was by no means opportune to present new problems to the country and to create further divisions in the Congress camp as the Socialists were bound to do. The Congress would thus be talking with two voices. Pandit Jawaharlal has been attacking the Liberals in season and out of season in very contemptuous terms. The Liberals are opposed to communism just as much as are "the big business men", as Pandit Jawaharlal calls them. They have levelled the same kind of criticism against him and his plans as his fellow brethren of the Congress themselves have done.

Pandit Jawaharlal seems to have adopted his present ideas only of late. I do not know whether my friend Mr. Sapru will support me or not in this contention but only a few years ago Pandit Jawaharlal was dead against Fascism and Bolshevism; they were both anathema to him. Speaking before the United Provinces Provincial Congress he is reported to have said :

"Bolshevism and Fascism are the ways of the West today. They are really alike and represent different phases of insensate violence and intolerance. The choice for us is between Lenin and Mussolini on the one side and Gandhi on the other".

Today he is wholesale in favour of communism. Every man may follow his own convictions, any one may change his views—as Pandit Jawaharlal appears to have done. We cannot possibly object to that, but whether such change and the consequent influence he would bring to bear on the minds of the people in his capacity as President of the Congress are conducive to the welfare of the country is what I ask Honourable Members to consider.

On another occasion Pandit Jawaharlal has said that in every country there are two parties, the reformist and the revolutionary. I am sure the majority will agree with me that we want to pursue the reformist's path, because we have no faith in revolutionary methods. We would like to have our present ills of Indian society remedied and redressed by persuasion, by legislation and by other reformist processes and not by communistic methods. I feel confident, Sir, the House will pass my Resolution. (Applause.)

THE HONOURABLE THE PRESIDENT: Resolution moved:

"This Council recommends to the Governor General in Council that in order to prevent the growth of communistic ideas advocated and propagated by the President of the Indian National Congress and others, well-considered measures should be adopted as early as possible for relieving unemployment, particularly among the educated lower middle classes, and for reducing poverty and distress in the vast agricultural and labour population and for promoting their welfare generally."

The Question is:

"That this Resolution be adopted."

The Motion was adopted.

RESOLUTION RE MANUFACTURE OF CEMENT BY GOVERNMENT AS A STATE MONOPOLY.

THE HONOURABLE MR. V. C. VELLINGIRI GOUNDER (Madras: Non-Muhammadan): Mr. President, I beg to move the following Resolution, which stands in my name:

"The Council recommends to the Governor General in Council that the manufacture of cement may be taken over by Government as a State monopoly."

Sir, cement is beginning rapidly to occupy an important position in many ways, and comes in very handy for the rapid improvement of the country in all directions. No doubt everyone should be proud to think that this valuable material is made in India and not imported from outside at much cost as was the case some time ago and some of our great works of irrigation have been done with our Indian-made cement. It is therefore a satisfactory position so far in a general sense that our country is self-contained in this important industry, with the advantage of all raw materials for the manufacture being available locally without coming into the difficulty of tariff protection. Being an important national industry, it rightly deserves the full support of Government and the public.

The object of my Resolution is this. The cement industry when it is said to be one of national importance and considering also its importance is increasing day by day, I should like to bring to the notice of this Honourable House the fact that this industry can be said to be one of the key industries for the development of the country and in no way different from industries like the iron, hydro-electricity, petrol, motor and rubber industry. It is a well-known fact that these cement industries get special concessions from Government. I agree that it is quite proper that such help should be given and that it is necessary for the successful working of the industry, but the question is to what extent can this industry be truly said to serve national interests. As these are industries that receive, as I said, great help and patronage, they should be made as far as possible to be serviceable to the public after allowing a reasonable return to the capital. Now, what is the present position? We know this cement industry can only be worked successfully with a large capital investment and Government help. When Government help is given, it is but right that the public should know in what way Government has a right to exercise any control over these industrial

concerns. So far as I am able to know, the Government has been granting away special concessions even without consulting local interests and authorities and have not kept or imposed any such control or condition in order to secure a portion of such benefit to the public. What Government grants as concessions and special help is the available natural resources of great potential value in the locality. These valuable natural resources may be called a public trust property which should not be given away by Government freely for the mere asking. We all know our country is not well organised industrially suitable to its needs and conditions owing to several causes. If a certain section of people having influence and capital and technical skill is given help by Government to start industries which have an assured market and Government patronage, it is no wonder that the industries develop and pay abnormal incomes. It is common knowledge that such incomes mean undue disadvantage to the people and the country. And this is nothing but permitting exploitation of the country by the capitalistic section and Government taking a share by way of income-tax and be satisfied. Recently we have heard that these cement companies are forming a ring and the position would be still worse. How can we describe such a situation except by saying that Government are themselves assisting the exploitation of the country and the enjoyment of a monopoly by the capitalistic section in the country? Sir, I ask, is this the proper method of industrialisation suited to our country? I ask, is this the industrial nationalisation of our country? We all know to what extent this highly necessary material is going to be a daily necessity to the masses of our country and to the innumerable public works upon which crores of public money are spent every year.

Sir, the other day we heard our Viceroy expressing the desire to raise the standard of living in the country. We were told also that our public health is suffering, our masses are labouring under many difficulties. More and better accommodation is necessary. How are the poor people going to afford proper housing accommodation if the cement prices that were prevailing years back when cement came into our country remain the same in spite of the fact that numerous industrial concerns manufacturing cement have been started. While this is so, is it too much to ask that Government should have some control either directly or otherwise so that the benefit from this industry which depends upon the natural resources of potential value of our country should be made to be enjoyed equally by the general public? I know Government may raise objections as a general policy that private concerns would work efficiently and it would be difficult for Government to manage industrial concerns profitably. But as I said, this is not an industry that can be classed as such. It is one of the key industries depending upon Government for help.

Sir, recently I read in a paper that the Ceylon Government is considering the question of the manufacture of cement as a State enterprise. Now, the recent publications show that a big concern under the name of the Associated Cement Company started with a capital of Rs. 8 crores to bring in all the big cement companies in India which number about 10, an all-India concern, so that they may be able to command better terms and make greater profit to the great disadvantage of the public.

[Mr. V. C. Vellingiri Gounder.]

Sir, if this big organisation is to come into working state taking control of all the big cement companies, then where is the scope for getting favourable prices for this important material upon which a large number of works depend and from which a large number of people get no real benefit? We know from our experience that the prices of several other imported articles have gone down considerably in value and yet, in spite of companies working in our own country, supplying our country's needs, they have not been able to give any lesser prices or advantage over the foreign importer. So I submit it is proper that Government should see the justification of my contention that the public has a right to claim a benefit from the big industrial developments for which Government is giving help and patronage. And it is for Government to devise suitable methods in whatever way to secure such benefits to the country at large.

Every development scheme, every public health scheme, and every irrigation and road schemes mean the spending of a large amount upon it, and as cement is an important material upon which every improvement of the country depends, as this is an industry which can only be managed under a big capitalist method and with Government help, I submit that a certain control is necessary, either directly or indirectly, and so I thought it better that an efficient control should be provided by Government and that if this control is provided the benefit of this industry will be enjoyed equally by the country.

With these words, Sir, I move the Resolution.

THE HONOURABLE SIR PHIROZE SETHNA (Bombay: Non-Muhamadan): Mr. President, the Resolution moved by the Honourable Mr. Vellingiri Gounder today is different from the one of which he had given previous notice, as Honourable Members must know. Today he only asks that the manufacture of cement may be taken over by Government as a State monopoly. In the original Resolution he gave a reason as to why Government should take over cement manufacture as a State monopoly. The reason he advanced was that a big combine is being formed for monopolising the manufacture and distribution of cement. He has advisedly dropped this reason from the Resolution that he has moved today. Now, Mr. President, the facts that he has mentioned are, I may say altogether incorrect, as I will presently explain. He said first of all that he knows that Government will not undertake such a State monopoly, because he said that such a business can be managed better and more efficiently by private enterprise. If so, where was the necessity of this Resolution? He also said that Ceylon is thinking of having a State monopoly in the manufacture of cement. There too I may correct him, because I understand that commercial firms and not Government are contemplating the establishment of one or more factories in that island. Then he added that if there were a State monopoly of this business there would be considerable reduction in prices. This statement proves that the Honourable Mr. Gounder is entirely ignorant of the conditions that prevail in the cement market.

I shall give in brief the history of this industry. The first cement factory was started on a very small scale near the City of Madras as far back as 1904. It soon closed down. The first company on proper lines was registered in the year 1912. It was started by Messrs. Tata Sons of Bombay. It is known as the Indian Cement Company and its works are at Porbander. Within a year or two, two more factories were started, one at Katni and the other at Bundi. Then, as the House knows, the Great War broke out in 1914 when imports from Great Britain and other countries of Portland cement were stopped or very considerably reduced. That gave a filip to the production of cement in this country and factory after factory was put up. Then followed share-rate cutting and this went on to such an extent that it is estimated that shareholders of these factories within a short time lost between Rs. 2 and Rs. 2½ crores. This industry was in such a bad way that a Tariff Board enquiry took place and thereafter, in the year 1924, the managing agents of these factories thought it necessary and to their advantage to form a pool and sell their cement at fixed prices. This was done by the formation of a company called the Indian Cement Manufacturing Association. This lasted for six years and the position was very greatly improved. In 1930 the Cement Marketing Company of India was formed for the purpose of centralising selling arrangements and for fixing a quota for each company year by year. It was discovered that even under this arrangement there were some defects and they wanted to rectify those defects. What they were I shall be able to explain better by giving an example. Take, for instance, the company known as the Punjab Cement Company. That catered for a territory which consumed nearly 140,000 tons of cement every year. Because of the quota system which restricted the Punjab Cement Company to a production of only 72,000 tons, it followed that the remaining 68,000 tons or more had to be imported from neighbouring provinces. This came from the Central Provinces. Now, any cement made by the Punjab Cement Company could be transported from the works to any part of that territory at the railway freight of only Rs. 7 per ton whereas what came from the Central Provinces had to pay Rs. 18, or a difference of Rs. 11 per ton. That was a very great difference and this happened in the case of many other factories, so that it was thought necessary to improve this position in a manner that would prove of advantage to the Combine.

The fertile brain of that late lamented great lawyer, financier and industrialist, Mr. F. E. Dinshaw, whose sudden death in January last not only Bombay but all India mourns, conceived the idea of a merger, and it was intended thereby to consolidate and to reorganise the entire business of the various companies not only regarding sales and the selling price but also the manufacture, administration, erection of new factories when and where necessary, and all other matters, such as economic distribution, abolition of quotas and the fullest advantage to be taken of those companies which could produce more in their own localities. That is the object of the merger which is on the way of being soon started.

No monopoly exists or was ever intended. There is no monopolistic idea at all. The Combine is formed to be able to sell cement at a cheaper rate and not, as my Honourable friend said, at a higher rate. How much cheaper I shall be able to show presently. In the first place, what the Combine has been able

[Sir Phiroze Sethna.]

to achieve is this, that whilst in the year 1914, India produced less than 1,000 tons of cement and in 1914 the imports of British and foreign cement amounted to 150,000 tons, only five years later, *i.e.*, in 1919, the manufacture of local cement rose from 1,000 tons to 87,000 tons and the imports dropped from 150,000 tons to only 83,000 tons. That was in 1919. Let me give you the figures of 1935. Excluding Burma, the total imports from elsewhere were only 36,000 tons—whilst Indian concerns manufactured as much as 900,000 tons. And what is more, the cement produced in India is recognised to be as good as cement produced in any other part of the world.

Now as to prices. My friend says the prices have not gone down. In 1929-30 the price of cement per ton was Rs. 54-12-0; the price today is Rs. 44-10-0, so that the consumer has gained to the extent of Rs. 10 per ton in the price he pays for his purchases of cement. This is very beneficial to the consumers as the mover must admit, a fact however of which he seems to be totally unaware or he would not have criticised as he has done. There is no monopoly whatever as we understand that term. It is open to any one to enter the field. There is an English Company known as the Sone Valley and the Sone Valley, which has its works in Bengal, although it is not in the Combine, has in its own interest agreed to produce no more than the quantity assigned to it by way of quota nor to sell at any higher price than the Combine does. That is not all. My friend of course reads the daily papers. He must have read the prospectus of the Rohtas Industries Co., Ltd., in regard to the formation of a new cement company. Perhaps he is not aware that the same management is contemplating starting another factory at a place called Chokri-Dadri in the Jind State, only 80 miles from Delhi. The Mysore State is starting a factory and there are rumours of still more companies being floated before long. How then can the Honourable mover call the proposed merger a monopoly?

The main idea of the merger is to popularise the use of cement in this country and at a price which will compete with other modes of construction of buildings, etc. In London today the price per ton of Portland cement at the Docks is 44s. One has to pay for carriage to destination about half a crown per ton, which makes the price 46s. 6d. per ton, in our money equal to about Rs. 32; whereas the price at ports in India is still Rs. 40, and the carriage roughly Rs. 7-8-0, and it is the endeavour of the merger to bring down the price of Rs. 47-8-0 to the level of the price in England which I hope my Honourable friend will recognise is a step which will help to promote the use of cement in India to a much larger degree than is the case today.

I have told the House that the average price today is Rs. 44-10-0 per ton. That includes freight, which up to December last was Rs. 11-70 per ton. But at that date cement was placed among the 200 different articles upon which freight has been increased by the Railway authorities. Therefore, instead of Rs. 11-70, freight since December last is Rs. 12-72 per ton.

THE HONOURABLE SIR GUTHRIE RUSSELL: Where to?

THE HONOURABLE SIR PHIROZE SETHNA: That is the average freight per ton that is paid. In addition to this freight on cement proper, the

Companies pay about Rs. 6 per ton on other articles which are necessary in the manufacture of cement, such as coal, bags, stores, gypsum, etc. Therefore the price which the manufacturers realise is only Rs. 25 to Rs. 26 per ton.

Furthermore, the Combine has made arrangements with the United Provinces Government to supply enough cement for constructing a concrete road 24 miles in length from Bulandshahr to Ghaziabad. They have given to the United Provinces a rebate of 10 per cent. in their regular price and they have agreed to receive payment in five instalments without charging any interest. Again, they have entered into a running contract with the United Provinces for four years to supply cement at Rs. 28 taken from the works for cash, or Rs. 30 per ton if the payments are deferred.

The Honourable Member has frankly admitted that Government will not be able to work as efficiently and I have no doubt Government themselves will certainly say that such work should be left to private enterprise. I would like to conclude by informing the Honourable mover that the Combine and not the merger has conferred and will confer many advantages to the public. In the first place, foreign imports are now negligible, and I think at the present rate within the next two or three years they will drop almost to zero. Indian production of cement has increased enormously. Cement factories have given employment to thousands of men and, above all, the consumer has already the advantage of getting the cement at Rs. 10 to Rs. 11 less than what he paid only six or seven years ago with prospects of further reduction in the future. Under these circumstances I trust the Honourable mover has realised by now that he is entirely wrong in taking up the position he has and, rather than see the Resolution thrown out, I hope he will see the wisdom of asking for leave to withdraw his Motion.

THE HONOURABLE MR. A. G. CLOW (Industries and Labour Secretary): Sir, my first feeling when I read this Resolution was that Government and Government servants had been paid an extraordinarily sincere compliment, a compliment the more sincere because it seemed entirely unconscious. I felt that Sir Guthrie Russell in particular as the head of the greatest State organisation in India must have blushed when he read it to find that an Honourable Member of the Opposition had such faith and such confidence in the commercial acumen of Government servants. Unfortunately he destroyed that part of the compliment in his speech when I think he said that Government would not manage as efficiently as private companies, and left me wondering therefore why he proposed to entrust them with a monopoly in cement! I myself do not share the belief that Government servants are as a rule excellently qualified to manage business concerns, and I would have still less faith in them if they were asked to manage it on the conditions suggested, in other words, as a complete monopoly, a monopoly which, I may remind my Honourable friend, not even Sir Guthrie Russell enjoys as he has to face serious competition in other directions.

But when I listened to his speech I failed to find, I am sorry to say, any real argument why this particular industry should be taken over as a State monopoly? In fact I think I heard my Honourable friend say that it was in no way different from a number of other industries. He mentioned iron, the

[Mr. A. G. Clow.]

production of petrol, rubber, and I could add a good many other industries like coal. I did not gather, except on the one point of the merger to which he referred, any reason why the conditions in this industry were so peculiar as to warrant this extraordinary step of Government completely ousting the private industrialist and taking over the production of this admittedly important commodity. And that I think must be my answer to the Resolution which I must oppose, that no case has been made out for a monopoly. In the course of his speech the Honourable mover referred to direct or indirect control. But direct or indirect control is not the subject of the Resolution, which is perfectly specific in its terms.

With the question of the merger my Honourable friend Sir Phiroze Sethna has dealt adequately. I admit that there is always a danger that a monopoly will abuse its position, but I think Sir Phiroze Sethna has established the fact that there is no monopoly in this case, and experience both here and elsewhere does not suggest that a cartel or combination is necessarily going to be injurious to the consumer of cement. Sir Phiroze Sethna has pointed out that it is open to others to start new factories if those who have control of the selling organisation endeavour to exploit their position, and he mentioned the fact that, although the merger is comparatively recent, combined marketing arrangements have been in force for some considerable time.

THE HONOURABLE SIR PHIROZE SETHNA : Since 1924.

THE HONOURABLE MR. A. G. CLOW : Further, India is not the only country which can produce cement, and the industry enjoys at present the advantage of a considerable duty. I think that shows another possibility of protecting the consumer if the need should arise, for obviously a substantial reduction in that duty, if the price was being put up unnecessarily high, would force a reduction in price. But my main point is that we have no evidence of any injury being done and in those circumstances, Sir, I must oppose the Resolution.

THE HONOURABLE MR. V. C. VELLINGIRI GOUNDER : My point is that a big industry like this would better serve the public if it is managed by the State. I agree with the argument that Government management is not at all economical and is rather costly, but yet in such key industries it is necessary that it should be for the real advancement of industrial knowledge of the country that these industries should at least for some time be in the hands of the State so that the public may get a greater control and voice in the matter. What I am afraid of is that this merger arrangement, although, as my Honourable friend Sir Phiroze Sethna said, it is not going to increase the prices, as a combined arrangement may create certain difficulties in the way of making cement cheaper. That is the object of my Resolution. I do not agree at all, Sir, with the views expressed by Sir Phiroze Sethna. Considering the view taken by Government I withdraw my Resolution.

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

RESOLUTION RE LOWERING OF GRAZING RATES.

THE HONOURABLE MR. V. V. KALIKAR (Central Provinces : General) : Sir, the Resolution that stands in my name runs thus :

"That this Council recommends to the Governor General in Council to issue instructions to all Provincial Governments to lower the rates of grazing so as to make it possible for ordinary agriculturists to maintain good cattle."

Sir, we have been taking interest and a lot of interest in urban problems and the Leader of the House just a few minutes ago told us that before the Montagu-Chelmsford Report we were taking interest only in urban problems. Now, I think the House will allow me to take interest in the rural population. I know certain objections will be brought forward against my Resolution and when those objections will be stated I think I will be in a position to reply to them. But the reason why I have brought forward this Resolution in this House is that the lead given by the present Viceroy in the cause of animal husbandry and the momentum that movement has received requires the bringing of such a Resolution before this House so that the Centre may bring pressure on Local Governments to give more facilities to the agriculturists and especially to those cultivators who maintain cattle so that they may be able to maintain good breeds of cattle and also that they may be able to maintain a sufficient number of cattle for the cultivation of their land. I know, Sir, that at the fag end of the day it will be rather boring to the House about the rates and about the revenue which the Government of the Central Provinces derive from the grazing grounds. But, Sir, I shall only state the figures for two years and try to prove how the agriculturists are affected and how the cattle wealth has been depleted. Sir, before the advent of British Rule in India, pasture lands and forest areas where the cattle of agriculturists used to graze were used by the agriculturists free of any charge, especially those areas which were adjacent to the village. After the advent of British rule a systematic policy of classing forest areas was devised by the British Government and the forest areas were classed as reserved, protected and unclassified forests. If I remember aright, a circular was issued by the Government of India in 1894 in which it was stated that the forest areas were administered by the Government in the interests of the public and in the interests of the cultivators. Sir, this problem was examined and thoroughly examined by the Royal Agricultural Commission and I am very sorry to state that many of the suggestions which the Royal Commission made in solving this problem were not implemented by the various Provincial Governments. In the reserved forests, a very limited area is allowed for the grazing of the agriculturists' cattle. In my province there are four classes of forests : A class, B class, C class and D class ; of which A class is particularly reserved for the growth of commercial timber and a very limited area of that class of forest is allowed for grazing but very exorbitant rates are charged from the cultivators who graze their cattle there. In the B class, the area is reserved for cutting the grass for fodder and for selling that grass for thatching purposes. In the C class forests, the area is reserved for grazing purposes only and in the D class forests, which is a very small area, free grazing is allowed. The rates that

[Mr. V. V. Kalikar.]

are charged to the agriculturists for grazing their cattle in the forest areas are of three kinds, privilege, ordinary, and commercial rates. These rates vary from district to district and as I see from the Report of the Agricultural Commission, they vary from province to province also. In my province, the privilege rates are confined only to four cattle of an agriculturist who owns one plough and the rates vary from four annas to eight annas.

5-5 P.M.

Ordinary rates are charged to every additional four cattle heads of an agriculturist who owns one plough and the rates vary from eight annas to one rupee, and the commercial rates vary from eight annas to Rs. 3, and they are charged over and above the two rates that are charged to the agriculturist and that I have mentioned above. These are the rates that have been fixed for grazing in Government forests and an additional rate, called the transit rate, is charged to the agriculturists who do not want to graze their cattle in Government forests but want to take their cattle through those Government forests. Everybody who is acquainted with the plight of the agriculturist especially during the last six or seven years will realise their difficulties. An ordinary agriculturist—and even a big zemindar—has not been able to meet the cost of production. I am sure everybody will realise their difficulties when the agriculturists are not allowed to keep cattle sufficient even for their cultivation and when facilities are denied to them for grazing their cattle in the forest area. I shall only give figures for two years although I have got figures from 1918-19 to 1934-35. In order to show how the cattle wealth of my province has been depleted and how the revenue from grazing has doubled, I shall only give figures for two years. In 1918-19, the number of animals grazed in Government forests was 32,33,739 and the revenue which Government got by way of grazing rent was Rs. 10,44,661. In 1933-34, the number of cattle that grazed in Government forests was 31,46,586 and the revenue that the Government got was Rs. 26,00,180. So, more than double the amount accrued to Government from grazing dues. Everybody knows, Sir, that the population has increased and the agriculturists could not keep more cattle for the cultivation of their lands as facilities are denied to them owing to these prohibitive rates. I know, Sir, that attempts have been made now to induce agriculturists to improve the quality of their cattle. In my province at least, the middle class people and landlords are being induced to keep bulls and improve the pedigree of their cattle. I submit that this problem cannot be solved unless sufficient arrangement for fodder for these cattle is made. The Royal Commission on Agriculture made a recommendation that Provincial Governments should allow those forest areas where timber of the best type for commercial purposes cannot be produced to be managed by village panchayats. I find, Sir,—I am open to correction on this point—that only in Madras this question has been taken up by the Government and certain forest areas are managed by village panchayats in the interests of the agriculturists. In other provinces this remedy has not been tried. If this suggestion had been followed by other Provincial Governments, I think the rates about which we hear complaints from almost all the provinces might have been reduced to such an extent as to allow the agriculturists to keep a sufficient number of cattle for the cultivation of his land. Then, Sir, the figures that I have quoted show and the information that I have got about my own province

is that the rates have been increased to a very large extent during the last seven or eight years. That is also against the recommendation of the Royal Commission on Agriculture. The Royal Commission recommended that the rates for grazing should not be increased in the least. The recommendation on this point will be found on page 261. I do not want to read it. I want to read only one sentence. The Report says that even a very moderate increase would be likely to arouse resentment and react unfavourably on those friendly relations between people and the forests. So, my point is, that if the forest area is managed in the interests of the agriculturist, if certain forests which do not really produce commercial timber are allowed for the use of the cattle of the agriculturists, and if the rates that are charged now, against which there is a lot of agitation, are reduced, the agriculturist will be in a position to maintain good cattle as well as a sufficient number of cattle for the cultivation of his land. No amount of propaganda by presenting stud bulls or by asking agriculturists to maintain good cattle or to improve the quality of their cattle will be successful unless this problem is tackled and tackled sympathetically. The Provincial Governments have not attacked this problem sympathetically and therefore I have come to the Centre so that they will at least consider this problem sympathetically. I submit, Sir, my Honourable friend the Leader of the House who is himself a great zemindar in the United Provinces realises the importance of this question, and I hope he will support my Resolution and issue the necessary instructions.

With these words, Sir, I move my Resolution.

The HONOURABLE KUNWAR SIR JAGDISH PRASAD (Education, Health and Lands Member) : Sir, as an agriculturist and as, for the moment, the Member in charge of Agriculture I have no complaint to make that my Honourable friend has brought this very important Resolution. I share with him the regret that this very vital question is being discussed at so late an hour when the Members are feeling the effects of their earlier exertions. My Honourable friend, because he comes from the Central Provinces has very naturally confined his remarks to cattle grazing in forests. We all know that in the Central Provinces a good deal of the grazing is done in forests, more than in any other province. I have had a statement prepared showing what would be the financial effect on the provincial finances if my Honourable friend's Resolution were carried. I find that throughout India, including Burma, the fees from cattle grazing are about Rs. 30 lakhs a year. In his own province, the Central Provinces, they are about Rs. 12 lakhs. So that if the Resolution were carried his own province would be down by some lakhs. But apart from that he has tried to get support for his proposal from the recommendations of the Royal Commission on Agriculture. I would remind my Honourable friend that if he will read the page which he mentioned, page 261, he will find that the Royal Commission have said that the grazing fees generally throughout India are low. Of course, they have said that any attempt to increase them would not meet with approval. That, of course, is quite a different proposition to saying that the Royal Commission on Agriculture had recommended that the existing fees should be reduced, which, I am afraid, is not entirely accurate. Now, as regards the Central Provinces themselves, I find that in that province over 80 per cent. of the Government

[Sir Jagdish Prasad.]

forest area is already open to cattle grazing. I also find from a debate which took place in the Central Provinces Legislative Council in 1931 that more cattle graze in the Central Provinces than in any other province, and further, when these grazing rates were revised in 1925 the effects were exactly the opposite of what has been mentioned by my Honourable friend. I will quote one line from the speech of Sir Arthur Nelson in the Council when this very point was raised whether the enhancement of the grazing fees had had any adverse effect on the number of cattle grazing in the forests. After saying that the enhancements had been made in 1925 he said :

"The mover has contended that these rates are excessive, press hardly on the agriculturist, and affect the public by their reaction on the prices of milk and ghee. This complaint has, as I shall show, no foundation. In the first place, since 1922-23, there has been an increase of five lakhs of cattle resorting to the Government forests for grazing, or more than half the total increase in the cattle population of the province during the same period".

Then, Sir, I wish to show that the discussion of problems of particular provinces in the Central Legislature has certain disadvantages. My Honourable friend lays emphasis on grazing in forest areas, but there are provinces where there are no forests or hardly any forests at all for grazing, for instance, in Bihar. There are problems of grazing in dry areas; there are problems of grazing in irrigated areas; and each of these problems has its own particular features. It is therefore impossible to discuss local problems and conditions adequately in the Centre. I am only mentioning this in order to draw the attention of Honourable Members to the fact that the problem of fodder supply, which we regard as extremely vital for the improvement of cattle, should not be regarded merely in reference to grazing in forest areas.

Then, a good many people who have considered this problem think that it is not enough to increase the number of cattle grazing in a particular area, and that there is what you may call the intensity of grazing. If in a particular area you have more cattle grazing in it than it can support, it will mean the deterioration of that area and it may mean that the whole of the grazing will disappear. Moreover, as the cattle cannot reach the interior of the forest where the growth of timber is thick, the grazing is limited and mostly confined to the edge of the forests near villages. It is essential that those areas should be utilised on certain principles, that is to say, as far as possible they should be reserved for the better class of cattle. If you let loose all kinds of cattle on a limited area, the result is that the grazing deteriorates. I should also like to draw attention to paragraph 183 of the Report of the Royal Commission on Agriculture, in which it is stated that considerable tracts of grass lands are not being fully utilised for a reason which might be remedied. In certain tracts there exists much good grass which is of little value to stock, because during the dry season there is no drinking water and that the water-supply of natural grazing lands is a subject well worth investigation. The Royal Commission were of opinion that much of the unequal grazing of which Forest officers complain may be associated with a difficulty in finding water for cattle near at hand.

However, I do not wish to give the impression for a moment that we do not regard this problem as vital to the improvement of cattle breeding. We are fully conscious that it is essential to improve the fodder supply if we are going to make any impression on improving the breed of cattle. We have written to Local Governments suggesting a meeting of representative forest officers with local knowledge of the provinces and a few other officers concerned to go into the question of the improvement of grazing in forest areas and also to consider the question how far this improved grazing can be utilised for the purpose of rearing a better stock than at present. If Local Governments agree to such a conference, we may have to review the whole question again. It may be that in certain provinces better and more sustained co-ordination between the Forestry Services and the Agricultural and Veterinary Services may be found to yield markedly improved results in cattle grazing facilities in forest areas. We quite recognise—the Honourable Member may take this assurance from me—we quite recognise the importance of this problem, and we are doing what we can to deal with it. I am not prepared to admit that the Provincial Governments have not been alive to their responsibilities. For instance, the Bombay Government, under the stimulus given by Dr. Burns who is at present officiating as our agricultural expert, has done a great deal in the improvement of grazing. Dr. Burns has made a number of experiments in rotational grazing with prevention of erosion, in the encouragement of grass cutting which has considerably improved the carrying capacity of poor Deccan lands. Moreover, the Irrigation Department there are trying an experiment of providing waste land with water at a time when it is not required for irrigating crops. The mover mentioned the question of handing over certain forest areas to village panchayats and he said that as far as he knew, Madras was the only province where this experiment had been tried. He will be glad to learn that this has been tried in the United Provinces. Certain forest areas in the Kumaon Division have been handed over to the panchayat. I understand that even in his own province, the Central Provinces, in certain areas forests have been handed over to panchayats. I hope that what I have said will convince my Honourable friend that we are fully alive to this question, that we do not regard it as hopeless, that we accept the proposition that unless the fodder supply is improved it is difficult to improve the breed of cattle. The assurance that I have given that the Government of India are dealing with this question will I hope induce my Honourable friend to withdraw his Resolution.

THE HONOURABLE MR. V. V. KALIKAR: Sir, I agree with my Honourable friend, the Leader of the House, that it is difficult to discuss provincial problems in the Centre. But from my information I came to the conclusion that the complaint of excessive rates for grazing is to be found in the Punjab, Bihar, Madras and the Central Provinces. Sir, this question has been debated, as stated by the Leader of the House, in the local Legislative Council of the Central Provinces, and in spite of the vote of the Council in favour of the reduction of the dues, no attempt has been made to lower the dues. The worst effect of it was that when the civil disobedience movement was in full swing, this particular item was taken up in my province and the followers of that movement actually took this problem in hand and went into the forests

[Mr. V. V. Kalikar.]

and tried to break the forest laws. I am sorry that even after that experience the Local Government did not realise the importance of this question and lower the dues. Therefore, at this juncture, when the gentleman who is at the helm of affairs in India is taking a very active interest in this matter, I thought it wise and prudent to move this question here and induce the Government of India to issue instructions to Local Governments with a view to reduce the rates of grazing. All know that the Local Governments will lose some revenue if the rates are reduced. But I have intentionally not expressed my view as to by how much the rates are to be reduced. In dealing with this question I am speaking as a responsible man in this House. I am not dictating any terms to the Government of India as to how much the rates should be reduced. That should be done in consultation with the Local Governments. But it is their duty to bring pressure on the Local Governments to make some amendments in this matter. As my Honourable friend says that they are going to hold a conference, and if I have understood him rightly, they are going to consider this question.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: Not the reduction of rates.

THE HONOURABLE MR. V. V. KALIKAR: Then if they are not going to consider the question of reduction of rates I am sorry I have no other course but to press my Resolution.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: My Honourable friend suggests that the Government of India should issue instructions to the Provincial Governments to reduce their rates. I should merely like to point out that this is a provincial subject, that the Government of India cannot issue instructions. And even assuming now when Forests are a reserved subject that a Resolution in the Legislative Council though carried is not given effect to, six months hence Forests will be a transferred subject, and if the Legislative Council of the Central Provinces can convince the Ministry that it is right and proper that the rates in the Central Provinces should be reduced, if the Ministry refuses to accept the recommendation of the Council it will be open to the Council and to my Honourable friend, if he is there, or to his friends to turn out the Ministry and to take their place and carry out that policy. But it is impossible for the Government of India to issue instructions which they know they cannot enforce. Suppose the Government of India said to Madras or to the Punjab, please remit Rs. 3 lakhs. They will say we are not going to do so. If you insist on this please supply the money if you consider this is the only way of improving the breed of cattle. We think there are many other ways. Therefore on that particular point I regret that I cannot accept his rather drastic and what I might call his unconstitutional suggestion. He as a lawyer and a constitutionalist must suggest such action as a constitutional Government can take. If we were dictators we might have fallen in with his suggestion, but unfortunately as our powers are limited I very much regret that under the constitution under which we work we cannot possibly issue such unconstitutional instructions.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN (West Punjab: Muhammadan): May I ask one question? Will the Honourable Member be prepared to forward this debate to Provincial Governments for their consideration? If so, I would ask my friend to withdraw his Resolution.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: I have not the slightest objection to forwarding a copy of the debate to Provincial Governments.

THE HONOURABLE MR. V. V. KALIKAR: Sir, I beg leave to withdraw the Resolution.

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

CONTROL OF COASTAL TRAFFIC OF INDIA BILL.

THE HONOURABLE MR. P. N. SAPRU (United Provinces Southern: Non-Muhammadan): Sir, I move:

"That the Bill to control the Coastal Traffic of India be referred to a Select Committee consisting of the Honourable Sir Phiroze Sethna, the Honourable Rai Bahadur Lala Ram Saran Das, the Honourable Mr. Parker, the Honourable Mr. Dow, the Honourable Saiyed Mohamed Padshah Sahib Bahadur, the Honourable Mr. Hossain Imam, the Honourable Mr. Shavax Lal, and the mover, and that the number of Members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Honourable Members will find a small booklet in which the case for the measure has been set forth by my friend, Sir Abdul Halim Ghuznavi. The note, Sir, very much simplifies my task and I shall be as brief as I can. Sir, the object of the measure is to remove an impediment to the growth and development of an Indian mercantile marine. Government have publicly expressed their sympathy with this object and have recognised that Indian shipping companies have a certain claim on them and deserve State help and State support.

Sir, I shall refer to some statements by responsible spokesmen of Government to show that their attitude has been one of sympathy. Sir Charles Innes said in 1926:

"We recognise that it is perfectly legitimate, perfectly natural, that the people of India should desire to have a mercantile marine of their own. We recognise also that the training of officers for the Indian mercantile marine is a very long process and that men who are trained for that career must have some reasonable prospect of an opening. We recognise further that Indian companies, as things are at present, have a difficulty in forcing their way into the coasting trade."

Similarly, Sir C. P. Ramaswami Iyer made a declaration in the Assembly on the 7th September, 1932, which was

"That Government are particularly anxious to facilitate the growth and expansion of coastal trade of India in so far as that coastal trade is operated by Indian agencies and through the instrumentality of Indian capital."

Sir, His Excellency Lord Irwin was also sympathetic and he also made a reference to the development of the Indian mercantile marine. Sir, the importance of an Indian mercantile marine has been recognised by Government. Our British friends, too, have recognised that we have a case so far as this industry is concerned, and I would like to refer to what Sir Alfred Watson said before the Joint Select Committee.

THE HONOURABLE THE PRESIDENT : You will have another opportunity of speaking on this Bill.

THE HONOURABLE MR. P. N. SAPRU : Then, Sir, at this stage I merely move that the Bill be referred to a Select Committee and I shall reserve what I have to say about the Bill till such time as it comes out of the Select Committee. In so far as the objects of the Bill are concerned, they have been set out in the statement of objects and reasons and I need say no more at this stage.

THE HONOURABLE THE PRESIDENT : Motion made :

"That the Bill to control the Coastal Traffic of India be referred to a Select Committee consisting of the Honourable Sir Phiroze Sethna, the Honourable Rai Bahadur Lala Ram Saran Das, the Honourable Mr. Parker, the Honourable Mr. Dow, the Honourable Saiyed Mohamed Padshah Sahib Bahadur, the Honourable Mr. Hossain Imam, the Honourable Mr. Shavax Lal, and the mover, and that the number of persons whose presence shall be necessary to constitute a meeting of the Committee shall be five."

THE HONOURABLE MR. H. DOW (Commerce Secretary) : I expect, Sir, it will save the time of the House if you will allow me to make a small change in the amendment as it stands on the order paper. I wish to move :

"That the Bill be circulated for the purpose of eliciting opinions thereon by the 31st January, 1937."

I must say, Sir, that I am a little surprised that it has been left to me to move this amendment as I had a very reasonable hope that the Honourable Mr. Sapru would move that as his substantive proposition. And I still have some hopes of persuading him to accept it. Sir, not only the principle of this Bill, but the unusual methods by which it is proposed to put it into operation are so opposed to the principles and methods to which the trading and business community are accustomed, that I am sure he will like to have the fullest possible assurance of public support before he proceeds further with the attempt to put it on the Statute-book. The method of fashioning this Bill reminds me somewhat of the fashioning of Don Quixote's helmet. You will remember that when the redoubtable knight set out on his adventures he spent full seven days in making himself a helmet out of pasteboard. But before wearing it he decided that he ought to put it to the hazard of a blow, and so he out with his sword and gave it a blow or two, and at the very first his whole week's handiwork was demolished! The facility with which his helmet was demolished rather astonished him and he set himself to rebuild it. He made it anew, this time placing inside it certain small iron bars in so cunning and artificial a way that he rested at once satisfied both with the solidity of his handiwork and the excellence of his invention, and without thinking it necessary to expose it to a second trial he held it in estimation for a most excellent beaver!

Now, Sir, to elucidate this simile. The original of this Bill before us was Mr. T. V. Seshagiri Iyer's Prevention of Deferred Rebates Bill, which was introduced into the other House in February, 1923. In that Bill are all the features of the present Bill,—the fixation of minimum rates, the fine of Rs. 10,000 to be inflicted without any judicial trial, the penalty of exclusion

from ports,—and certain additional features which are not in the present Bill. Mr. Iyer exposed his Bill to the hazard of a blow. He himself carried a Motion for circulation and the mere breath of public criticism was sufficient to demolish that Bill; and in the next session Mr. Iyer decided not to go on with it. Now, Sir, this Bill has been re-constructed out of the old debris, only instead of being in any way reinforced (and I must confess that here my simile breaks down) some of the less objectionable features of the Bill have been left out; and we are left to assume that the Honourable Mr. Sapru is satisfied with the solidity of his Bill and, instead of sending it to a further trial, wants to persuade this House that it is in a fit state to go to a Select Committee. I do not think, Sir, that the House will accept that position. It seems to me that when public criticism has once proved fatal to a Bill, an Honourable Member who seeks, after the lapse of a dozen years, to bring back that Bill without having revised it in any way to meet that criticism, may reasonably be asked to satisfy this House that public opinion in respect of this Bill has changed. We have no such evidence before us.

I am aware, of course, as the Honourable Mr. Sapru has said, that the measure before us has received a certain amount of attention in some organs of the press and at the hands of certain public bodies. These opinions have been very obligingly collected and printed for us by the gentleman who is sponsoring this Bill in another place. But if Honourable Members will study these attentively they will discover very little criticism of the Bill before us. Their general purport is that if some other Bill, instead of this Bill, had been brought before us, it would have been a much better Bill. I may perhaps particularly invite the attention of the Council to the opinion given by the Maharashtra Chamber of Commerce, a body in whose counsels, as most Honourable Members are aware, the most prominent of Indian shipowners is not altogether without influence. That body goes so far as to express the opinion that the Bill, if passed in anything like its present form, "will cause loss and hardship to Indians investing in new shipping enterprises". How does that square with the statement in the objects and reasons that the measure will open out "a new line of commercial activity to Indians"?

There is, Sir, practically nothing before us to show what would be the reaction of shippers, and of the trading public generally to this Bill. The old Bill of Mr. Seshagiri Iyer provided also for the fixing of maximum rates for the protection of the public. It is perhaps not altogether without significance that that proposal has been dropped from the present Bill. Are the public now less in need of protection than they were then?

I may also refer very briefly to some points made by Sir C. P. Ramaswami Iyer as Commerce Member in 1932 when Dr. Ziauddin brought forward a Resolution in the Assembly asking Government to take steps to fix minimum fares in the passenger traffic. He referred then to the fact that rate wars had been most common in the trade between Bengal and Burma. That trade will soon cease to be a matter of sole concern to the Government of India, and the Bill before us gives absolutely no indication of how the difficulties arising from that fact are to be met. Sir C. P. Ramaswami Iyer

[Mr. H. Dow.]

also pointed out that minimum rates could be got round by "secret rebates", and would therefore do nothing to stop rate wars. He also indicated that minimum rates would encourage "mushroom companies" and so might leave the general position of Indian shipping much worse than it was before. The framer of this Bill has had the advantage of those criticisms before him, and the criticisms are still valid, but no attempt whatever has been made to meet them in this Bill.

Then, Sir, I should like to know what shipowners and shippers alike think of the penalties proposed in this Bill. There is a heavy fine to be imposed without any form of judicial trial and subject to no appeal, and there is the penalty, which might often prove to be a very barbarous one, of exclusion of ships from ports. The captain of quite a small ship may be guilty of some minor offence of unfair competition and any other shipping of that company may be made to suffer the penalty. The ship may be damaged, or she may be on fire, or under stress of weather—

THE HONOURABLE MR. P. N. SAPRU: On a point of order, Sir. I did not make a speech on the Select Committee motion.

THE HONOURABLE THE PRESIDENT: You made a speech to a certain extent.

THE HONOURABLE MR. P. N. SAPRU: But I stopped immediately you asked me.

THE HONOURABLE THE PRESIDENT: I am going to stop the Honourable Mr. Dow also. (Addressing the Honourable Mr. Dow): Will you please curtail your remarks and bring them to a close?

THE HONOURABLE MR. P. N. SAPRU: I had a very long speech, Sir.

THE HONOURABLE MR. H. DOW: I am merely explaining the grounds on which I make my Motion. Well, what is to happen to a ship under stress of weather or damaged in any way if she is not to be allowed to run to safety to any Indian port? Apparently, she can stay outside and sink. I do not think there is any precedent for any country refusing the shelter of its own ports to its own ships.

Sir, although this is a short Bill, I do not pretend to have made anything like a complete analysis of its obvious defects. But I do hope, Sir, I have said enough to satisfy the House that they are not justified in allowing it to go in its present state to a Select Committee. The position of Indian shipping today—

THE HONOURABLE THE PRESIDENT: I would like you to conclude your remarks now. The Motion will be put to the House and it will be for them to decide whether your amendment should be accepted or not.

THE HONOURABLE MR. H. DOW: I will make no further remarks, Sir, but I hope the House will accept my Motion. My Motion is not meant to be a dilatory Motion. Honourable Members are aware that this Bill has also been introduced in the other House and that there is no chance now of its being proceeded with this session. For that reason, I have chosen such a

date that circulation may be complete before the Bill can come up in the other House, so that, in fact, Honourable Members will find that I have saved not only the time of this House but of the other House also.

With these words, Sir, I move my Motion.

THE HONOURABLE THE PRESIDENT: To the original Motion an amendment has been moved:

"That the Bill be circulated for the purpose of eliciting opinions thereon by the 31st January, 1937."

I may remind Honourable Members that when a Motion to refer a Bill to a Select Committee is made, it is open to any Honourable Member to move, that the Bill be circulated for the purpose of eliciting opinions thereon. So the amendment is in order. (Addressing the Honourable Mr. Sapru): Are you prepared to accept the amendment?

THE HONOURABLE MR. P. N. SAPRU: I am prepared to accept the amendment, but as far as the speech of the Honourable Mr. Dow is concerned, I could reply to it point by point.

THE HONOURABLE THE PRESIDENT: I know you could, but there is no necessity. When the Bill comes up again after circulation, all Honourable Members will have an opportunity of speaking on it. I will now put the Motion to the House. Although the Honourable Mr. Sapru has accepted it, it is necessary to put it to the House.

The Question is:

"That the Bill be circulated for the purpose of eliciting opinions thereon by the 31st January, 1937."

The Motion was adopted.

The Council then adjourned till Eleven of the Clock on Wednesday, the 30th September, 1936.

COUNCIL OF STATE.

Wednesday, 30th September, 1936.

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

QUESTIONS AND ANSWERS.

NUMBER OF EUROPEANS AND INDIANS RECRUITED TO THE INDIAN CIVIL SERVICE DURING THE LAST FIVE CALENDAR YEARS.

75. THE HONOURABLE MR. HOSSAIN IMAM: Will Government lay on the table a statement giving the following information about Indian Civil Service officers recruited during the last five calendar years: number of Europeans, number of Indians, province of origin and community to which the Indian officers belonged?

THE HONOURABLE MR. M. G. HALLETT: I lay on the table a statement giving the requisite information.

Statement showing the number of Europeans and Indians* recruited to the Indian Civil Service during the calendar years 1931—1935 and the communities to which the Indian candidates belonged and their province of origin.

Year.	No. of Europeans recruited.	No. of Indians recruited.	Communities to which the Indian candidates belonged.						Province of origin of the Indian candidates.								Remarks.	
			Hindus.	Muslims.	Sikhs.	Indian Christians.	Anglo-Indians.	Parsis.	Madras.	Bombay.	Bengal.	United Provinces.	Punjab.	Bihar and Orissa.	Central Provinces.	Assam.		Delhi.
1931	24	23	12	8	1	2†	..	4	1	3	7	4	1	..	..	..	3	†One of them is an Armenian Christian.
1932	†14	24	15	6	1	..	2	5	3	..	5	4	1	4	..	1	1	†Including one who died during probation.
1933	17	20	15	3	..	2	..	7	3	3	3	1	..	..	..	2	1	
1934	§13	19	14	4	..	..	1	9	1	2	3	2	..	..	..	1	1	§Including one who resigned during probation.
1935	5	21	15	5	1	..	..	4	4	1	4	4	2	1	1	..	..	
Total	73	107	71	26	3	4	2	1	29	12	9	22	15	4	5	1	4	6

*NOTE.—This statement contains information relating to candidates who are of Indian domicile only, i.e., information is not given about Burmans, Ceylonese and Anglo-Indian candidates of non-Asiatic domicile.

NUMBER OF OFFICERS WHO HAVE RETIRED FROM, AND RECRUITED TO, THE INDIAN CIVIL SERVICE DURING THE LAST FIVE YEARS.

76. THE HONOURABLE MR. HOSSAIN IMAM: Will Government state the number of Indian Civil Service officers, Europeans and Indians, who have retired from each of the provinces during the last five years? How many European and Indian officers have been appointed in their places?

THE HONOURABLE MR. M. G. HALLETT: Information is being collected as to the number of Europeans and Indians who have retired from the Indian Civil Service in each province during the last five years. I lay on the table a statement showing the number of Europeans and Indians appointed to each province during this period.

Statement showing the number of Europeans and Indians appointed to the Indian Civil Service during the last five years, i.e., 1931—1935.

Name of province.	Europeans.	Indians
Madras	7	21*
Bombay	11	20
Bengal	16	24†
United Provinces	16	26
Punjab	1	20
Burma	13	16
Bihar	7	13‡
Central Provinces	3	5
Assam	2	5

* Includes two Ceylonese.

† Includes one Anglo-Indian of non-Asiatic domicile.

‡ Includes one Ceylonese.

NUMBER OF EUROPEANS AND INDIANS RECRUITED TO THE INDIAN MEDICAL SERVICE DURING THE LAST FIVE YEARS.

77. THE HONOURABLE MR. HOSSAIN IMAM: Will Government lay on the table a statement giving the following information about the Indian Medical Service officers recruited directly during the last five years: number of Europeans, number of Indians, province and community to which the Indian officers belonged (temporary and permanent separately)?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: I lay on the table a statement containing the information asked for.

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Indian Medical Service Officers recruited during 1930—1935.

						Permanent.	Temporary.
(a) Number—							
(i) Europeans	..	..	..	..	..	147	..
(ii) Indians	..	..	..	..	..	47	64
(b) Distribution of Indian officers by provinces and community :							
(i) Province—						Permanent.	Temporary.
Madras	..	..	..	..	..	6	10
Bombay	..	..	..	..	..	1	1
Bengal	..	..	..	..	..	5	3
United Provinces	..	..	..	..	..	3	5
Punjab	..	..	..	..	..	25	35
Burma	..	..	..	..	..	2	2
North-West Frontier Province	..	..	..	..	..	2	4
Sind	..	..	..	..	..	2	1
Delhi	..	..	..	..	..	..	1
Indian States	..	..	..	..	..	1	2
(ii) Community—						Permanent.	Temporary.
Hindus	..	..	..	..	..	30	35
Muslims	..	..	..	..	..	9	16
Sikhs	..	..	..	..	..	3	10
Parsi	..	..	..	..	..	1	..
Anglo-Indians	..	..	..	..	..	2	..
Indian Christian	..	..	..	..	..	1	1
Burman	..	..	..	..	..	1	2

METHOD OF APPOINTMENT TO VACANCIES IN THE PERMANENT CADRE OF THE INDIAN MEDICAL SERVICE.

78. THE HONOURABLE MR. HOSSAIN IMAM: Will Government state the method they propose to adopt to fill the vacancies in the permanent cadre of the Indian Medical Service?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: The method of appointment to the vacancies in the permanent cadre of the Indian Medical Service is described in paragraph 2 of the Memorandum regarding appointment to, and conditions of service in, His Majesty's Indian Medical Service. A copy of the Memorandum is in the Library of the Indian Legislature.

APPOINTMENT OF OFFICERS TO THE INDIAN MEDICAL SERVICE BY OPEN COMPETITION.

79. THE HONOURABLE MR. HOSSAIN IMAM: Will Government state whether the Legislative Assembly adopted a Resolution recommending the

appointment of Indian Medical Service officers by open competition? If so, why did not Government adopt this method?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: The reply to the first part is in the negative. The second part does not arise.

NAMES, QUALIFICATIONS AND PROVINCES OF CANDIDATES APPOINTED TO THE INDIAN MEDICAL SERVICE IN 1936.

80. THE HONOURABLE MR. HOSSAIN IMAM: Will Government state the names, qualifications and provinces of the candidates appointed to the Indian Medical Service during the year 1936? Were any of these posts advertised? If so, in what papers?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: From the use of the word "province" I presume that the Honourable Member is referring to Indian candidates. On this assumption the answer is as follows:

Three Indian officers have so far been appointed to temporary commissions in the Indian Medical Service during 1936. I lay a statement on the table showing their names, qualifications and province of origin. In addition seven Indians were selected for appointment to permanent commissions in the Indian Medical Service by the Selection Board which was held at Simla on the 19th August, 1936 and subsequent days. Their names have been submitted for the Secretary of State's approval and will be announced in due course. The vacancies were advertised in the *Indian Medical Gazette* and the *Indian Medical Record*, and also in a press communique on the 10th June, 1936.

Name.	Qualifications.	Province.
Lieutenant Z. H. Khan ..	M.B.B.S. (Punjab) ..	Punjab.
Lieutenant A. G. Khan ..	L.R.C.S., L.R.C.P. (Edin.), L.R.F.P. & S. (Glas.).	North-West Frontier Province.
Lieutenant T. Maung ..	M.B., B.S. (Rang.) .. M.R.C.S. (Eng.). L.R.C.P. (Lond.).	Burma.

ACTION TAKEN ON MR. DARLING'S REPORT ON THE CONSTITUTION OF AN AGRICULTURAL CREDIT DEPARTMENT BY THE RESERVE BANK OF INDIA.

81. THE HONOURABLE MR. HOSSAIN IMAM: (a) Will Government state (i) the action so far taken on Mr. Darling's report on agricultural credit by the Reserve Bank and Government, (ii) the date on which Mr. Darling submitted his report to the Bank and (iii) the date on which the Bank submitted their report to Government.

(b) Will Government state the date on which they propose to lay before the House the report referred to in reply to my question No. 108 of 23rd

September, 1935 regarding the amount sanctioned for each province for rural uplift. Will the report be open for discussion by the House?

THE HONOURABLE MR. J. C. NIXON: (a) Mr. Darling's report on the constitution of the Agricultural Credit Department was received by the Bank in June, 1935 and after examination by the Bank's executive was considered by the Central Board in November, 1935. I have nothing at present to add to the replies given to the Honourable Sir Phiroze Sethna's question No. 56 on the 11th March, 1936 and the Honourable Rai Bahadur Lala Ram Saran Das's question No. 61 during the current session.

(b) I shall during the present session place on the table of this House a copy of the report promised by the Honourable Finance Member to the other House. As this report merely describes the progress made by the provinces in spending the grants of last year, Government do not propose to open a discussion in the matter.

STERLING LOANS.

82. THE HONOURABLE MR. HOSSAIN IMAM: Will Government lay on the table a statement giving the particulars of the Sterling Loans contracted since 1921 for purposes other than repayment of existing loans and the Sterling Loans repaid without contracting fresh Sterling Loans?

THE HONOURABLE MR. J. C. NIXON: The information is contained in the Honourable the Finance Member's Budget speeches and the Financial Secretary's explanatory memoranda.

IMPORT OF IRON AND STEEL GOODS AND THE CUSTOMS DUTY REALISED THEREON.

83. THE HONOURABLE MR. HOSSAIN IMAM: Will Government lay on the table a statement giving information about the quantity imported, and the customs duty realised, on the following items of iron and steel goods imported from (a) United Kingdom, (b) non-Empire countries: structurals, bars, plates, black sheets and galvanised sheets?

THE HONOURABLE MR. H. DOW: The latest available information is contained in Volumes I and II of the Annual Statement of the Sea-borne Trade of British India for the year ending 31st March, 1935, the Monthly Accounts relating to the Sea-borne Trade and Navigation of British India for July, 1936 and the *Indian Trade Journal*, dated the 10th September, 1936. Copies of these publications are in the Library.

IMPORT OF IRON AND STEEL GOODS FROM THE UNITED KINGDOM AND NON-EMPIRE COUNTRIES.

84. THE HONOURABLE MR. HOSSAIN IMAM: Will Government state whether it is a fact that between the years 1931-32 and 1935-36, the value and the quantity of protected iron and steel goods imported from the United Kingdom has greatly increased while the value and quantity of such goods

imported from non-empire countries have heavily fallen? Will Government lay on the table a statement showing the actual figures?

THE HONOURABLE MR. H. DOW: The Honourable Member is referred to the special statistics of imports of protected descriptions of iron and steel materials into British India published in the *Indian Trade Journal*, copies of which are in the Library.

VALUE OF PREFERENCE TO THE UNITED KINGDOM ON IRON AND STEEL GOODS IMPORTED INTO INDIA IN 1935-36.

85. THE HONOURABLE MR. HOSSAIN IMAM: Will Government state the value of preference to the United Kingdom on iron and steel goods imported into India during the last financial year (as evaluated in the reports on the working of the Ottawa Agreement)?

THE HONOURABLE MR. H. DOW: The items of iron and steel manufactures on which preferential duties are levied are relatively small in value and as they cover a great variety of miscellaneous items for some of which separate figures of imports are not available in the Trade Returns, the amount of advantage cannot readily be calculated.

LOSS IN CUSTOMS INCOME ON IRON AND STEEL GOODS DUE TO REDUCTION IN RATES OF DUTY BY THE IRON AND STEEL DUTIES ACT, 1934.

86. THE HONOURABLE MR. HOSSAIN IMAM: Will Government state the loss in customs income on iron and steel goods due to reduction by the 1934 Act as estimated by the Tariff Board, as estimated by the Commerce Department and the actuals of the last two financial years?

THE HONOURABLE MR. H. DOW: I would refer the Honourable Member to paragraph 119 of the Tariff Board's Report on Iron and Steel Industry, 1934. Taking the year 1932-33 as a basis of comparison, the Board estimated that the total loss in revenue per annum would be roughly Rs. 60 lakhs but they disclaimed any finality for this estimate. During the discussions on the Iron and Steel Duties Bill, the Government of India estimated the loss at Rs. 25 to Rs. 30 lakhs. The customs revenue collected from protected iron and steel in the year 1932-33 amounted to Rs. 1 crore 10 lakhs. The collections in the last two financial years were Rs. 79 lakhs and Rs. 91 lakhs respectively. It may be mentioned that the revised rates of duties came into force only from the 1st November, 1934.

GROSS CIRCULATION OF CURRENCY ON 1ST APRIL, 1935, 31ST MARCH, 1936 AND 30TH JUNE, 1936.

87. THE HONOURABLE MR. HOSSAIN IMAM: Will Government state whether the total gross circulation of currency on 1st April, 1935, 31st March, 1936 and 30th June, 1936, was about the same? If not, what are the facts? Was the currency in active circulation on 30th June, 1936 less than

on 1st April, 1935? Will Government state the corresponding currency position in England?

THE HONOURABLE MR. J. C. NIXON: I am afraid that the total currency in circulation in India or in England is not known. The facts about the *paper* currency circulation in both countries are published regularly.

EXPANSION OF CURRENCY BY THE BANK OF ENGLAND AND EXCHANGE VALUE OF THE STERLING.

88. THE HONOURABLE MR. HOSSAIN IMAM: Will Government state whether the Bank of England has expanded currency by about ten per cent. during the first four months of the current financial year and increased its gold assets by over twenty-one per cent.? Do Government propose to follow the Bank of England? Has the sterling improved in terms of gold dollar and franc.

THE HONOURABLE MR. J. C. NIXON: The Honourable Member will find the figures of the circulation of notes in England and of the exchange value of sterling in the *Economist* or any other financial paper of repute. The expansion or contraction of currency in India is a matter for the Reserve Bank.

REDUCTION OF THE BANK RATE BY THE RESERVE BANK OF INDIA.

89. THE HONOURABLE MR. HOSSAIN IMAM: Will Government inform the House as to the steps, official and demi-official, taken by the officers of the Finance Department in the matter of the reduction of the Bank rate by the Reserve Bank last year?

THE HONOURABLE MR. J. C. NIXON: The fixation of the Bank rate is the concern of the Reserve Bank of India under Section 49 of the Reserve Bank Act. Consultations between the Finance Department and the Reserve Bank on matters of this kind are informal and confidential. I am, therefore, unable to give any information on the subject.

POST OFFICE CASH CERTIFICATES.

90. THE HONOURABLE MR. HOSSAIN IMAM: (a) Did the Government introduce a new issue of Post Office five-year cash certificates with effect from the 1st July, 1936?

(b) Is the purchase value of these cash certificates higher than that of the previous issue of cash certificates?

(c) Did the Government issue a confidential order regulating the procedure to be followed in the matter?

(d) Were some cash certificates of the previous issue of higher denominations sold from the Jalpaiguri Head Post Office after receipt of Government's confidential communication in connection with the new issue of cash certificates?

(e) Is one of the purchasers of the previous issue of cash certificates an officer of the Postal Department at Jalpaiguri who was supplied by the Postal Department with a copy of Government's confidential communication?

(f) Was the previous issue of cash certificates purchased by the postal officer referred to above and others before the stock of these cash certificates was returned to the Office of the Deputy Accountant General of Posts and Telegraphs, Calcutta by the Postmaster of the Jalpaiguri Head Post Office?

THE HONOURABLE MR. A. G. CLOW: The reply to all the parts of the question is in the affirmative; but I should like to add that the circular referred to in part (c) did not give the purchase-price of the new certificates and that the old certificates were available for public purchase for some time after the issue of the circular.

NON-OBSERVANCE OF THE CONFIDENTIAL CHARACTER OF THE ORDER IN CONNECTION WITH THE FIRST ISSUE OF CASH CERTIFICATES BY POSTAL OFFICERS IN JALPAIGURI.

91. THE HONOURABLE MR. HOSSAIN IMAM: Will Government please state whether the confidential character of their order in connection with the first issue of cash certificates was not observed by the postal officers of Jalpaiguri (Bengal) and whether it was also communicated to other purchasers? What steps do Government propose to take against the officer responsible for the divulgence of official secrets causing loss of Government money?

THE HONOURABLE MR. A. G. CLOW: As regards the first part, Government have at present no evidence to show that the confidential character of the order was not observed. The latter part of the question does not therefore arise.

AMOUNT OF CASH CERTIFICATES SOLD AT THE JALPAIGURI POST OFFICE BY THE END OF JUNE, 1936.

92. THE HONOURABLE MR. HOSSAIN IMAM: Will Government please state:

(a) What is the amount of cash certificates sold from Jalpaiguri Post Office in the last week of June, 1936 after the receipt of the Government communication referred to in the preceding question?

(b) What is the amount of cash certificates sold in the corresponding period of the three previous months from Jalpaiguri Post Office?

(c) What is the reason for the rush of sale of cash certificates in the last week of June, 1936?

THE HONOURABLE MR. A. G. CLOW: (a) Rs. 4,088-4-0.

(b) March, 1936—Rs. 15,525-0-0.

April, 1936—Rs. 862-0-0.

May, 1936—Rs. 2,156-4-0.

These figures relate to the period from the 24th of each month to the end of the month.

(c) The figures do not show that there was any special rush in the sale of cash certificates during the last week of June.

EXTENSION OF THE CANTONMENT ACT TO CERTAIN VILLAGES IN THE NEIGHBOURHOOD OF JHELM CANTONMENT ?

93. THE HONOURABLE RAJA GHAZANFAR ALI KHAN: (a) Will Government be pleased to state whether it is contemplated to extend certain provisions of the Cantonments Act to the villages in the neighbourhood of the Jhelum Cantonment ?

(b) Are Saila and Idgah villages included in the above proposal ? Will Government be pleased to state how much land owned by the agriculturists of these two villages has already been acquired by the Cantonment ?

(c) Is it a fact that these villages are under the jurisdiction of the District Board, Jhelum, and when Government asked the aforementioned Board to express their opinion whether there was any objection to the Act being applied to these villages, the District Board unanimously resolved that the provisions of the Cantonments Act should not be applied to these villages ?

(d) Will Government be pleased to state whether in view of the unanimous opinion of the elected representatives of these villagers the idea of applying the Act to these villages has been dropped ? If not, will Government be pleased to state the reasons for not accepting the opinion of the District Board ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: With your permission, Sir, I would reply to questions Nos. 93 and 94 together.

The information has been called for from local authorities and a reply will be laid on the table in due course.

CANTONMENTS IN THE NORTHERN COMMAND AND UNDER THE JURISDICTION OF DISTRICT BOARDS AND MUNICIPAL COMMITTEES TO WHICH THE CANTONMENTS ACT HAS BEEN EXTENDED.

94. THE HONOURABLE RAJA GHAZANFAR ALI KHAN: (a) Will Government be pleased to state how many cantonments in the Northern Command have extended the provisions of the Cantonments Act to the villages which are under the jurisdiction of other local bodies such as district boards and municipal committees ?

(b) Will Government be pleased to ascertain whether the residents of these villages can financially afford to comply with the provisions of the Cantonments Act ?

(See reply to question No. 93.)

RECRUITMENT OF SAYYADS IN THE INDIAN ARMY.

95. THE HONOURABLE RAJA GHAZANFAR ALI KHAN: Will Government be pleased to state how many Sayyads have been recruited in the Indian Army since His Excellency the Commander-in-Chief announced in the Council of State that there was no restriction to Sayyads being enlisted in the army ? If the answer be in the negative, will Government state why no practical step has been taken after the announcement by His Excellency on the subject ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: The reply to the first part is that 85 Sayyads have since been recruited to the Indian Army. The second part does not arise.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: Are these 85 Sayyads enlisted in the infantry or cavalry or in some non-combatant units ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: I need notice of this question but I think the reply to one of the later questions will probably provide the answer.

NUMBER OF REGIMENTS WHICH ENLIST PUNJABIS HAVE SAYYADS AS A SUB-CLASS.

96. THE HONOURABLE RAJA GHAZANFAR ALI KHAN: Will Government be pleased to state how many regiments which enlist Punjabis have included the Sayyads in their sub-caste ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: With your permission, Sir, I will reply to questions Nos. 96 and 102 together. I lay on the table a statement showing the information asked for.

From the numbers serving in the Indian Army on 1st January, 1936 it appears that the units enlisting Punjabi Musalmans who include Sayyads in their sub-class composition are as follows:

Indian Cavalry—

Hodson's Horse.

Artillery—

Royal Artillery Training Centre.

Sappers and Miners—

K. G. O. Bengal Sappers and Miners.

Royal Bombay Sappers and Miners.

Indian Infantry—

1/14th Punjab Regiment.

2/16th Punjab Regiment.

4/16th Punjab Regiment.

Royal Indian Army Service Corps—

Nos. 13, 29 and 31 A. T. Coys. (Mule).

Indian Army Veterinary Corps—

POLICY WITH REGARD TO THE RECRUITMENT OF PUNJABI MUSALMANS.

97. THE HONOURABLE RAJA GHAZANFAR ALI KHAN: Will Government be pleased to state whether Army Headquarters have an agreed quota for each sub-caste of the Punjabi Musalmans regarding their total strength in the army ? If so, what is the quota for Sayyads ? If not, why not ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: The general policy with regard to the recruitment of Punjabi Musalmans is as stated by my predecessor in the debate in this House on 14th March, 1935 regarding the enlistment of Sayyads in the Indian Army. The question of fixing a quota for sub-classes does not therefore arise ; nor has any been fixed.

NUMBER OF REGIMENTS WHICH HAVE ASKED FOR SAYYADS DURING THE LAST FIVE YEARS.

98. THE HONOURABLE RAJA GHAZANFAR ALI KHAN : Is it a fact that the Officers Commanding various regiments when requiring fresh recruits write to the recruiting officers of various circles to supply men from those sub-castes only which they mention in the letters. If so, will Government be pleased to state how many regiments, if any, during the last five years asked the recruiting officers of the various recruiting circles in the Punjab to enlist Sayyads ? If not, what are the reasons ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : The answer to the first part is in the affirmative. An answer to the second part would entail a reference to all the recruiting officers concerned. This would involve an expenditure of time and labour which would be incommensurate with the value of the result.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : Will His Excellency the Commander-in-Chief kindly ask only from the Recruiting Officer, Rawalpindi ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : I see no harm in this. I will do so.

RULING OUT PARTICULAR CLASSES FROM ENLISTMENT IN THE INDIAN ARMY BY OFFICERS COMMANDING REGIMENTS.

99. THE HONOURABLE RAJA GHAZANFAR ALI KHAN : Will Government be pleased to state if it is within the powers of the Officers Commanding to practically rule out particular classes from enlistment in the army not by virtue of written orders but by merely refusing to enlist them ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : I would again refer the Honourable Member to my predecessor's speech in this House on 14th March, 1935.

POLICY WITH REGARD TO RECRUITMENT FOR THE INDIAN ARMY.

100. THE HONOURABLE RAJA GHAZANFAR ALI KHAN : Will Government be pleased to state whether the general policy of the Military Department with regard to the recruitment in the army is to narrow down the circle of their choice for getting recruits or to extend it ? If the policy is in favour of the former method will they please give reasons ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : The policy is to recruit those classes which have proved themselves in the past.

STEPS TAKEN TO SUPPLY TO OFFICERS COMMANDING REGIMENTS GIST OF THE DEBATE ON THE RESOLUTION *re* ENLISTMENT OF SAYYADS IN THE INDIAN ARMY.

101. THE HONOURABLE RAJA GHAZANFAR ALI KHAN : Will Government be pleased to state what steps, if any, were taken by Army Headquarters to communicate to the Officers Commanding of the various

regiments a gist of the debate which took place on the Resolution regarding enlistment of Sayyads in the Army during the Delhi Session of 1934 ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : For the reasons given in reply to question No. 145 in the Council of State on 30th March, 1936, Government did not communicate the gist of the debate which took place in this House on the Resolution regarding enlistment of Sayyads in the army during the Delhi Session, 1935, to which, I presume, the Honourable Member is referring.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : Will the Government be pleased to state how did the Officers Commanding various units come to know that His Excellency the Commander-in-Chief has declared that there is no restriction on the enlistment of Sayyads ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : The only answer I can give is that Commanding Officers are already well aware of the full orders on the subject.

NUMBER OF PUNJABI REGIMENTS WHICH ENLIST SAYYADS.

102. THE HONOURABLE RAJA GHAZANFAR ALI KHAN : Will Government be pleased to state the names and the number of Punjabi Regiments who in the normal course enlist Sayyads in the army ?

(See reply to question No. 96.)

NUMBER OF REGIMENTS THAT USED TO ENLIST SAYYADS BEFORE AND DURING THE WAR BUT WHO DO NOT NOW DO SO.

103. THE HONOURABLE RAJA GHAZANFAR ALI KHAN : Will Government be pleased to state whether there are some regiments who used to enlist Sayyads before and during the war but have since ceased to do so ? If so, for what reasons ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : I lay on the table a statement showing the units which used to enlist Sayyads before and during the war but have now ceased to do so. The non-enlistment of Sayyads is due in some cases to revision of the main class composition ordered by Army Headquarters. In other cases the Officers Commanding units are acting under the discretionary powers vested in them, as mentioned in the answer given to question No. 99.

List of units which used to enlist Sayyads before and during the war but have ceased to do so now.

Indian Cavalry—

5th and 7th Groups.

Indian Infantry—

- 1st Punjab Regiment, 1st and 2nd Battalions.
- 2nd Punjab Regiment, 1st and 5th Battalions.
- 4th Bombay Grenadiers, all Battalions.
- 8th Punjab Regiment, 2nd and 5th Battalions.
- 10th Baluch Regiment, 2nd and 5th Battalions.
- 11th Sikh Regiment, 1st and 3rd Battalions.
- 12th F. F. Regiment, 1st, 2nd and 4th Battalions.
- 13th F. F. Rifles, 1st and 5th Battalions.
- 14th Punjab Regiment, 3rd Battalion.
- 15th Punjab Regiment, 1st Battalion.

SEPARATE PLATOONS FOR SAYYADS IN PUNJABI REGIMENTS.

104. THE HONOURABLE RAJA GHAZANFAR ALI KHAN: Do Government propose to consider the desirability of having separate platoons for Sayyads in a few Punjabi regiments?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: The segregation or otherwise of sub-classes into separate sub-units is a matter for decision by the Officer Commanding the unit concerned. Army Headquarters do not propose to interfere in the detailed organisation of units, since the necessity for such interference is not apparent.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: If it is brought to the notice of Government that a particular sub-caste has not been enlisted by any Officer Commanding a regiment, will they please consider the desirability—

THE HONOURABLE THE PRESIDENT: Order, order. That is a hypothetical question and I disallow it.

ENLISTMENT OF MUSLIM JATS AND GUJARS IN THE INDIAN ARMY FROM THE RAWALPINDI RECRUITING AREA.

105. THE HONOURABLE RAJA GHAZANFAR ALI KHAN: Will Government be pleased to state whether Muslim Jats and Gujars are enlisted in the army from the Rawalpindi recruiting area? If not, why not?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: The answer to the first part of the question is in the affirmative.

The second part does not arise.

SALT MINING IN THE JHELMUM DISTRICT.

106. THE HONOURABLE RAJA GHAZANFAR ALI KHAN: Will Government be pleased to state whether they contemplate starting salt mining in the hills round Jotana (Jhelum District)? If so, when do they propose to begin the work?

THE HONOURABLE MR. J. C. NIXON: Government are carrying out certain preliminary investigations to ascertain whether the area in question can be exploited with profit.

DAMAGE CAUSED TO AGRICULTURAL LANDS BY THE KHEWRA SALT MINES.

107. THE HONOURABLE RAJA GHAZANFAR ALI KHAN: (a) Are Government aware that as a result of the working of the Khewra Salt Mines considerable damage has been caused to the area around Khewra? If so, do they propose to take every possible precaution to prevent the mischief from extending to the area where new mining is to be started?

(b) Will Government please give a definite assurance that no dust salt will be allowed to accumulate outside the mouth of the mines which is carried away by floods during the rainy season and spoils agricultural land?

(c) Will Government be pleased to consider the desirability of giving employment in the new mines to the residents of neighbouring villages?

THE HONOURABLE MR. J. C. NIXON: (a) and (b). The question of the precautions to be taken in connection with any new mines will be considered along with the general question of salinification of agricultural lands when the Government of India have received the Punjab Government's views on the report of the expert officer who has investigated the matter.

(c) The Honourable Member's suggestion will be brought to the notice of the Commissioner, Northern India Salt Revenue.

DAMAGE CAUSED BY THE SALT RANGE AND KHEWRA SALT MINES TO AGRICULTURAL LANDS.

108. THE HONOURABLE RAJA GHAZANFAR ALI KHAN: (a) Will Government be pleased to state whether a report of the debate which took place in the Council of State during the Delhi Session, 1934, regarding damage caused by the Salt Range was forwarded to the Punjab Government? Is it a fact that the Punjab Government appointed an expert, Dr. Landers, to investigate into the matter and report?

(b) Will Government be pleased to state whether the said officer has submitted his report? If so, will Government please circulate copies of this report or place a copy of the same on the table?

(c) Will Government be pleased to state whether the Punjab Government have formulated their own views on Dr. Landers' report? If so, what are those and whether the Government of India concurs in their views?

(d) Will Government be pleased to state whether Dr. Landers' report reveals that the mines are directly responsible for a certain amount of damage? If so, what compensation do Government propose to pay to those people who have been affected by the damage caused by the mines?

THE HONOURABLE MR. J. C. NIXON: (a) to (d). The Honourable Member is presumably referring to the debate in the Council of State on his Resolution on this subject which took place in March, 1935. If so, his attention is directed to the answers given by the Honourable Mr. A. J. Raisman to his question No. 156 and to his supplementary questions on the 30th March, 1936. The Government of India are still awaiting the results of the Punjab Government's examination of Dr. Landers' report. I may add that the Government of India intend to place at the disposal of the Punjab Government from the Rural Development Fund, in addition to the ordinary grant allocated to that province, a special grant to be devoted to the improvement of conditions in the area in question.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: Will the Government be pleased to give an undertaking that they will make the report of that officer available to Honourable Members of this House?

THE HONOURABLE MR. J. C. NIXON: I can give no such undertaking at this stage, Sir.

NUMBER OF MINERS' BOOKS CONFISCATED DURING THE LAST THREE YEARS.

109. THE HONOURABLE RAJA GHAZANFAR ALI KHAN: (a) Will Government be pleased to state how many books of the miners were confiscated during the last three years?

(b) Is it a fact that during the last 12 months the penalty of taking away books has been more common than heretofore?

(c) Will Government be pleased to state whether there are any particular offences for which a miner is turned out of the mines, or is it done arbitrarily by the officer concerned?

THE HONOURABLE MR. J. C. NIXON: (a) During the past three years only one miner's book has been confiscated and that was for continued unsatisfactory work followed by disorderly conduct. The case is still under consideration.

(b) No.

(c) A miner may be turned out of the mine temporarily for misconduct, disobedience of orders or breach of mining rules. The penalty of dismissal is only resorted to in extreme cases, and as will be seen from the answer to (a) and (b) above such extreme action is rare. Disciplinary action against the miners is only taken after thorough investigation and due consideration of all the facts of the case by the highest local authority.

GENERAL DESIRE OF MINERS THAT THE NAME "LABOUR UNION" BE CHANGED TO "MINERS UNION."

110. THE HONOURABLE RAJA GHAZANFAR ALI KHAN: (a) Will Government be pleased to state if there is a general desire among miners that the name "Labour Union" be changed to "Miners Union"?

(b) Will Government please state whether they have any objection to this change?

(c) Will Government be pleased to state whether there are any rules written or unwritten under which a lambardar or a contractor cannot join the Union?

THE HONOURABLE MR. J. C. NIXON: (a) So far as Government are aware no request for changing the name has been submitted by the Labour Union.

(b) Subject to the provisions of the Indian Trade Union Act, it is unlikely that Government would object to the change.

(c) I am not aware of any such rules.

GRANT OF PROVISION PASSES TO EMPLOYEES IN THE RAWALPINDI DIVISION, NORTH WESTERN RAILWAY.

111. THE HONOURABLE RAJA GHAZANFAR ALI KHAN: Will Government be pleased to state if it is a fact that the Anglo-Indian and European staff in the Railway Department (Rawalpindi Division) are given passes for Rawalpindi or Lahore to get provisions, but the same concession is denied to the Indian staff even if they are senior subordinates? If so, will Government state the reasons for this racial distinction?

THE HONOURABLE SIR GUTHRIE RUSSELL: Provision passes are issued to employees for certain stations which have been fixed as centres of supplies according to their respective requirements. Under a long-standing arrangement, Rawalpindi and Lahore are the centres of supplies for the European and Anglo-Indian staff stationed at certain roadside stations on the Rawalpindi Division, as at the time these stations were selected, their requirements could readily be obtained only at these stations. Rawalpindi is also a centre of supplies for the Indian staff posted at certain roadside stations on the Rawalpindi Division, but Lahore is not, as there are other stations situated nearer than Lahore at which the requirements of the Indian staff can easily be obtained.

The increase in the last few years in the number of stations at which supplies can be obtained for all classes has led the Administration to make an examination of the existing centres of supply throughout the system. This examination is now in hand.

STATEMENTS LAID ON THE TABLE.

OBJECTS ON WHICH THE AVIATION SHARE OF THE PETROL TAX FUND WAS EXPENDED DURING 1935-36.

THE HONOURABLE MR. A. G. CLOW (Industries and Labour Secretary): Sir, I lay on the table a statement showing the objects on which the Aviation share of the Petrol Tax Fund was expended during 1935-36.

Statement showing the objects on which the Aviation share of the Petrol Tax Fund was expended during 1935-36.

Object.	Expenditure.
	Rs.
1. Financial assistance to four ground engineer apprentices and scholarship to a research scholar, in England	*14,460
2. Lighting of W/T masts at Mingaladon (Rangoon)	2,598
3. Provision of a sun-beacon at Jodhpur	1,862
4. Provision of an Osira floodlight at Safdar Jang's tomb near the New Delhi aerodrome	3,929
5. Provision of a beacon at Hyderabad	15,000
6. Purchase of an altigraph	175
7. Training of Indians in wireless telegraphy	3,697
8. Purchase of spares for the wind T indicator installed at Karachi Air Port	468
9. Experimental floodlighting of the obstructions to the west of the Civil Aerodrome at Bombay (Juhu)	267
10. Provision of portable Neon lights for trial at certain aerodromes (New Delhi and Karachi)	2,560
11. Provision of loud speakers in the buildings at New Delhi aerodrome	1,648
12. Experimental equipment of an aeroplane with armourplate glass wind-screens	100
13. Grant for additional travelling allowance and miscellaneous expenses to ground engineer apprentices	180
14. Provision of a Westinghouse beacon at Sukkur (Experiment abandoned)	12
15. Installation of a G. E. C. Neon beacon at New Delhi	1,850
Total	48,756

*Revised estimate; actual expenditure not yet known.

REPRESENTATION OF MINORITY COMMUNITIES IN THE OFFICE OF THE DIRECTOR OF ARMY AUDIT.

THE HONOURABLE MR. J. C. NIXON (Finance Secretary): Sir, I lay on the table the information promised in reply to questions Nos. 178 and 179 asked by the Honourable Mr. Mahmood Suhrawardy on the 17th April, 1936.

Question No. 178.—(a) It is a fact that owing to various causes there is a large proportion of Hindus in the Defence Services, Audit Branch: it is not a fact that the rights of minority communities are not properly safeguarded.

(b) The rules regarding communal proportions are strictly observed.

Question No. 179.—(a) No; but the Headquarters staff of the Director of Audit Defence Services, draw compensatory allowances.

(b) Government do not consider any special directions necessary.

NUMBER OF INDIANS APPOINTED TO THE SUPERIOR SERVICE IN THE TRAFFIC AND AUDIT DEPARTMENT, ASSAM BENGAL RAILWAY.

THE HONOURABLE SIR GUTHRIE RUSSELL (Chief Commissioner of Railways): Sir, I lay on the table the information promised in reply to question No. 105 asked by the Honourable Mr. Jagadish Chandra Banerjee on the 18th March, 1936.

Government are informed as follows:

(a) One in the Traffic Department, but none in the Audit Department.

(b) The appointment was made by the Agent and confirmed by the Board of Directors of the Assam Bengal Railway. The qualifications of the man appointed are as follows:

(i) Brunel Medalist, Railway Department London School of Economics and Political Science, University of London, 1931.

Obtained the following diplomas:

(ii) First class First-Railway Law, 1931.

(iii) First class Operating Railway Economics, 1931.

(iv) First class Commercial Railway Economics, 1930.

Practical training with the London Midland and Scottish Railway, Great Britain, in course of which passed very creditably the Railway Accounts (Passenger and Parcel and Signalling Block Telegraph Rules) Examinations.

(c) The Financial Commissioner, Railways, forwarded the application of an Indian trained in England to the Agent, Assam Bengal Railway, in 1933. The reply to the latter part of the question is in the affirmative.

GOVERNMENT CARGO SHIPPED ON THE INDIAN COAST.

THE HONOURABLE MR. H. DOW (Commerce Secretary): Sir, I lay on the table the information promised in reply to question No. 171 asked by the Honourable Sir Phiroze Sethna on the 15th April, 1936.

(a) and (b). A statement giving the required information is attached.

(c) Yes, but the passage quoted had reference to naval, military and marine stores only and not to all Government and railway stores as appears to be implied in the question. The position regarding the other classes of stores, viz., (1) stationery stores, (2) telegraph stores and (3) railway stores was also explained in the letter referred to.

(d) and (e). The question has been receiving careful consideration but the present is not considered to be an opportune time to make any change in the existing arrangements. The position will be reviewed at an early date.

Statement showing the quantity in tons of stationery; telegraph; naval, military and marine; and railway stores shipped in Indian and non-Indian ships on the Indian coast during the period 1931—1936.

Year.	Stationery stores.			Telegraph stores.			Naval, military and marine stores.			Railway stores.		
	Indian ships.	Non-Indian ships.	Total.	Indian ships.	Non-Indian ships.	Total.	Indian ships.	Non-Indian ships.	Total.	Indian ships.	Non-Indian ships.	Total.
1931-32	Nil	287	287	Figures not available.			230	3,915	4,145	Nil	2,32,840	2,32,840
1932-33	Nil	322	322				58	5,016	5,074	Nil	2,03,500	2,03,500
1933-34	8½	243½	252	1,411	6	1,417	104	4,702	4,806	Nil	1,77,950	1,77,950
1934-35	27	289	316	1,291	471	1,762	45	4,390	4,435	Nil	1,83,846	1,83,846
1935-36	13	294½	307½	3,620	910	4,530	18	6,165	6,183	Nil	2,20,864	2,20,864

TECHNICAL AND SPECIAL POSTS.

THE HONOURABLE MR. M. G. HALLETT (Home Secretary): Sir, I place on the table two statements containing the information promised by Mr. Sloan on the 28th September, 1935 in reply to the Honourable Rai Bahadur Lala Mathura Prasad Mehrotra's question No. 131 regarding technical and special posts.

Department or Office.	1	2	3	4	5	6	7	8
		Name of incumbent.	Designation.	Educational and special qualifications.	Grade.	Pay.	Service on 1st September, 1935.	Mode of recruitment.
D. G., I. M. S...		Mr. C. D. Solomon	Technical Assistant, Medical Stores Section.	X Standard. Had training at the Medical Store Depot, Rangoon.	Rs. 200—12—440	Rs. 404	Y. M. 25 3	Transferred from the Medical Store Depot, Rangoon.
D. G. A. in India.		Mr. D. D. Mathur	Photographer	Matriculate. Had special training in photography.	150—5—250	210	14 0	Direct.
		Mr. G. Sufi	Draftsman	I. A.	Do.	200	8 11	Do.
		Mr. Suffri Ram	Photo printer	Practical knowledge of photography.	30—1—50	50	29 0	Promoted from Jamadar's post.
Central Standards Office (Railway Board).		Mr. D. W. Runciman	Head Mechanical Draftsman.	Possesses practical drawing office and Railway workshop experience.	400—15—550	505	5 3	Advertisement followed by test in Central Standards office.
		Mr. K. P. Chatterjee	Head Structural Draftsman.	Do.	300—25/2—400	300	1 3	Do.
		Mr. P. Oliver	Senior Draftsman	Do.	300—15—450	450	6 2	Do.
		Mr. W. Collins	Do.	Do.	Do.	315	6 1	Do.
		Mr. Ram Singh	Do.	Do.	Do.	345	23 3	Do.

Mr. Mohsin Ali	Do.	Do.	Do.	Do.	Do.	315	9 7	Do.
Mr. Mohd. Khalil	Do.	Do.	Do.	Do.	Do.	300	11 4	Do.
Mr. G. R. Saha	Do.	Do.	Do.	Do.	250—10—350	250	Joined on 7th August 1935.	Do.
Mr. K. McEnnis	Do.	Junior Draftsman (A).	Do.	Do.	160—6—220	160	3 3	Do.
Mr. B. L. Rallur	Do.	Do.	Do.	Do.	Do.	160	1 3	Do.
Mr. J. S. Bhattacharya	Do.	Do.	Do.	Do.	200—10—290	200	8 6	Do.
Mr. B. Krishnaswamy	Do.	Do.	Do.	Do.	Do.	200	4 9	Do.
Mr. Wazir Mohd.	Do.	Do.	Do.	Do.	Do.	200	17 3	Do.
Mr. A. M. Meeson	Do.	Do.	Do.	Do.	Do.	200	Joined on 21st August, 1935.	Do.
Mr. Noor Mustafa	Do.	Junior Draftsman (B).	Do.	Do.	100—8—260	132	6 1	Do.
Mr. K. B. Gupta	Do.	Do.	Do.	Do.	Do.	260	14 3	Do.
Mr. Kishen Singh	Do.	Do.	Do.	Do.	Do.	228	17 9	Do.
Mr. Mirza Mohd. Sarwar.	Do.	Do.	Do.	Do.	Do.	228	16 9	Do.
Mr. Abdul Rahim	Do.	Do.	Do.	Do.	Do.	164	8 1	Do.
Mr. G. Perahad	Do.	Do.	Do.	Do.	Do. (provisional).	100	Joined on 21st August, 1935.	Do.

Department or Office.	Name of incumbent.	Designation.	Educational and special qualifications.	Grade.	Pay.	Service on 1st September, 1935.	Mode of recruitment.
1	2	3	4	5	6	7	8
Central Standards Office (Railway Board)— <i>contd.</i>	Mr. Rur Singh	Tracer	..	Rs. 75-5-150	Rs. 150	Y. M. 22 4	Advertisement followed by test in Central Standards Office.
	Mr. Abdul Hafiz Khan	Do.	Do.	Do.	125	10 3	Do.
	Mr. Ronald Savedra	Do.	Do.	Do.	110	8 1	Do.
	Mr. Robert Savedra	Do.	Do.	Do.	110	8 1	Do.
	Mr. Madan Mohan Lall	Do.	Do.	Do.	100	8 4	Do.
	Mr. D. N. Banerjee	Do.	Do.	Do.	100	5 1	Do.
	Mr. Devi Ram	Do.	Do.	Do.	100 (6 P.P.)	17 9	Do.
	Mr. Mohd. Din	Do.	Do.	Do.	150	16 1	Do.
	Mr. Daulat Singh	Do.	Do.	Do.	130	11 0	Do.
	Mr. Abdul Rahman Khan.	Do.	Do.	Do.	115	8 4	Do.
	Mr. Nazir Ahmad	Do.	Do.	Do.	110	8 1	Do.
	Mr. Gurbaksh Singh	Do.	Do.	Do.	110	8 1	Do.

D.I.B., (G.E.Q.-D.'s Office).	Mr. S. L. Ghose	Do.	Do.	60-2-80-3	62	1 2	Do.
Defence Department.	Mr. G. Gaynor	Do.	Do.	125. Do.	62	1 2	Do.
	Mr. A. R. Khan	Do.	Do.	Do.	62	1 2	Do.
	Mr. W. R. Wilkhu	Do.	Do.	Do.	62	1 2	Do.
	Mr. Mohd. Yusuf Shah	Do.	Do.	Do.	60	0 3	Do.
	Mr. Ram Lok Sud	Do.	Do.	Do.	60	0 1	Do.
	Mr. Nand Lal	Photographer	Matriculate. Studied photography privately.	(provisional) 100-7-240	121	3 5	By selection from amongst several applicants.
	Mr. G. A. Beg	Draftsman	Had practical knowledge of the work required of a draftsman.	75-5-150	120	10 6	Appointed direct prior to the issue of the existing recruitment order.
	Mr. Bhag Mal	Do.	Studied up to Matric. International Corrs. School of London. Studied as a Mech. draftsman. 6 years' practical experience as draftsman in the Survey of India Drawing Office.	100-7-275	156	10 6	Transferred from the office of the Indian Stores Department.
	Mr. Baij Nath	Do.	Studied up to Inter. Diploma holder from H. E. School, Lucknow, as overseer. Had 9 months war service at his credit as overseer in Iraq. Served from 1922-1930 in the Punjab P. W. D. as overseer in Buildings and Roads Branch and as Road Inspector and Overseer in Irrigation Branch.	100-5-160 8-200	135	9 4	By selection from amongst several candidates.
D. C. A.	..	..	..	..	..	..	..

Department or Office.	Name of incumbent.	Designation.	Educational and special qualifications.	Grade.	Pay.	Service on 1st September, 1935.	Mode of recruitment.
1	2	3	4	5	6	7	8
D. C. A.—contd.	Mr. Balkrishna ..	Draftsman ..	F.Sc. (non-Medical). Passed as Upper Grade Overseer (with credit) from the Government School of Engineering, Raghul. Worked for about two years with a railway contractor and in an Engineering Firm as supervising overseer and draftsman. Studied upto the 8th Class. Possesses practical experience as draftsman extending over several years.	Rs. 80—4—100—5—150	Rs. 84	Y. M. 1 8	By selection from amongst several candidates.
D. G., P. and T.	Mr. Ghulam Hoosain	Do. ..		55—5—155	155	7 6	Recruited from a subordinate office.
C. C., I. S. D.	Mr. S. M. Nazir ..	Head Draftsman	B.Sc. (Punab) B.Sc., (Civil Engineering, Durham), Member of Royal Sanitary Institute (London) Apprentice for about a year with P. W. D. (Health Services) and for about two months with Messrs. George Kent, Ltd., Engineers, Luton and London	250—10—350	250	0 6	By advertisement.

Mr. Isser Singh	Senior Draftsman	120-8-200	200	10 9	Direct.
Mr. A. K. Bakshi	Do. (Officiating as Examiner Stores).	Do.	160	4 9	By advertisement.
Mr. S. K. Muzumdar	Senior Draftsman	Do.	160	4 9	Do.
Mr. A. C. Muzumdar	Senior Draftsman (Officiating as Senior Draftsman vice Mr. Bakshi).	95-5-120	128 (as senior draftsman).	11 9	Do.
Mr. Ahmad Ali	Officiating Junior Draftsman vice Mr. A. C. Muzumdar.	80-4-100	84	1 0	Direct to fill an officiating vacancy.
Mr. Mirza Far Ahmed	Junior Draftsman	95-5-120	120	11 2	By promotion.
Mr. Ganpat Singh	Ferrotypes	45-3-75	48	16 10	Do.

Statement showing Technical posts requiring special knowledge in the Government of India Secretariat and its Attached Offices on 1st September, 1935—*conold.*

Department or Office.	Name of incumbent.	Designation.	Educational and special qualifications.	Grade.	Pay.	Service on 1st September, 1935.	Mode of recruitment.
1	2	3	4	5	6	7	8
C. C., I. S. D. — <i>cond.</i>	Mr. Som Dutt Dosaj ..	Tracer	Matric and S. L. C. Certificate in Mechanical Engineering of the V. D. J. Technical Institute, Lahore. Apprentice with Messrs. Siemens (India), Ltd., for one year.	Rs. 40—2—70	Rs. 40	Y. M. 1 0	Direct.
	Mr. S. M. Sen Gupta ..	Technical Assistant	M.Sc. (Cal.) Apprentice with the Tata Iron and Steel Co., Ltd., Jamshedpur for one year.	150—10—300	150	0 9	Selected from the List of candidates recommended by the P. S. C. for the post of Physiological Assistant and Chemical Assistant.
	Mr. S. D. Sunawala ..	Do.	M.Sc. (Bombay), Associate of the Indian Institute of Science, Bangalore. Holder of certificate in soap-making awarded by the Director of Industries, Madras.	Do. ..	150	Joined on 16th September, 1935.	Do.

STATEMENTS LAID ON THE TABLE.

Statement showing Special posts requiring special knowledge in the Government of India Secretariat and its Attached Offices on 1st September, 1935.

Department or Office.	Name of incumbent.	Designation.	Educational and special qualifications.	Grade.	Pay.	Service on 1st September, 1935.	Mode of recruitment.
1	2	3	4	5	6	7	8
Legislative Department.	Mr. Madan Gopal ..	Librarian	Read upto F. A. Holds a Punjab University Diploma of Library training and a London Library Assistant Librarian Certificate in Library routine. 15 years previous experience as Librarian in Army Headquarters.	200—15—500	440	Y. M. 14 6	Transferred from the post of Librarian in the General Staff Branch, Army Headquarters, with the concurrence of the P. S. C.
	Mr. S. C. Roy ..	Assistant Solicitors' Branch.	Read upto Entrance Examination. Previous experience of 11 years in a Solicitors office.	200—15—500	410	15 7	Recruited direct by the Department from a Solicitor's office in Calcutta prior to the restriction of recruitment, to passed candidates.
	Mr. M. B. Ghose ..	Head of the Printing Branch.	Read upto F. A. 15 years previous experience in Government presses.	200—15—500	275	27 11	Promoted from the II Division of the Legislative Department with the concurrence of the P. S. C.

COUNCIL OF STATE.

[30TH SEPT. 1936.]

Department or Office.	Name of incumbent.	Designation.	Educational and special qualifications.	Grade.	Pay.	Service on 1st September, 1935.	Mode of recruitment.
1	2	3	4	5	6	7	8
Legislative Department—contd.	Mr. N. H. Ansari ..	Translator	M. A. (in Persian) B. T. and previous experience in translation work in the Archeological Department.	Rs. 200—10—400	230	Y. M. 3 0	Candidate selected by the Department and approved by the P. S. C.
	Mr. E. P. J. De'Sousa ..	Clerk, Solicitor's Branch.	Studied up to Matriculation. Previous experience of 12 years in a Solicitor's office.	80—4—120— 5—200	135	3 3	Do.
Legislative Assembly Department.	Mr. Abdul Majied -Heirat.	Translator	B. A. 5 year's experience as English Translator on the editorial staff of the <i>Fayji Akhbar</i> , G. S. Branch, A. H. Q., Simla.	120—10—325	225	11 5	Transferred from the Fauji Akhbar, G. S. Branch, A. H. Q., Simla.
Public Service Commission.	Miss L. S. Waller ..	Confidential Stenographer.	Senior Oxford Certificate. Trained in shorthand, typing and Commercial knowledge at Pitman's College, Southampton Row, London.	150—10—300— —12½—400	280	8 1	Direct.

STATEMENTS LAID ON THE TABLE.

	Mrs. M. Mansfield ..	Confidential Assistant.	Rs. 100 (pro-bation) 140—10—310—15—400	140	1 10	Do.
Military Finance Department.	*Mr. E. J. Menzies ..	Clerk (with knowledge of stenography).	60—2—80—3—125	60	1 6	*Direct. Out of three posts only two have been filled.
	†Mr. Ganesh Das Katalyal.	Do.	60—2—80—3—125.	60	4 0	†Direct. Appointed in the Military Finance Department with effect from 6th December 1935.
Military Accountant General.	†Mr. M. A. Khan ..	Do.	75—90—4—170.	99	4 3	†Direct. (At present, on temporary transfer to the Office of the Auditor General.)
	Mr. R. Gopalan ..	Librarian (Imperial Secretariat Library).	200—15—500	290	10 5	Through the P. S. C.
	Mr. M. Ahsanjan ..	Assistant Librarian	100—8—300	252	22 10	Was in service before the formation of the late Staff Selection Board and the P. S. C.
Department of E., H. and L.	Mr. Brij Bhushan ..	Do.	100—8—300	172	10 2	Through the P. S. C.
	Mr. Abdus Subhan ..	Do.	60—2—80—3—125.	66	3 2	Do.
	Mr. Nambria Ram ..	Assistant†	140—10—310—15—400.	140	2 4	With the concurrence of the Home Department.

†Vacant since 14th January 1935.

Department or Office.	Name of incumbent.	Designation.	Educational and special qualifications.	Grade.	Pay.	Service on 1st September, 1935.	Mode of recruitment.
1	2	3	4	5	6	7	8
D. G. A. in India.	Mr. D. R. Sharma	Librarian	M.A., M.O.L., Had training in library work.	Rs. 120—8—160— 10—350.	190	4 3	Outside. Appointed with the approval of the Government of India.
Railway Board	Mr. Jetha Nand	Rates Assistant	Special training in Rail-way rates work.	140—10—310— —15—400.	370	* 1 0	Recruited from the Indian Rail-way Conference Association.
	Mr. S. K. Misra	Rates Clerk	Do.	100—8—260	260	17 0	Transferred from A. H. Q., M. G. O. Branch. *He was also in Government service 17th July 1911 to 31st December 1932 when he was permanently transferred to I.P.C.A. a non-Government office. He remained in that office from 1st January 1933 to 31st August 1934.

I. C. A. R.	Mr. Mohd. Shafi	Librarian	B.A., LL.B.	200—15—500	395	5 1	Through the P. S. C.
Defence Department.	Mr. P. S. Sundaram	Assistant in-charge Publication section.	B.A., M. Sc.	Do.	260	4 11	Do.
	Mr. M. Y. Burney	Clerk in-charge Publication section.	M.A.	100—8—300	116	3 11	Do.
	Mr. V. Padmanabhan	Do.	B.A.	Do.	204	13 4	Was employed in the Publication Branch I. I. A. R., Pusa and was transferred to the I. C. A. R. consequent upon the transfer of that Branch to this Department.
	Mr. Ajit Prasad Dube	Assistant for Special work connected with Cantonment water supply.	M.A. Received practical training in the work of an Executive officer of a Cantonment.	200—10—400	210	2 4	Appointed with the concurrence of the P. S. C.
	Mr. H. C. Banerjee	Compiler, Indian Army List.	Matriculate. Has long and practical experience of the work connected with the compilation of the I. A. List, which is of a special nature.	300—25—500	500	23 4	Do.
	Mr. S. Avasthi	Assistant Compiler, Indian Army List.	M.A. Appointment to understudy the Compiler, whose work as stated above, is of a special nature.	170—12—350	242	7 3	Appointed direct prior to the issue of the existing recruitment orders.

Statement showing Special posts requiring special knowledge in the Government of India Secretariat and its Attached Offices on 1st September, 1935—contd.

Department or Office.	1	2	3	4	5	6	7	8
		Name of incumbent.	Designation.	Educational and special qualifications.	Grade.	Pay.	Service on 1st September, 1935.	Mode of recruitment.
Military Adviser-in-Chief, Indian States Forces.		Mr. W. J. Broadbridge.	Assistant	1st Class Army Certificate of Education.	Rs. 200—10—400	Rs. 210	8 6 (including military service).	Through P. S. C.
F. and P. Department (Cypher Bureau).		Mr. J. B. D'Souza	Assistant	Matriculate ..	200—15—500	380	26 0	
		Mr. Goodwin	Do.	Studied upto the High School.	Do. ..	350	22 11	
		Mr. G. P. Rubie	Do.	Senior Cambridge, S. S. B. Lower Division (Secretariat).	Do. ..	320	14 0	
		Mr. R. C. Homer	Do.	F.A., S.S.B. Lower Division (Secretariat). Has also been attached to the Cypher Sections of India and Foreign Office, London.	Do. ..	245	10 4	
		Mr. J. Bailey	Stenographer	High School, Shorthand writer.	175—12½—375—15—450—25—500.	420	23 10	By selection from

STATEMENTS LAID ON THE TABLE.

Mrs. F. A. Atkinson	..	Clerk	..	Studied for Senior Cambridge but did not appear for examination. S. S. B. Lower Division (Exemption Certificate).	100—8—300—25—350.	164	7 10	among suitable European and Anglo-Indian candidates.	
Mr. O. Grant	..	Do.	..	Senior Cambridge, S. S. B. Lower Division (Secretariat).	Do. ..	180	11 6		
Miss P. E. Baxter	..	Do.	..	Studied upto the Senior Cambridge but did not appear for examination.	Do. ..	156	7 9		
Mrs. B. C. Lowe	..	Do.	..	Studied upto the Junior Cambridge.	100—125 ..	100	2 7		
Mrs. L. Dempster	..	Do.	..	Studied upto the Senior Cambridge but did not appear for the examination.	100 (on probation) 120—170.	122	2 4		
Mrs. G. Rees	..	Do.	..	Business and Secretariat Training at Sydenham and Pitman's College, London, Shorthand certificate 120 words per minute, typewriting 45 words per minute. Studied upto Matriculation (London).	100—125	100	2 9		
Mr. C. R. deMagry	..	Do.	..	Senior Cambridge. Typewriting 47 words per minute.	60—2—80—3—125	60	0 8		
Mrs. M. S. Hosley	..	Do.	..	Studied upto the High School but did not appear for the examination.	100—125 ..	100	2 9		

Statement showing Special posts requiring special knowledge in the Government of India Secretariat and its Attached Offices on 1st September, 1935.

Department or Office.	Name of incumbent.	Designation.	Educational and special qualifications.	Grade.	Pay.	Service on 1st September, 1935.	Mode of recruitment.
1	2	3	4	5	6	7	8
Controller of Printing and Stationery.	Mr. Fazal Karim	Assistant	Possesses knowledge of printing and conversant with the various qualities of paper used in Government printing.	Rs. 120-8-160—10-350.	Rs. 210	20 7	Promoted to the special posts with the approval of the P.S.C.
	Mr. V. Ramachandran	Do.	Conversant with compiling work. Long experience in such work in the Office of the Controller of Printing and Stationery, India.	Do.	190	10 19	
	Mr. Ram Rakhmal Soni.	Do.	All round knowledge of printing. Mr. Ramachandran is an I. A. and Mr. Soni a Matriculate.	Do.	190	14 10	
	Mr. V. D. Chawla	Librarian	B.A. Holds degree of Proficiency in Library Science from the Punjab University. Also possesses a diploma in the knowledge of French Language from the Y.M.C.A., Lahore.	60-2-80	60	1 5	Recruited with the concurrence of the Home Department.
D.G., P. and T.							

BILL PASSED BY THE LEGISLATIVE ASSEMBLY LAID ON THE TABLE.

SECRETARY OF THE COUNCIL : Sir, in pursuance of rule 25 of the Indian Legislative Rules, I lay on the table copies of the Bill further to amend the Cantonments Act, 1924, for certain purposes, which was passed by the Legislative Assembly at its meeting held on the 28th September, 1936.

CONGRATULATIONS TO MR. T. A. STEWART ON HIS APPOINTMENT AS A MEMBER OF THE EXECUTIVE COUNCIL OF THE GOVERNOR GENERAL.

THE HONOURABLE THE PRESIDENT : Honourable Members, before we proceed with the business which we have before us today, I must refer to the gratifying news which the Council of State has heard about the appointment of Mr. T. A. Stewart as a Member of the Executive Council of the Governor General in succession to the Honourable Sir Frank Noyce. (Applause.) I refer to this matter with great gratification specially because Mr. Stewart was a Member of this Council for a period of nearly four years before he was translated a few weeks ago on special duty for the performance of some more onerous and responsible work. Many of us have known him for a long time. He came out to India and joined the Indian Civil Service in 1912 only and his rise since then has been very rapid, and I may say, almost phenomenal. In 24 years' time he has attained to one of the highest positions in the Government of India which His Majesty has been pleased to confer on him. During the first six years of his office, he was serving in the United Provinces as Assistant Commissioner and also for some time as a Joint Magistrate. Later on, in 1918, he was transferred for the first time to the Government of India and he joined the Customs Department; he also served as Rice Commissioner in Rangoon. Later on, during the period between 1925—1931, he occupied the important office of Collector of Customs both in Madras and Bombay, and in that capacity he rendered valuable services to the Finance Department of the Government of India. Early in 1932, he was transferred to the Commerce Department of the Government of India and he there performed as Additional Secretary useful work. But in 1933 he was appointed to the Commerce Secretaryship in the Government of India and since then his work has been very prominent before the public gaze.

He belonged, I may say, to that small band of young Civilians who have made their mark in the Civil Service of India by their great genius, their rare talents and their proved ability. In his work as Secretary in the Commerce Department as you are all aware, he was the right hand man of Sir Joseph Bhore and that period of Sir Joseph Bhore's office as Commerce Member was one of the most important and anxious periods in the recent history of the Government of India. You know that at that time he was specially delegated in connection with the negotiations relating to the trade agreement with Japan, where he brought his natural talents to bear on several delicate matters and rendered excellent service to the Government of India. Further, in

[Mr. President.]

connection with the Ottawa Pact his services were highly appreciated not only in England but all over India. There have been two opinions about the justice of the Ottawa Pact but one thing remains certain that in the discussion of all important questions relating to India the final decision was based not only on the studied and expert advice given by Mr. Stewart but also by the able and prominent representatives of India who went to Ottawa to discuss those grave problems.

Further, Mr. Stewart has been again deputed to conduct the negotiations in regard to the renewal of the Trade Agreement with Japan and is doing excellent work in that connection, the result of which we will know later. After the completion of that work he will go to England for some well-earned rest till April next and after he takes charge of his new office we shall probably have frequent opportunities of meeting him again in this Council. On behalf of you all I express our heartfelt gratification and offer to Mr. Stewart our congratulations on his good fortune. (Applause.)

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Leader of the House): Sir, it gives me the greatest pleasure to welcome Mr. Stewart as a colleague. I am sure he will be as great a success in his new office as he has been in the many offices which he has so far filled. As a resident of the United Provinces, I hope I shall not be accused of provincial partiality, if I say that the early training which Mr. Stewart received in my province will be of the greatest benefit to him as a Member of the Executive Council. I join with you, Sir, in offering him my sincere congratulations.

RESOLUTION RE NEW RAILWAY STATION AT HARDWAR.

THE HONOURABLE MR. P. N. SAPRU (United Provinces Southern : Non-Muhammadan): Sir, I rise to move the following Resolution:

"This Council recommends to the Governor General in Council to make provision for the building of a new railway station, with all modern conveniences for passengers, at Hardwar."

Sir, it would have been more appropriate if this Resolution had been moved by an orthodox Hindu Member of this Council. Sir, Hardwar is, as we know, one of the most sacred places of India. It is a place of great pilgrimage. The Kumbh mela, the biggest religious fair of Hindu India, is held there after every twelfth year. Dead men's ashes are thrown into the sacred waters of the Ganges and hundreds and millions of pilgrims go to Hardwar every year for the purpose of bathing in the sacred Ganges. Now, Sir, the Resolution, therefore, affects the convenience of millions who visit Hardwar during the Kumbh mela and who visit it during all periods of the year. Sir, I have often felt that the faith of these millions who visit Hardwar is very touching and if it could be harnessed to some social purpose, we could make this a very great country. However, Sir, be that as it may, the point that I wish to emphasise is that the station at Hardwar is in a very bad condition. Now, Sir, there is a Hardwar Improvement Advisory Committee and I find from the Report of that Committee that it recommends that the Hardwar railway station should be remodelled. The Committee approached the Railway Administration and I think

the Municipal Board of Hardwar also approached the Railway Administration in this matter. Sir, the main platform according to them—(I have just been once to Hardwar myself for a short time and I cannot say anything about the railway station from personal experience—I am taking these facts from the report of the Improvement Committee)—the main platform there, Sir, needs widening. There is, except in front of the main building, no shed over it and all over the island platform, so that pilgrims are put to great inconvenience. Sir, during the rainy season the passengers and their luggage get wet. In hot weather the passengers have to bear the scorching heat of the sun. Therefore, Sir, the suggestion that the Committee make is that the platform should be covered with a tin shed.

Then, Sir, before the arrival of the trains, the pilgrims have to wait in open pens where, with the exception of a few trees, there is no shelter. The suggestion that the Committee make is that these pens should be covered as soon as possible. There is a third class waiting room but that is situated about 200 feet away from the main platform. It is not usual to allow the passengers to get on the platform until after the arrival of the train, so in their anxiety to get on the platform as quickly as possible passengers prefer to stay in the open pens which adjoin the platform. The Improvement Committee point out that the Railway Administration were asked to provide a covered shed in each of the third class waiting pens but that the railway authorities have done nothing so far. There is an overbridge there which is situated on the southern end of the platform. That is meant to connect the island platform with the main platform. This bridge is too narrow and when the rush is great it takes long to clear the passengers. Then, Sir, on the northern end there is an underground passage which was constructed in 1921. The Ardh Kumbh Mela was held in that year at Hardwar. This is used only in Kumbh and Ardh Kumbh melas.

Another complaint is that the Railway Administration have provided no steps for the parking of hackney carriages. There is no enclosure or park or road inside the railway station, and pilgrims have to walk a long way to reach the platform. Sir, Hardwar railway station pays the Railway Administration very well. The passenger traffic at Hardwar is very great. I asked some questions the other day here about the earnings from passenger traffic at Hardwar and certain answers were given by my Honourable friend, Sir Guthrie Russell. My submission would be that the Railway authorities ought to provide some conveniences for these pilgrims. It is necessary that the entire station should be remodelled at the earliest possible date, and until this is done a covered shed should be provided in each of the pens and on the island platform. The shed in front of the railway station should also be extended.

Then, Sir, I would invite the attention of the Honourable the Chief Commissioner to the proceedings of a meeting between the Divisional Superintendent of Moradabad, the Chairman of the Hardwar Municipal Board and certain members of the Hardwar Improvement Advisory Committee on September 16, 1935. At that meeting certain proposals were put forward and they were unanimously accepted. Those proposals, I understand, are now under the consideration of the Railway Administration. We should like to know, Sir, whether the stage of consideration in regard to these proposals is over and

[Mr. P. N. Sapru.]

whether the Railway Administration have arrived at any definite conclusions in regard to those proposals. Sir, the proposals which were put forward were 15 in number and with your permission, I will read out the proposals so that the House may know what they were. I am reading out from the Report :

" 1. Filling up of the III class pen adjacent to the station entrance providing a circulating area for upper class passengers with booking and parcel offices, so that such passengers can drive right up to the station entrance instead of having to walk from the present booking office. The present practice is necessary as the station is on built-up ground, and there is no room to allow vehicles to come right up to the station.

2. Provision of an ekka stand and tonga parking ground opposite the III class waiting room together with a road to enable vehicles to circulate. This will necessitate shortening the mela platform and making other arrangements for admitting Kumbh and Ardh Kumbh passengers on to such platforms.

3. Provision of shedding over the pens.

4. Raising the level of the pens to that of the platform or if this be impracticable, to ease off the steepness of the ramp to the platform.

5. Remodelling and extension of the overbridge to allow passengers to leave the station direct on the road.

6. Removal of the police office and tea stall from their present position to ease off the congestion when passengers detrain.

7. Extension of the shedding on either side of the station building to the end of the platform.

8. Shedding to be put on the island platform.

9. New upper class waiting rooms to be constructed at one of the platforms, and the present ones used as inter class waiting rooms.

10. Indian type bath rooms and latrines with flushing system to be put in the waiting rooms. The bath rooms and latrines to be in separate rooms.

11. Waiting room floors to be tiled.

12. If it is not possible to fill up the pens to improve the upper class entrance, the upper class booking office should be in the same building as the parcel office, so that tickets and luggage can be booked in the same place. This will mean that the Railway Magistrate's Court must be moved elsewhere, possibly in a room adjacent to the present inter class waiting room.

13. Flushing system to be introduced in all station latrines and latrines to be remodelled.

14. Bhimgoda halt to be converted into a station. The Divisional Superintendent has already got a scheme for this in connection with the extension of the Rishikesh branch, but it is held up for want of funds.

15. Removal of the goodshed to the other side of the station. This will entail the giving up of a mela siding but it will give an additional platform and reception lines in the main station. This scheme was discussed, but it will be treated separately as being one for railway convenience and not included amongst the proposals put forward."

Sir, I know that our railway finances are in a bad way just now. But, Sir, so far as Hardwar is concerned, the case is a little different. There will be millions of people visiting Hardwar early in 1938 when the Kumbh mela will take place, and the Railway Administration will make a good sum of money from these pilgrims. Something ought to be done for the conveniences of those poor people who will visit Hardwar from all parts of the country. The Hardwar railway station has been a paying proposition for us, and therefore Hardwar has a certain claim on the Railway Administration. Sir, I would

like all sections of the House to support this Resolution. It is not a controversial Resolution. It is a Resolution which touches the happiness and lives of millions of people who visit that place, rich and poor alike. My Honourable friend the Raja Saheb of Monghyr—a very orthodox man—must have been to Hardwar several times. I am sure he will be able to tell us from his personal experience what the condition of the Hardwar railway station is. My respected friend, the Honourable the Maharajadhiraja of Darbangha is the head of the orthodox section of the Hindu community and he will be able to speak with much greater authority than I can about the sanctity of Hardwar, and about the place of Hardwar in the hearts of the Hindus of India, and he will also be able to tell us from his personal experience what the inconveniences of the passengers at Hardwar are. Similarly, Sir, there is my respected Leader, the Leader of the Opposition, and he too is of orthodox views and he will be able to tell us all about Hardwar from personal experience. But, Sir, apart from these distinguished leaders of the Hindu community, I would also make an appeal to my Moslem and my European friends and I hope, Sir, that I shall have the support of the entire House in regard to this non-controversial Resolution.

Sir, with these words, I move the Resolution.

THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE (East Bengal : Non-Muhammadan) : Sir, Hardwar is the name of a place which needs no special introduction. It is one of the most sacred pilgrimages of the Hindus and as such every year crores of Hindus from Cape Comorin to the Himalayas flock to Hardwar. The place owing to its scenic grandeur is also visited by tourists from the Western countries of Europe as well as from the other hemispheres of the world. It is really a surprise to me that even at such an important place where the third class pilgrim traffic alone brings in an enormous income to the railways, there is no shed on the platform and there is only an apology of a third and inter class waiting hall. Sir, a few years ago being an eye witness myself of the miseries and troubles to which specially the third and inter class passengers are subjected to, I cannot but narrate some of them for enlightening the House. There is a small tin shed covered at the top but open on all sides. It allows rain and dust storms to have full play over the lower class passengers who are expected to wait there for their trains with women and children huddled together. There is no denying the fact that the ladies of this country go in larger numbers on pilgrimage to Hardwar than men. The tin shed which is the waiting hall is outside the main platform and the third and inter class passengers are not allowed even to come on to the platform unless and until the trains actually arrive at the station. On the arrival of a train a small iron gate is opened through which thousands of pilgrims including women and children are expected to pass between two ticket collectors checking tickets before the passengers are allowed to entrain within a minute or two for which the trains stop. Sir, had there been a covered platform and regular third and inter class waiting rooms both for men and ladies with arrangements for electric lights and fans inside the platforms, the miseries of the passengers would have been reduced considerably.

THE HONOURABLE THE PRESIDENT: Are you speaking from personal knowledge?

THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE: I speak, Sir, from personal knowledge.

There should also be provision for flushed latrines and regular separate bath rooms with water taps fitted, for men and women alike. There should be a large number of water taps on the platforms for the continuous supply of drinking water. From what I have said about the lower class passengers my friends who have never been to Hardwar, might think that probably conveniences are available for upper class passengers at that station. But, Sir, I may tell them that at Hardwar station the treatment of upper class passengers by the railways are also as bad. There is an apology of a first and second class waiting room with some broken and old rickety furniture. There is provision of separate waiting rooms for men and ladies. This state of affairs is being continued from time immemorial and the Hindu pilgrims are treated as usual like so many animals and cattle. I cannot but impress on the Government that this is also one of the reasons why the road motor competition has also become so acute on that line. If the railways like commercial concerns want to regain their clients they must make attractive offers to their passengers by way of better accommodation in the trains and by providing all modern amenities for them in the station as suggested by my friend. I therefore wholeheartedly support the Resolution.

THE HONOURABLE RAJA SIR RAGHUNANDAN PRASAD SINGH (Bihar and Orissa: Non-Muhammadan): Sir, I wholeheartedly support the Resolution just moved by the Honourable Mr. Sapru. I have myself twice visited Hardwar and have felt the great lack of modern conveniences for passengers there. As a large number of pilgrims visit Hardwar annually I think Government should make all provision for modern conveniences at the station.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab: Non-Muhammadan): Sir, I rise to support the Resolution which has been so ably moved by my Honourable friend Mr. Sapru. Hardwar is a place where pilgrims from the Punjab go in very large numbers and now it has become the usual practice for people to spend a short time there whenever they can get leave or when an opportunity offers. The attention which Hardwar station receives from the Railway authorities is very meagre. At junctions like Tundla, Lala Musa, Kundian, and such places, where the traffic does not justify heavy expenditure, there are spacious buildings and big waiting rooms and other amenities and facilities. And I cannot see why the Railway authorities should ignore the claims of Hardwar where the traffic is very much heavier.

THE HONOURABLE THE PRESIDENT: Was any complaint made to the Railway authorities?

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Sir, when complaints are made by us who are the mouthpiece of the masses, I think that should be quite enough for the authorities. I have been visiting Hardwar, if not every year, once every two years or so, and I can speak from personal experience and tell you that people there suffer great hardships.

THE HONOURABLE THE PRESIDENT: Have you ever made a formal complaint yourself?

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Sir, formal complaints receive very little attention. The reply always is that they are receiving consideration and there the matter ends. I know that people from the Punjab and from Sind flock there in very large numbers and they all feel hardships, and I can assure the House that I speak not only on my own behalf but on behalf of others who have to go there. Even for first class passengers there is no amenity and there is no provision for conveyances coming near the station. People have to walk about 200 yards before they can get a conveyance.

THE HONOURABLE THE PRESIDENT: That is not the fault of the Railway authorities.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Sir, the station approaches have been barricaded by the Railway authorities and it is they who regulate and control traffic in the station premises. There are two small waiting rooms—one for gentlemen and one for ladies—which are always packed. The passengers are treated like sheep and whenever there is a big gathering, sticks and other kinds of force are used. I have seen it with my own eyes. These are the things which so far have not received the proper attention of the Railway authorities. At the time of the Kumbh and other melas, arrangements are comparatively better than they are in ordinary times. But, Sir, it is in ordinary times that matters should be put right and the sooner it is done the better. I would further add that the opening of gates to the platform ought to be increased whenever there is a rush. Now, we find when the train arrives, only one gate is opened for third class passengers and the hundred and thousands of passengers who are waiting in the sheds make a big rush and people generally suffer much inconvenience, sometimes they are hurt. Sir, this Resolution fully deserves the approval of this House and should be given effect to.

With these few words, I strongly support the Resolution.

***THE HONOURABLE KHAN BAHADUR NAWAB CHAUDRI MUHAMMAD DIN** (East Punjab: Muhammadan): Sir, Hardwar is a most important station in India and I have visited it four times and I have always felt that having regard to the convenience of pilgrims Government should do more for improvement of the railway station there. The North Western Railway of course have been doing a lot for the convenience of passengers and they are running a special Hardwar train, but still when so many people visit Hardwar and there is not sufficient accommodation there on the railway station there is always some trouble and difficulty. I hope therefore that it will be possible for the Government to do more and I therefore support this Resolution.

THE HONOURABLE LIEUTENANT-COLONEL NAWAB SIR MAHOMED AKBAR KHAN (North-West Frontier Province: Nominated, Non-Official): Sir, I think not only the Muhammadan Members of this House but the Muhammadans throughout India would welcome it if the railway could do anything to improve Hardwar station for the benefit of the sister community, the Hindus.

[Sir Mahomed Akbar Khan.]

I have had experience of Hardwar when I was at Dehra Dun and I think the Honourable Mr. Sapru is quite justified in bringing his Resolution. At the time of the mela huge crowds go there and there is hardly room for their accommodation on the station or other conveniences. I think, Sir, if the Government can do anything, the Muhammadan Members would welcome it so far as improving the condition of the station at Hardwar is concerned.

THE HONOURABLE MR. V. V. KALIKAR (Central Provinces-General): Sir, I rise to support the Resolution moved by my Honourable friend Mr. Sapru. After hearing the debate on this Resolution, I have come to know that there are grievances and the grievances have not been redressed by the railways till now. I did not go to Hardwar by railway, but from the reports which I have heard from my friends, it seems that there is insufficient accommodation for third class passengers in the waiting room. Moreover, there are complaints about proper platforms on the station. Various grievances have been brought before this House just now by Honourable Members and I therefore think it necessary to impress upon the Government and the Railway authorities in particular that they should have taken measures long ago to improve the state of affairs there. As they have not done it, I think it is now time for the Railway authorities to accept the Resolution moved so ably by my Honourable friend Mr. Sapru and redress the grievances.

THE HONOURABLE MAHARAJADHIRAJA SIR KAMESHWAR SINGH OF DARBHANGA (Bihar and Orissa: Nominated Non-Official): Sir, I rise to support the Resolution which has been so ably moved by my Honourable friend Mr. Sapru and identify myself with the remarks of Honourable Members who have preceded me. I hope, Sir, that the Government will agree to this Resolution and remove the great discomforts to which innumerable pilgrims are put to while visiting Hardwar, which is one of the most sacred places of Hindu pilgrimage. I further hope that it will be possible to build a station with all modern amenities before the Kumbh mela in 1938.

With these few words, Sir, I give my wholehearted support to this very modest Resolution of my Honourable friend Mr. Sapru.

* THE HONOURABLE SAIYED MOHAMED PADSHAH SAHIB BAHADUR (Madras: Muhammadan): Sir, I wholeheartedly support the Resolution. Since enough has been said about the Resolution, I do not want to make a long speech. Recently there has been remodelling of railway stations on all the railways. Therefore it would not be difficult for the North Western Railway to accede to the request which has been made by my Honourable friend Mr. Sapru. Hardwar, as all Honourable Members are aware, is a very important place of pilgrimage. Through this station a large number of passengers pass not only on occasions of mela but at all times of the year and the traffic during the mela season is really enormous. In view of all this and in view of the necessity to provide for the convenience of passengers and to popularise the railway which is now in serious competition with motor traffic, I hope the North Western Railway will see its way to give effect to the suggestion made.

* Not corrected by the Honourable Member.

THE HONOURABLE SIR GUTHRIE RUSSELL (Chief Commissioner of Railways): Sir, I would have had no difficulty in accepting my Honourable friend's Resolution if I thought for one moment that his estimate of traffic to Hardwar was correct. As far as I remember—I may have misunderstood or misheard him—he said every year hundreds of thousands of millions of passengers went to Hardwar. Now, of course, he himself realises that that can hardly be correct. The other day talking to me in the lobby he said that his estimate of the number of passengers who attend the Kumbh mela was five millions. I thought that it would be interesting to make some calculations as to what railway facilities we would have to provide to deal with that amount of traffic. I have worked it out that if we provided one train carrying a thousand passengers every five minutes during the 24 hours, it would take 16½ days to deal with that number of passengers. Now, if you added together the capacity of three of the largest railway stations in the world together, even they would fail to deal with that number. Fortunately for us I have actually got figures showing the number of passengers dealt with at Hardwar. In reply to a question of my Honourable friend Mr. Sapru the other day I told him the number of passengers was 1,200 a day or 438,000 a year. During the Kumbh mela of 1927 the passengers carried to Hardwar including Rishikesh was 356,473 and the number of passengers who left was 335,728. So I do not think the number of passengers is as enormous as suggested by my Honourable friend. However, I am quite prepared to admit that the facilities at Hardwar are not quite what they should be, and this has been realised by the East Indian Railway Administration though they may not be able to put things right straightaway at present. As my Honourable friend

Mr. Sapru has admitted, our finances are not quite as sound as we would like them to be. We do, however, want to put Hardwar station right but it will take a little time.

The work has been started this year. The extra work which the East Indian Railway propose to undertake at once are:

- (1) Widening down main platform by about 20 feet;
- (2) Converting the existing goods-shed platform into an island platform.
- (3) Removing the existing island platform.
- (4) Improving entrance to station and waiting rooms.
- (5) A new overbridge.
- (6) Conversion of the building lying below the bank into upper and inter class waiting rooms.

The East Indian Railway Administration have been in close touch with, I think it is called the Advisory Committee for the Improvement of Hardwar, and they have also had the advantage of a conference with Pandit Hriday Nath Kunzru, President of the Servants of India Society. He has given very valuable advice. He has put forward quite a number of suggestions, all of which are not practical but many of which the East Indian Railway admit should be carried out when finances improve. Now, I can assure the Honourable mover that we shall make adequate arrangements for the Kumbh

[Sir Guthrie Russell.]

mela of 1938. We may not have permanent arrangements by then but adequate temporary arrangements will be made and if he will make a slight alteration in his amendment I am prepared to accept it on behalf of Government. I suggest an amendment on the following lines:

"This Council recommends to the Governor General in Council to make provision for the improvement of Hardwar railway station to enable it to deal efficiently with the large pilgrim traffic offering."

If my Honourable friend is prepared to agree to that, I am prepared to accept his Resolution in the amended form. But I cannot at the present moment accept the Resolution as it stands; it demands a modern railway station straightaway, and I do not think the expenditure would be justified.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Is there no provision for new waiting rooms?

THE HONOURABLE SIR GUTHRIE RUSSELL: I have already said they are making provision for new waiting rooms now.

THE HONOURABLE MR. P. N. SAPRU: Sir, I have no objection to the amendment proposed by the Honourable Sir Guthrie Russell, and am prepared to accept it. So far as the question of finance is concerned, I would just say one thing, Sir, and it is this, that nearly Rs. 50 lakhs have been spent over the Cawnpore railway station and nearly Rs. 50 lakhs over the railway station at Lucknow.

THE HONOURABLE THE PRESIDENT: Conditions vary. You cannot make a hard and fast rule.

THE HONOURABLE MR. P. N. SAPRU: Well, Sir, I accept the amendment proposed by the Honourable Sir Guthrie Russell.

THE HONOURABLE THE PRESIDENT: Resolution moved:

"That this Council recommends to the Governor General in Council to make provision for the improvement of Hardwar railway station to enable it to deal efficiently with the large pilgrim traffic offering."

The Motion was adopted.

RESOLUTION RE CHEAPER GHEE AND MILK FOR URBAN AREAS.

THE HONOURABLE RAJA SIR RAGHUNANDAN PRASAD SINGH (Bihar and Orissa: Non-Muhammadan): Sir, I move the following Resolution:

"That this Council recommends to the Governor General in Council to take such early measures as may be suitable to ensure, by progressive stages, a cheap supply of pure unadulterated ghee and milk to urban areas throughout British India till a maximum rate of 1½ seers in the rupee for such ghee and of 16 seers in the rupee for such milk is reached at the end of seven years."

As I am one of those confirmed believers of the best nutritive value of milk, ghee, butter, cheese and all other milk products, I have brought this Resolution before the House.

CHEAPER GHEE AND MILK FOR URBAN AREAS.

Milk is a thing which is one of God's creations and which has got life-giving and strength-giving properties admitted from time immemorial. Its nutritive value is not a new exposition of the modern science in this world of ours. Even the sages of all countries from olden times have admitted its life-giving properties. It is for these reasons that we find either in our Shastras or Smritis, or our epics like those of Ramayana and Mahabharata the mention about the care and veneration with which cows used to be reared by the Aryan Hindus. Even in the Old Testament we find a description as to how cattle used to be the standard of wealth of men in those days and with what care the cattle used to be reared and maintained by the men of those days. Sir, milk is a food required by living beings as soon as they are born, and it is also a food in old age, before departing from our sojourn in this world. God's creation of beings without teeth, and the loss of teeth in old age, is a proof positive, that the Creator's will is that people must fall back on milk when they are incapable of taking any other food. Sir, in all other countries of the world no effort is spared to increase the average *per capita* milk supply of men, and for cheapening the price of milk and other milk products, so that they may be brought within easy reach of men of all classes. In India even, a few decades ago, we used to get milk at the rate of one maund a rupee, but it has, in the present age, become as dear as four seers for a rupee in big cities like Calcutta, Bombay, and, in other smaller towns, it is available at an average rate of eight to ten seers for a rupee. The net result is that on an average, the *per capita* milk supply has dwindled down to .05 gallon or in other words to a few ounces of milk per head. According to the calculation of a great statistician like Mr. Blackwood the average milk supply per head of men in India is *three seers* per month. Now a question may be asked as to why and how this deplorable state of affairs has been reached in India? The causes are too multifarious and too numerous for me to detail here, but I will be failing, Sir, in my duty, if I do not touch at least a few of the most important amongst them. Firstly, the extermination of prime and milch cattle in the slaughter houses of cities like that of Calcutta, Bombay, and other places. This indiscriminate slaughter of prime milch cattle are not only carried on for the purposes of supply of fresh meat to the public and to the army in India, but also carried on for the purpose of continuous supply to the exporter of dry meat out of India. I am glad, Sir, to know from the reply to a question of mine on the 21st September this year that in Bombay the Government have taken steps to levy a charge of Rs. 15 for every buffalo that is being slaughtered in that city, and I understand from the same reply that steps are being taken in the same direction in Calcutta as well. I heartily thank the Government for trying these remedial measures by which the slaughter of milch cattle may be reduced. But, Sir, I do not understand why a charge has been fixed only for the slaughtering of buffaloes and not for milch and prime cows in Bombay. I would like to know whether in Calcutta, the Government is going to levy a fee for the slaughtering of prime and milch cows and buffaloes as well. Here I cannot resist the temptation of mentioning one fact. From the records and statistics available, it is found that more than a lakh of cows are slaughtered every year in the Tangra slaughter house of the Calcutta Corporation. The Superintendent of that particular slaughter house once reported that of the cows that are slaughtered there 90 per cent. of such cows are of the finest breeds and in the

[Sir Raghunandan Prasad Singh.]

prime of their lives. Such is the state of affairs only in one slaughter house of one Corporation only. It can better be imagined than statistically proved, as to the innumerable number of prime milch cattle that are being annually slaughtered. Sir, as far as I am aware, in Western meat-eating countries, the slaughtering of prime good breed milch cows and other cattle are either punishable by law or are prevented by strong public opinion.

The second cause to my mind for the reduction of the milk supply in India is the want of adequate pasture lands and the want of the proper supply of fodder for cattle. In this direction I will invite the attention of the Government to devise suitable measures by which the fodder supply may be increased and more pasture lands provided in urban and the rural areas. I think steps should also be taken to educate the men of rural areas for growing fodder for cattle which will be a paying proposition in the long run. Sir, it is strange that for the purposes of army requirements, vast tracts of lands are being reserved for producing fodder for horses and mules but for the purpose of fodder supply of milch cattle there is not even proper arrangements for free pasturage.

The third cause for the dearth of the milk supply in India is the want of proper and easy facilities for the prompt and effective treatment of cattle diseases, and this causes at times heavy cattle mortality from rinderpest and other diseases. Therefore the cumulative effect of all these causes and many others is that the milk supply in the country has become scanty, resulting in the reduction of vitality of men, women and children of the soil. In this connection I may quote the authority of Colonel McTegart, an eminent European physician who stated as follows :

" If the cost of milk is reduced in our municipalities to a figure within the reach of poorer classes, it would be more effective in reducing infantile mortality than the presence of any number of trained *dhais* would accomplish ".

I would go a step further and would bring to the notice of the House that instead of taking steps and giving facilities for the people in municipal areas to keep cattle of their own for a good and cheap milk supply, the New Delhi Municipality under the very Government of India in the name of sanitation is making stringent laws, so that it will be impossible for any ordinary man to keep cattle in houses within municipal limits and that men are being compelled to fall back on milkmen who supply gutter water mixed with stale milk in the name of milk meant for the use of children, invalids and the old. Sir, can anybody question the nutritive value of milk? Is there anybody who can deny the fact that the want of a pure and abundant supply of milk has made the people of India poorer in physique and more amenable to attack by disease. Is there any denying the fact that a scanty and impure milk supply has raised the general mortality of the people by the prevalence of wasting diseases like that of tuberculosis and the like? Now, Sir, the death rate of the Indian population, especially the rate of child mortality, is higher than in many civilised countries in the world, but the death rate of women in India between the ages of 15 to 30 when they are expected to be mothers, is higher than the death rate of the women of corresponding ages in all the Western countries of Europe. To my mind, Sir, it is mainly due to the want of a supply

of cheap milk and ghee which are special diets required for their sustenance during the period of motherhood. Sir, in this connection the whole of India is deeply indebted to His Excellency the Viceroy for taking a keen interest in advancing the cause of the supply of milk to the poorer children in schools and also for giving a lead to the country for the carrying on of an incessant propaganda in the cause of improved cattle breeding in this country which has for long been neglected. Such neglect has also contributed not a little to the decrease in the milk supply in the country. In almost all European countries, including England, the lords and princes and even the kings themselves take delight in possessing the finest specimens of cattle which carry away the best trophies and prizes in cattle exhibitions and cattle shows which are very commonly held in such countries. The breeds of cattle in England and Denmark are much superior in health and in their yield of milk. It is probably unknown to many of us that the average daily yield of milk per head of cattle in those two countries is about 20 lbs. as compared to the average yield of two and four lbs. per day per head of cattle in India and Burma respectively. In the United States the yield of milk per day per head of cattle is higher still and is about 10.2 lbs. Sir, it is very gratifying that due to His Excellency's kind lead in this direction, the Agricultural Research Council is striving hard to popularise the breeding of good cattle and the industry of dairy farming. My Provincial Government of Bihar is none the less active in achieving this object. They have now made arrangements for the supply of stud bulls from Government farms to all municipalities at a price of Rs. 50 only, though the actual price of such stud bulls is Rs. 250 each. Further, the Government of Bihar have issued orders to the Director of Agriculture and the Director of Veterinary Services that all selected cows and their progeny by pedigreed bulls should be vaccinated against rinderpest and that all inferior males castrated.

Sir, I think I have proved that milk is essential for adults and babies alike. I have further proved what are some of the main causes of the scanty milk supply in India at present. I have also proved how the fodder problem should be tackled and how the good breed milch cattle may be saved and their number increased in the country. I therefore earnestly request this House to adopt my Resolution recommending Government to take measures by which the supply of milk may be increased and the price of milk cheapened to 16 seers for the rupee and the price of ghee to 1½ seers for the rupee.

Before I conclude, Sir, I may remind the House that my demand is not unreasonable as even at the present moment in several towns and villages in some of the provinces, ghee is obtainable at the rate of about 17 chittaks for the rupee and milk is also available at the rate of about 10 to 12 seers for the rupee. So it is not very difficult to reduce by progressive stages the price of milk to 16 seers for the rupee and of ghee to 1½ seers for the rupee in urban areas in the course of seven years. I hope and trust the House will unanimously adopt the Resolution.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Education, Health and Lands Member): Sir, my Honourable friend Raja Sir Raghunandan Prasad Singh in moving his Resolution gave us a vivid description of the value of milk as a food. I heartily join with him in singing the praises of milk. I quite agree that it is a most valuable food product. But I hope,

[Sir Jagdish Prasad.]

looking at the form of the Resolution, that my Honourable friend has no intention of standing as a candidate from a rural constituency! If he has any such intentions he should transfer his allegiance to an urban constituency! What does the Raja Sahib propose? He proposes that the price of ghee should be one and a half seers to the rupee, that milk should sell at 16 seers. A calculation has been made that if you want to sell ghee at one and a half seers you must buy milk at 30 seers to the rupee. All our efforts, of all those who happen to own land, have recently been in the direction of raising the price of prime commodities. That has been one of our chief difficulties, that the value of the produce of our tenantry has gone down. My Honourable friend the Raja Sahib wants that his tenantry, instead of being able to sell their ghee at 12 or 13 chittaks to the rupee, should now be forced to sell it at a seer and a half! Therefore I hope the House will not accept the Resolution as it stands, because that will practically kill the dairy industry. If people are told that within seven years they must sell milk at 30 seers to the rupee and ghee at one and a half seers, I am afraid that all the efforts we have been recently making to improve the breed of cattle and to increase their numbers will end in failure.

I will now take up the other points of his speech. He said that one of the reasons for an inadequate supply of milk was that a certain number of milch cattle are being slaughtered in the cities of Calcutta, Bombay, and Madras; he further stated that the fodder supply is not adequate, that sufficient steps have not been taken to preserve cattle, that is to say, the veterinary part of the work has not been satisfactorily performed. He has acknowledged the stimulus which has recently been given by the example of His Excellency the Viceroy towards the improvement of cattle. I shall take up these points *seriatim*. As regards the destruction of milch cattle in towns, I agree that this is a matter which is to be examined. We sent out an Animal Husbandry Expert, Colonel Olver, to visit Calcutta and Bombay and to discuss this problem with the Governments concerned. In reply to a question which the Raja Sahib put to me the other day, I gave him information as to what was being done. He asked during the course of his speech why a fee had been levied on buffaloes and not on cows in Bombay. I think the reason is that most of the milk supply of Bombay comes from buffaloes and the object was to preserve the buffalo rather than the milch cow. Then, I think the House would like to know as to what the Government of India has been doing in regard to these very important questions. Honourable Members probably know that we have an Imperial Veterinary Institute at Muktesar which investigates questions of serum and of vaccines, that is to say, how to preserve valuable cattle against disease, and very valuable work has been done in this direction. They have been able to find a very efficacious remedy against rinderpest. Therefore, so far as the Central Government is concerned, we are fully alive to the need of taking measures in order to protect cattle. I agree that a good deal has to be done in the provinces. I think within their resources they are trying to do what is possible and I am sure that as the pressure of public opinion increases, more and more will be done in that direction. As regards the fodder supply, I will not repeat what I said in regard to this; only

the other day we had a full debate on this question of increasing the supplies of fodder both in forests, in dry land and in irrigated areas. In the province of Bihar, as my Honourable friend knows, the problem of fodder is not connected with that of forests; there it is a question of increasing the fodder supply apart from the question of forests. Then, we have recently taken measures to have an Imperial Dairy Institute and also a Creamery at Anand. It will examine questions as to how milk can be dealt with by the rural population on a commercial scale, the question of tinning and condensing milk and milk products. We import a large quantity of tinned and condensed milk from abroad and these points will be examined, also the handling and processing of milk. The question of marketing is extremely important and our Marketing Section is going to examine as to how it is possible to improve the marketing of milk. As Honourable Members already know, we have asked a very eminent dairy expert from England to come and examine what we have been doing ourselves here and to advise us as to lines of future policy. I hope, therefore, Honourable Members will agree that the Government of India have been fully alive to the importance of this question, that the stimulus which the example which His Excellency has given has had effect and that the matter is now prominently both before the Local Governments and before people who can help, prominent landholders like my Honourable friend the Raja Sahib himself. He has said during the course of his speech what the Bihar Government have done. Action on somewhat the same lines is being taken by other Local Governments, so that I can assure my Honourable friend that we are fully alive to the necessity of increasing the supply of pure milk and ghee, but I cannot possibly accept the Resolution as it has been moved, that the prices should be reduced to these figures, because that will cause a great hardship to the rural population in whose welfare I am sure the Raja Sahib is as much interested as we are on this side of the House. I hope in view of what I have said my Honourable friend will not consider it necessary to press his Resolution to a division.

THE HONOURABLE SRIJUT HERAMBA PROSAD BARUA (Assam : Non-Muhammadan): Sir, I rise to support the Resolution moved by my Honourable friend, Raja Sir Raghunandan Prasad Singh. After the most welcome and momentous announcement made by His Excellency the Viceroy the other day that the question of nutrition of men and cattle will be of "continued and abiding personal interest" to His Excellency, my Honourable friend has moved his Resolution not a day too soon. The vital importance of the question of nutrition of men and cattle cannot be exaggerated too much. To quote His Excellency:

"The problem of nutrition is at all times one of vital concern, and on its solution hinges essentially the future of India as a whole".

Sir, it is certainly a happy augury of the times that the attitude of the present Government is all very sympathetic to the all-important problem of nutrition. I need hardly say, Sir, that the question of nutrition of men and that of cattle are always inter-dependent. It is not a whit of exaggeration to say that the public health of our land is entirely dependent upon the adequate supply of pure milk and milk products in the country. Today India suffers badly from an inadequate supply of milk. A sufficient supply of pure

[Srijut Heramba Prosad Barua.]

milk is not available even for the sick and the sucklings and babes in arms, not to speak of the adult population; and the rate of infant mortality from rickets and like diseases is high and simply appalling. What we badly want is more milk in the country and more pure milk at a cheap price so that it might be easily available for the average man. But what supply of milk can be expected from ill-fed, starved, weak and sickly cows? An adequate supply of pure milk is not available in the country and the public health in India has become alarmingly poor. The public health, as I have said, is entirely dependent on the welfare of the cattle and starved and sickly cattle with a low yield of milk and low and poor public health are badly working in a vicious circle today. We are aware, Sir, that the question of animal husbandry and animal nutrition has come to the forefront today. It ought to have been taken up with all seriousness and earnestness very much earlier. Animal husbandry and cattle nutrition, I need hardly say, are of vital concern to India, not only on account of the question of an adequate supply of pure milk but also because 90 per cent. of her people are agriculturists by occupation and the main power which is brought to the aid of agriculture is cattle.

Sir, the Resolution before the House seeks that early measures be taken to ensure an adequate supply of pure milk and milk products at a cheap price so that they may be available in the country easily. I do not know if the millenium could be had at the end of seven years as contemplated by the Resolution. But, Sir, it is high time that a start should be made now in that direction. We are aware that at the instance of the Imperial Council of Agricultural Research an experimental Creamery is going to be established at Anand for the enlargement of facilities of dairying in India. We are also aware that an Animal Nutrition Research Institute is going to be shortly established at Izatnagar. It is all well and good and I certainly cannot under estimate the value of scientific researches that are being done by these institutions today. But, Sir, all the nutrition research work and dairy and veterinary research work will not ensure an adequate supply of pure milk in the country if sufficient pastures or sufficient fodder are not available for the cattle. In spite of the veterinary and nutrition researches, cattle in thousands are daily dying of various diseases consequent upon starvation and an inadequate supply of fodder costing the poor peasant all that he possesses and badly aggravating the situation with regard to the rural indebtedness in the country. Is it any wonder then that pure milk is not sufficiently available in the country today and the public health is at a low ebb? We are extremely grateful to His Excellency for the very noble desire he has expressed to issue good bulls to the villages to ensure a good breed of cattle and good supply of milk in the country and the Government has already made a good effort in that direction. But, Sir, I am afraid, it will detract from the usefulness of issuing such bulls if adequate facilities for grazing and feeding of their cattle are denied to the peasants. We were told the other day, when we were discussing the question of the reduction of the grazing tax, that the Provincial Governments were entirely responsible for it. Whatever the policy of the Provincial Governments might be, I am sure a sympathetic gesture from the Centre will go a great way in shaping the policy

in the provinces in this direction. In my part of the country in Assam this grazing tax has become a great burden on the already overburdened shoulders of the poor ryots and is standing in the way of an adequate supply of pure milk. Sir, in the interests of such a vital problem as the nutrition of men and cattle it is high time that such handicaps were removed.

The Honourable mover has already referred to the question of stopping the indiscriminate slaughter of milch cattle and I do not want to say anything more about it. I would like to refer to one more question—the question of transport of milk and milk products. In this connection the Government can do immense good to the country by directing the railways to prescribe concession freights for milk and milk products and to provide carriages with cold storage equipment and other facilities.

Sir, the Resolution is a very modest one. It simply asks the Government to take such measures, by progressive stages, as may be suitable to ensure a cheap supply of milk and milk products to the people and I do not think it is asking the Government too much, for, in the memorable words of His Excellency the Viceroy:

“No effort that can be made to ameliorate the conditions and to assist in the solution of this problem can be too great”.

Sir, I most heartily support the Resolution.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab: Non-Muhammadian): Sir, I rise to support the Resolution moved by my Honourable friend the Raja Sahib of Monghyr. Sir, the Honourable the Leader of the House has made certain observations which in my humble opinion are not quite in order.

THE HONOURABLE THE PRESIDENT: They are perfectly in order.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: They may be in order, but they are not based on facts. Sir, as far as the Punjab is concerned, from the information that I have, the Punjab produces about 40,000 maunds of ghee yearly. There was a time, some 20 or 25 years ago, when the rural population did not use ghee in appreciable quantities. But, Sir, since the last 20 years, the rural population has begun to consume ghee and now the result is that the Punjab has to import from 10,000 to 15,000 maunds of ghee per year from other provinces. Sir, I might also mention that the price of ghee is generally regulated by the demand. The Army Department used to take about 28,000 maunds of ghee before rationing the army began, but since rationing of the army began, they are using very much more ghee. Sir, in case Gwalior, Central India, and the United Provinces had not met the Punjab demand, perhaps in the Punjab the price of ghee would have gone up to Rs. 2 per seer, that is, Rs. 80 a maund. Then, Sir, my Honourable friend the Leader of the House has said that in case we want to bring the price of ghee down to 1½ seers per rupee, the milk will have to sell at 30 seers to the rupee. There also, with due deference, I disagree, because the price of ghee last year was about three-quarters of a seer for the rupee; this year the price is about one seer to the rupee although there has been no appreciable change in the price of milk. Sir, during war time when the demand of ghee for the army rose very high, India could not meet the demand of the Army

[Rai Bahadur Lala Ram Saran Das.]

Department, although it produces, as far as my information goes, about 5,00,000 maunds of ghee per year. In order to meet the demand of the army in war time ghee was imported from Mesopotamia, Egypt, Turkey and Persia. Sir, it is Central India which nearly regulates the price of ghee, because Central India produces 1,00,000 maunds of ghee yearly and itself consumes very little. Sir, we are very grateful to our present Viceroy, His Excellency Lord Linlithgow, who has taken a right step in the matter of the improvement of milch cattle; thereby I think the yield of milking cows will increase and that may tend to bring down the price of ghee. As far as the Punjab and the United Provinces are concerned, ghee is our staple food and an indispensable article of diet. To keep up the physical strength of the people and particularly of the children and students it is essential that they should get an adequate supply of pure ghee. I think, Sir, in case Government interests itself in this matter seriously, they can play a good part in bringing down the price of ghee. In the Punjab in the *shamlat deh* villages the grazing areas have been reduced by colonisation of vast tracts of land. It is a question which vitally affects the health as well as the strength of the people and I think that Government should see its way to accept the Resolution and I hope all Honourable Members will give it their full support.

THE HONOURABLE RAJA SIR RAGHUNANDAN PRASAD SINGH: I have just received a suggestion from Government—

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: Sir, I have suggested to my Honourable friend that if he is prepared to omit the last portion, i.e.,

"till a maximum rate of 1½ seers in the rupee for such ghee and of 16 seers in the rupee for such milk is reached at the end of seven years",

I am quite prepared to accept the Resolution, which will then read:

"This Council recommends to the Governor General in Council to take such early measures as may be suitable to ensure, by progressive stages, a cheap supply of pure unadulterated ghee and milk to urban areas throughout British India."

THE HONOURABLE RAJA GHAZANFAR ALI KHAN (West Punjab: Muhammadan): And rural areas.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: That would undoubtedly be better.

THE HONOURABLE RAJA SIR RAGHUNANDAN PRASAD SINGH: I accept the suggestion of the Government and am prepared to delete the words from "till a maximum rate" to the end, and to add the words "and rural" after "urban".

THE HONOURABLE THE PRESIDENT: Resolution moved:

"This Council recommends to the Governor General in Council to take such early measures as may be suitable to ensure, by progressive stages, a cheap supply of pure unadulterated ghee and milk to urban and rural areas throughout British India."

The Motion was adopted.

RESOLUTION RE POPULARISATION OF THE USE OF QUININE AMONG THE MASSES.

THE HONOURABLE KHAN BAHADUR DR. SIR NASARVANJI CHOKSY (Bombay: Nominated Non-Official): Sir, the Resolution that I have the honour to move reads thus:

"This Council recommends to the Governor General in Council to appoint a Committee of medical, financial and agricultural experts to devise a scheme for the manufacture in India of an efficient, cheap and safe remedy from the Cinchona bark for the treatment of malaria and to suggest ways and means for popularising its use among the masses".

Sir, on more than one occasion during the course of the last four years, I have invited the attention of this House by resolution, speeches and questions, to the deplorable condition of the population of this malaria-ridden country, who have no suitable remedy within their means to ward off the ravages of malarial fevers. It is intended by this Resolution to enable Government to attain a settled policy for the purpose—a policy that would go a great way to ameliorate the health of the masses and increase their working and earning capacity. It is true that last year, Government released over 60,000 lbs. of quinine from their surplus stock for free distribution in the provinces. But that indeed has been the sum total of recent progress in this direction. The budget for the current year has however provided for a grant of Rs. 10 lakhs to the Indian Research Fund Association. The amount to be devoted mainly to schemes connected with the prevention and cure of malaria. Colonel Sinton, Director, Malaria Survey of India, says that 100–200 millions suffer from malaria, but not more than one-tenth ever receive treatment.

Malaria exacts such a heavy toll of life that one death out of every three in our public hospitals is due to this disease or its after effects. Periodic attacks affect their general health, lessen production, resulting in poverty and thus they become easy prey to other infirmities with consequent high mortality. India's annual economic loss from malaria has been computed at Rs. 33 crores by Colonel Chopra. Large amounts of money spent upon education are wasted as malaria-stricken children are incapable, either physically or mentally or both, of taking full advantage of the facilities afforded for instruction, says Colonel Sinton. Their retarded development is a serious obstacle to the social and economic progress of the people and so to prosperity and increased national wealth.

The late Sir Ronald Ross said that malarial fever inflicts misery, retards civilisation and is the principal and gigantic ally of barbarism. No wild deserts, no savage races, no geographical difficulties have proved so inimical to civilisation as this disease.

Such, Sir, in brief is the gravity of the problem facing India. These were the considerations that led me to move two years ago a Resolution in this House for associating an enquiry into the health conditions of the people in conjunction with the then projected economic enquiry by experts. I was then assured that Government had full sympathy with the Resolution and will bear in mind such an enquiry when the economic enquiry would be taken in hand. Today's Resolution however recommends investigation of the subject by three sets of experts for reasons that I shall now proceed to state.

[Sir Nasarvanji Chokey.]

In the first place, medical experts have to determine what product of the cinchona bark is likely to produce an efficient, cheap and safe remedy for malaria. It is 70 years since the cultivation of the cinchona plant was introduced into India. Is it not all the more surprising that after the lapse of almost three-quarters of a century we should still be groping in the dark for a remedy combining the above requisites? True it is that in quinine we possess a sheet anchor of recognised value whose place has yet to be supplanted by another remedy of equal efficacy. Its prohibitive cost however places it beyond the reach of the poor. It was this consideration that led Government to introduce a cheaper product—the cinchona febrifuge which is nothing more than the residue left after extraction of quinine from the bark. Some of its components however have been found on investigation to possess distinct anti-malarial properties. It was placed upon the market as a cheaper and more accessible remedy. There were however some drawbacks to its general use inasmuch as not being a standardised preparation its composition, and effects greatly varied. Nor was it palatable; and therefore it did not find much favour with the masses. Subsequently in 1934, the Malaria Commission of the League of Nations suggested after due investigation a preparation named totaquina as more likely to fulfil the above requisites. It appeared to be a half-way remedy between quinine and the febrifuge. It can be prepared either by adding 25 per cent. of quinine to the cinchona residue or from the bark of the two hardier species of the cinchona plant, that unlike the quinine-producing plant do not require certain optimum conditions for their growth. Totaquina has been found to be cheaper than quinine, as it costs about Rs. 13-8-0 per lb. against Rs. 18-8-0 for quinine. The retail price of the febrifuge varies between Rs. 10 and Rs. 12. These three products thus hold the field at present. It would be for the medical experts to determine how far the relative claims of the two comparatively cheaper products can be adjusted to the needs and purchasing capacity of the masses; or that another substitute could be made available. Sir, the help of the Medical Research Council of Great Britain may perhaps be invoked to elucidate this subject as I believe it will throw considerable light upon it. It is an imperial problem affecting not India alone but the British Dominions and Colonies as well.

It is beyond the scope of this Resolution to refer to the newer synthetic remedies. However potent they may be their cost per treatment varying as it does from Rs. 1-12-0 to Rs. 2-4-0 places them beyond the purchasing capacity of the masses.

Secondly, Sir, turning now to the role of the financial experts, it appears that certain financial and commercial considerations involved in this question require elucidation. The tussle for ultimate superiority lies between a standardised febrifuge with or without the addition of quinine or totaquina. The former if standardised as suggested is likely to cost more than at present. And if Government should ultimately decide upon one or the other, there is the probability of lowering of the price of quinine through lesser demand. Then again foreign manufacturers would manufacture these products and thus enter into competition with locally made products. Or a new cheap synthetic remedy may be discovered. Or again, India may not be able to produce the

requisite quantity of the bark needed for the manufacture of totaquina as it is said that it takes sometimes 10 years. These weighty factors have thus to be considered before final determination of the drug can be made. "It is not a question of what is the drug procurable, but of what drug will give the greatest benefit to the greatest number for the money available." In this connection, I would suggest that if the cost of the drug thus selected were to be found to be greater than what the masses could afford, it should be so reduced as to place it within their reach and the difference debited to the Department of Public Health as a preventive measure.

Thirdly, Sir, without adequate research by a body like the Imperial Council of Agricultural Research, there can be no progress. It will be for that institution to investigate improvement in the present methods of propagation of the quinine-producing plant and its congeners in other parts of India. The hardier varieties may possibly be grown at other places. India is such a vast country with such a great variety of climates that it should not be difficult to discover those more suitable for the cultivation of the latter and as well to determine the shortest period after planting when the bark would be ready for use. Deterioration of the bark by storage for long periods also requires investigation. The Council would further undertake technological research into the methods of cultivation, suitability of the soil, its analysis, etc., and thus place India in the fore-front of this investigation.

Such are some of the factors complicating this vital question. It is only by the conjoint efforts of a Committee as suggested that Government would be able to lay down their policy for alleviating this chronic infirmity of the masses of India. It is in this connection that the grant of Rs. 10 lakhs provided this year will be of great use.

Lastly, Sir, there is the question of popularising the use of the approved remedy. I have been told that the masses have a rooted repugnance to quinine. That is surely due to ignorance and prejudice combined with the absence of suitable propaganda. The effort hitherto made to introduce picc packets of quinine at post offices, etc., has not been a success. And Government did not approve of the tubes treatment tablets as suggested by Sir John Megaw, late Director General of the Indian Medical Service. Nothing short of a wide and extensive propaganda and even actual demonstration of treatment and making the remedy available at each village shop would be able to overcome the apathy and reluctance among the masses.

Sir, may I, before I conclude, quote one pregnant paragraph bearing upon this subject from the Report of the Royal Commission on Agriculture in India:

"Of all the diseases of India, malaria is the most widespread and its effects on the efficiency of the rural community are disastrous. The principal prophylactic in the treatment of this disease is quinine and cinchona febrifuges and not the least of Government's responsibilities in the control of malaria is connected with its policy in regard to the manufacture of this drug. At present all the cinchona plantations with one exception and the factories for the manufacture of quinine are owned by the Provincial Governments of Bengal and Madras. If the question of malaria is to be seriously tackled we are strongly of opinion that the development of cinchona cultivation in all provinces which contain areas suitable for its growth, the manufacture of quinine and the control of its distribution, so far as the price within India is concerned should be taken over by the Government of India. In view of the all-India importance of the question

[Sir Nasarvanji Choksy.]

it is not one that should be left to Local Governments, however efficiently they may in the past have carried out their obligations in the matter. In view of the great importance of extending cinchona cultivation and cheapening quinine, we consider that much more scientific investigation is called for than has been undertaken in the past."

No better support for this Resolution can be forthcoming than the above. It puts in a nutshell the theme I have elaborated and points the way to the elucidation of a policy subsequent upon further scientific investigation.

May I hope, Sir, that the facts I have placed before the House will convince it of the great urgency of this problem and the Resolution will receive the support of the Honourable the Leader of the House?

Sir, I move.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Education, Health and Lands Member): Sir, I think we are all very grateful to the Honourable Sir Nasarvanji Choksy for bringing this very important question of the effects of malaria on the health of the Indian people before this House. As he has already stated during the course of his speech, he raised this question three years ago. Many of us know from personal experience the havoc that malaria causes among the people of India. The Honourable Member has in the course of his speech made certain suggestions as to how his object can be achieved. While I have every sympathy with many of his proposals, I hope I will be able to convince him before I sit down that the particular suggestion he has made is not perhaps the most effective. He has suggested the appointment of a committee. Well, Sir, I do not think that the committee would be able to add very much to our knowledge or would be able to suggest means about which we are ignorant at present. The main problem here is that at present we are not able to produce quinine at a price which the people can afford. That is really the crux of the problem. My Honourable friend has explained to the House that apart from quinine there are two other remedies, all derived from the cinchona bark which have been proved by experiment and investigation to be efficacious in dealing with malaria. They are cinchona febrifuge which the Honourable Sir Nasarvanji Choksy has already described. It is the residue left after quinine has been extracted from the cinchona bark. Then there is the standardised form of this febrifuge which is now called totaquina. I need not trouble the House about the formula which applies to totaquina. The formula has been worked out by the Health Section of the League of Nations and it is now recognised as a very potent specific against malaria. But as the Honourable Sir Nasarvanji Choksy has already informed the House, even the price of totaquina, which is, I think, just a few rupees less than that of quinine—it is Rs. 13 as against Rs. 18 for quinine—even that is high. Now, Honourable Members may like to know as to how the Government of India have dealt with this difficult problem. It has had a somewhat chequered history. The Honourable Member has mentioned the recommendations of the Agricultural Commission. The recommendation made by that Commission was that the production, laying down the price and the manufacture of quinine should be made a central subject. That point was investigated and it was found difficult to carry out that recommendation for two reasons—partly because of certain objections that were

raised by a certain Local Government which was intimately concerned with the production and manufacture of quinine and partly because a very considerable sum would have had to be spent before Government could acquire the provincial plantations and the provincial factories. For these reasons this

idea of making the whole thing Central was given up. But we have been examining recently as to whether it is possible

to reduce the commercial price of the production of quinine. These inquiries are still incomplete. We are not yet in a position to say whether it will be possible to produce quinine in India at a price which the people in their present economic condition would be able to pay. I am also prepared to investigate the question whether the particular types of trees from which the alkaloids are derived, from which totaquina is prepared, cannot be more extensively planted. I would merely say that we are prepared to investigate this. I do not know what the results of our investigation will be, but I quite realise that this is an extremely important question. Here is a large population which is afflicted with malaria. We know that synthetic productions are so expensive, as has been explained by Sir Nasarvanji Choksy, that it is not possible for the common people to utilise them. We find that the present prices of the other two specifics mentioned, cinchona febrifuge and totaquina are also high. We have therefore to see whether it is possible in India, with our climatic conditions and other factors, soil and temperature and so on, to produce quinine or these other substances at a lower cost than at present. Another suggestion made by my Honourable friend was that we might utilise the services of the Medical Research Council in England. I understand from my expert advisers that the whole question as to the uses that can be made of cinchona bark have been so thoroughly investigated that perhaps that suggestion will not throw any further light on the problem. I hope that what I have said will convince my Honourable friend that we are fully alive to the urgency and importance of the question. I hope that my Honourable friend will not consider it necessary to press his Resolution to a division.

THE HONOURABLE THE PRESIDENT: Do you wish to press your Resolution?

THE HONOURABLE DR. SIR NASARVANJI CHOKSY: No, Sir.

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

CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL (Amendment of Section 406).

THE HONOURABLE MR. V. V. KALIKAR (Central Provinces: General): Sir, I move:

"That the Bill further to amend the Code of Criminal Procedure, 1898, as passed by the Legislative Assembly, be taken into consideration."

I should like to give to the House a short history of this Bill. This Bill seeks to eliminate a proviso to section 406 of the Criminal Procedure Code, which runs:

"Any person who has been ordered under section 108 to give security for keeping the peace or for good behaviour may appeal against such order, if made by a Presidency Magistrate to the High Court, if made by any other Magistrate, to the Court of Session."

[Mr. V. V. Kalikar.]

This is the normal rule, but there is a proviso which says :

" Provided that the Local Government may by notification in the local official Gazette direct that in any district specified in the notification appeals from such orders made by a Magistrate other than a District Magistrate or Presidency Magistrate shall lie to the District Magistrate and not to the Court of Session "

This Bill relates to the elimination of this proviso. Before 1923, appeals under sections 107, 108, 109 and 110 lay to the district magistrate. But when the Criminal Procedure Code was recast in 1923, the rule was laid down that appeals from orders passed under these sections should lie to the sessions judge and not to the district magistrate. Sir, section 107 relates to the taking of security for keeping the peace, section 108 to taking of security for good behaviour, section 109 to taking of security for good behaviour from vagrants and suspected persons, and section 110 to taking of security for good behaviour from habitual offenders. As I have said before, after the recasting of the Criminal Procedure Code in 1923, appeals under these sections are made to lie to the sessions judge and not to the district magistrate. Only it was laid down by this proviso that if the Local Government thought it necessary they could by notification direct appeals to be decided by the district magistrate. If my information is correct, only in four provinces, the Punjab, Burma, North West Frontier and a part of Bihar and Orissa, are these appeals so decided by the district magistrate and do not go to the sessions judge. I do not know why the Punjab or Burma should be put on a different level from other provinces. When the Act was recast in 1923, all of us connected with the profession of law felt glad that these appeals would in future go to the sessions judge and not to the district magistrate. But when immediately a notification was issued in the Punjab after the passing of the amended Act in 1923, directing that these appeals should go to the district magistrate and not to the sessions judge we thought that there was something abnormal in the Punjab. But, Sir, from the debate that took place in the other House on this Bill and the support that this Bill received in that House, I infer that there is nothing abnormal in the Punjab. The Punjab is not more criminal than other provinces.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN (West Punjab : Muhammadan) : It is less.

THE HONOURABLE MR. P. N. SAPRU : It is more.

THE HONOURABLE MR. V. V. KALIKAR : I cannot agree with my friend Mr. Sapru, but I am very glad to endorse the view of my Honourable friend Raja Ghazanfar Ali Khan.

Also, Sir, from my acquaintances with friends who come from the Punjab I do not get any information as would lead me to believe that there is something abnormal in the Punjab so that these summary powers should be exercised there and the ordinary rule of law should not be brought into practice. Sir, in this picture, I shall explain as briefly as possible the part that is played by the district magistrate. Sir, I think those who have to do with the Bar will know how these cases come up before courts. My experience at the Nagpur Bar for about 10 years has confirmed me in my view that in these cases the accused do

not get fair and impartial justice. The procedure is—and it is always followed or followed in most cases—that the police constable or the head constable reports about some persons to the sub-inspector of police and the sub-inspector of police reports to the district superintendent of police and in some cases the district superintendent of police in consultation with the district magistrate asks the police to file a chalan in a certain court, and these chalans are filed in the courts of sub-divisional magistrates, and in those trials, which more or less are of a summary nature, orders are passed. So naturally, Sir, the district magistrates have to take some interest in that matter. I do not mean to say that in all cases he does take an interest, but in some cases he is naturally consulted and therefore according to his order the cases are filed and judgments are given by the subordinate magistrates who are subordinate to the district magistrate. My point is, that in this picture the district magistrate comes as a prosecutor as well as a judge. It is against the elementary principle of British jurisprudence that a prosecutor and a judge should be the same man. If, Sir, it is intended to create more confidence in the administration of justice, it is better that these two functions should be separated. We, Sir, in India have been agitating since the inception of the Indian National Congress about the separation of judicial from executive functions. There are no two views on this point and in almost all the provinces resolutions to this effect have been carried in the local Councils. In introducing this Bill the sponsor of the Bill in the Lower House has made an attempt to take a step in that direction and to achieve the object of severance of judicial functions from executive functions in a partial way. From that point of view also, I submit that this Bill should be accepted. If the normal rule of law is followed, in other provinces, for instance, Bengal, Madras, the Central Provinces and Bombay, I do not see any reason why in the Punjab alone or in Burma this provision should be followed and an appeal should lie to the District Magistrate. Sir, in all these cases, a suspicion always lurks in the mind of the accused that he will not get proper justice from the hands of district magistrates to whom the appeal lies in such cases. I do not mean to say, nor is it my intention to say, that all the district magistrates are not impartial. I know of cases in some parts of my province, the Central Provinces and Berar, where district magistrates were equally impartial as sessions judges. But my point is, that it is not only that you ought to be impartial, but the accused must have the consciousness that he will get impartial justice. Justice ought to be above suspicion as Cæsar's wife. If this provision is not eliminated, then the accused in these cases have ground, and real ground, to think that when these cases come up before courts after consultation with the district magistrate they would not get fair justice in appeal if the appeal lies to the district magistrate. The proceedings that take place in a sub-divisional magistrate's court in these cases, as I said, are of a summary nature. Even hearsay evidence of his character is admitted. Now, my point is that the Legislature in 1923 decided that the sessions judge is more competent to bring to bear a judicial mind in sifting evidence in these cases and is capable of meting out fair and impartial justice. If that is so, I am really surprised to find that the Punjab should be singled out. In the Punjab no sooner was the Act passed, than a notification was issued that all these appeals should go to the district magistrate. Am I to understand that in the Punjab there are no sessions judges or additional sessions judges competent to try these appeals ?

[Mr. V. V. Kalikar.]

From my information, I infer that in ordinary cases in the Punjab the appeals from first class magistrates always go to sessions judges. Then, Sir, if ordinary appeals from first class magistrates can be fairly decided by sessions judges, why should exception be made in cases of this kind? Are the sessions judges incompetent or the district magistrates more competent to decide these appeals in the Punjab? Sir, it is an anomalous position and I cannot understand why this distinction is made. The Legislature has given the right to the accused to file an appeal and make that appeal effective. So, if you want an accused person to go in appeal if he be in the right, then let that right be used effectively. It is no use giving the right of appeal with one hand and taking it away with the other. It is not my desire to cast any aspersions on district magistrates but I take my stand on the elementary principle of British jurisprudence that a prosecutor and a judge should not be the same. I, therefore, Sir, recommend that this Bill be accepted.

The Council then adjourned for Lunch till Three of the Clock.

The Council re-assembled after Lunch at Three of the Clock, the Honourable the President in the Chair.

THE HONOURABLE MR. M. G. HALLETT (Home Secretary): Sir, I oppose this Motion. As was explained by the Honourable the Home Member in the Assembly, although Government did not challenge a division on the third

3 P.M.

reading of this Bill, yet he regarded the Bill as undesirable, if not objectionable. The Honourable mover of this Motion has referred briefly to the earlier history of this section. I may somewhat elaborate his description and may tell the House that when the amendment of the Criminal Procedure Code was under consideration in the year 1922-23, the whole question was examined by a committee sitting under the presidency of the then Law Member, Sir George Lowndes. It was intended to extend this section so as to give some right of appeal in these security cases. Actually, when the Bill was before the Assembly, this section was extended still further to give a right of appeal in practically all such cases and it also provided that the right of appeal should in all cases lie to the sessions judge; that is to say, the proviso to this section had not been inserted. Government at that time thought that this section as it stood, providing an appeal only to the sessions judge, was undesirable, and therefore, in the Council of State, they moved an amendment to include in the section the proviso which the Honourable mover now desires to repeal. That proposal was carried by, I think, 22 votes to nine. I trust this present Council of State will reaffirm the decision of the Council of State that passed this amendment and will allow this proviso to continue as part of section 406 of the Criminal Procedure Code. That, briefly, is the history of this section. The proviso merely gives power to Local Governments in certain cases to say that the appeal shall lie not to the sessions judge but to the district magistrate. Actually, as the Honourable mover has stated, only some Local Governments have made use of that power. It has been done in the Punjab, it has been done in the North-West Frontier Province, it has been done in Burma and it has been done also in the Chota Nagpur

Division of Bihar. It is also, I believe, the practice in the Chief Commissioner's Province of Delhi. When the Punjab Government considered this question in 1923, they consulted the High Court on the point and the High Court fully agreed that it was desirable in that province for appeals in these cases to lie to district magistrates.

THE HONOURABLE MR. P. N. SAPRU: Was the High Court unanimous?

THE HONOURABLE MR. M. G. HALLETT: I will read the Honourable Member the letter of the High Court. This is a letter from the Registrar of the High Court in November, 1923:

"In reply to your letter on the subject of the hearing of security appeals under section 406 of the Criminal Procedure Code, I am directed to say that the matter was considered by the Judges in their meeting held on 2nd November, 1923, and they resolved to recommend that a notification should be issued under section 406, Criminal Procedure Code, empowering all district magistrates in the province to dispose of security appeals under that section on the distinct understanding that such appeals are heard by the district magistrates themselves and not by additional district magistrates."

There is no doubt in my mind, from that letter, that that was the unanimous opinion of the meeting of the Judges of the High Court of Lahore. I do not know exactly what happened in other provinces—whether the High Courts were consulted or not—but presumably they were, as the matter affects the work of their subordinate courts, and it was probably after consulting their High Courts that the Provinces of Bihar and Burma gave these powers to district magistrates.

The advantages of giving these powers to district magistrates are, I think, threefold. Possibly there are four advantages. One thing is—and this point was stressed when this amendment was proposed in the Council of State in 1923—that it involves a saving of expenditure. That is an important point in most of the provinces because they are most of them faced with almost deficit budgets. I do not wish however to lay too much stress on this point. The actual extra expenditure that would be incurred if these appeals went to sessions judges would not be very great. I have got figures here showing the total number of appeals. In the Punjab, where they are numerous, the transfer of these appeals to sessions judges would necessitate the employment of at least one additional sessions judge in the province, involving expenditure of roughly Rs. 18,000. Rs. 18,000 is not a very large sum, but most of these provinces have got to husband their resources and they have to consider carefully every proposal of this kind and its financial implications. There is another point I would like to make at this stage, and that is, that though the only provinces in which action has been taken under this proviso to this section are the Punjab, Burma, Bihar and the North-West Frontier Province, yet in those provinces there has been no complaint whatever about the action taken by Government in issuing that notification. The matter has never been raised in any Legislative Council so far as I know and I have tried to look into that question. The Legislative Council of the Punjab could easily have raised the matter either by means of a resolution asking Government to withdraw the notification or by raising the point when they were discussing the budget, or on some other occasion. In Bihar the question has never been raised and I do not think it has ever been raised in

[Mr. M. G. Hallett.]

Burma. Also I learn from a letter I got from the Punjab Government the matter has not even been raised in the press. That shows that there is no very strong feeling in the matter, and it is after all a matter which should be decided by the province itself. There is no reason why we should interfere and take away a power which has been exercised with due discrimination and discretion and say to these provinces, "Though you find it useful to exercise that power, you must not use it in future". That seems to me to be entirely wrong.

As I have said, one of the advantages in this procedure is a certain amount of saving of expenditure. A second one is that in nearly all provinces, and particularly in the Punjab the district and sessions courts are very much overburdened with work. There is constant complaint that district and sessions judges have to devote too much time to criminal work and cannot devote enough time to civil work. There are some observations made on this point during the discussion in the Assembly by a non-official Member which I think are fairly relevant to this point. What the Honourable Member said was :

"Sir, I hold no brief for the Punjab Government, but as a practising lawyer in Lahore all I can say is that in 1923-24 when this notification was issued the congestion of work in the High Court and in the District Judges' Courts was so colossal that Government were compelled to issue this notification. Civil cases in the High Court were four years in arrears, and cases in the districts were two years in arrears. At the present moment there has been some improvement, but the congestion is still great, and if these 4,000 or 5,000 criminal cases are tagged on to the sessions judges' files, the congestion will be infinitely greater".

That I think is an argument of some practical importance, that it is desirable to relieve the sessions courts of work which is not really very important especially when you can get it done with equal efficiency and equal justice by some other agency.

The third point I would make is that this arrangement which is in force in these provinces conduces to the convenience of the parties. That is certainly the case in Bihar. There, as I have said, the notification only affects the five districts of the Chota Nagpur Division. In those five districts there is a Judicial Commissioner and one sessions judge. That means that if a person from whom security has been demanded under any of these sections wants to appeal, he has the inconvenience and expense of having to go off to a district which may be 100 or 200 miles away. I am sure the people of Chota Nagpur would be only too glad to have their cases disposed of by the local Court of the district magistrate and thereby save both time and expense.

Those seem to me to be the advantages of this procedure and those are the arguments which have influenced Local Governments in issuing this notification.

I now deal with the objections which have been very moderately put forward by the Honourable mover of the Motion. I am grateful to him for admitting that the charge against the district magistrates of not being impartial is one which is not really justified. He argued however that an apprehension exists in the mind of a person from whom security is demanded that the Court who is hearing his appeal is not impartial. That is an argument

which is frequently put forward in criminal courts when a petition is being considered for the transfer of the case. But, Sir, on one point I disagree with him. He contended, and the contention is often made, that the objections to a district magistrate hearing these appeals is that he is both a prosecutor and the appellate court. I think he referred to the fact that he had practised for about 10 years at the Bar. I can claim to have practised for about 10 years as a district magistrate and to have seen a good deal of security cases in various districts in which I have carried out those duties, and I can say truly, and I think those in this House who have also held the post of district magistrate will agree with me, that actually in the institution of these cases the district magistrate does practically nothing. It may occasionally happen that the district magistrate when he is going round his district may find that in a particular area crime has increased and may suggest to the police the desirability of instituting section 110 proceedings. But having done that he leaves it entirely to the police to draw up the proceedings and to decide whether any particular person shall be proceeded against under this section. In cases under section 107 it is very seldom that the district magistrate personally interferes and in cases involving a breach of the peace the proceedings under this section are generally drawn up by one of his subordinate magistrates on their own motion. So that argument falls to the ground. That certainly has been my experience. I have never told the police to run a case against a particular person. Occasionally possibly proceedings have been shown to me informally, but if I knew I might have to hear that appeal I certainly would not have expressed a definite opinion on the matter, and I think that is the attitude of most district magistrates invested with these powers.

That I think is the main argument in favour of this Bill, apart from the academic argument of the necessity and desirability of a separation of judicial from executive functions. But, Sir, I look at this question from the practical point of view, from the point of view of the convenience of Government, from the point of view of the convenience of the parties, from the point of view of the expenditure involved, and I think that, looking at it from all these points of view, in those provinces where this notification has been issued by the Local Governments it is a suitable notification.

I do not think I need say anything more. As I say, this section was put in by the Council of State. It has been used by a few Governments without the least objection from any of the local people and certainly, in one case, with the full support of the local High Court. If there is any grievance surely we can leave it to the local Councils concerned to raise the point. After all, there is nothing mandatory about this section. It is simply permissive, and I submit that the Governments which have used this section have done so with due discretion. I trust therefore this House will support me once again and will defeat this Motion by a large majority, as in the year 1923 when they carried this amendment.

Sir, I oppose.

THE HONOURABLE MR. P. N. SAPRU (United Provinces Southern : Non-Muhammadan) : Sir, the Bill which has been introduced by the Honourable Mr. Kalikar seeks to eliminate a proviso to section 406 of the Code of

[Mr. P. N. Sapru.]

Criminal Procedure. Now the present position is that Local Governments can direct an appeal under this section to be heard by a district magistrate. There is, as the Honourable Mr. Hallett said, an academic principle certainly involved in this Bill. But that academic principle, if I may say so, is of far-reaching importance. I think, Sir, it is not enough that justice is done. It is also necessary that the accused and the public should feel that proper justice is being done. Why do we allow transfer of cases? Why do we give the High Courts power to transfer cases? I am perfectly certain that most of the transfer applications are frivolous. That is one's experience; the allegations in most of the transfer applications are groundless. But the law has given power to High Courts in order that there may be no apprehension whatever in the minds of the accused and the public that justice is not being done. Justice, Sir, like Cæsar's wife should be above suspicion. That is one of the basic principles of British jurisprudence and I think, Sir, we are quite justified in saying that that principle should be followed in the Provinces of Bihar, the Punjab and Burma.

Now, Sir, it is said that district magistrates do not take any particular interest in these proceedings, that these proceedings are not initiated by district magistrates. That is perfectly true, Sir. I have a great deal of respect for district magistrates; but I also believe in the unconscious or subconscious mind. When one has been an executive officer for a long time one acquires a certain bias and one's experience is that executive officers are not—I am speaking with all respect to executive officers—one's experience is that executive officers are not proper persons for dealing with judicial matters, Sir, a sessions judge has had a considerably larger experience of judicial matters; he can take a lawyer's point of view and therefore it is right that the power should be vested in sessions judges. Then, Sir, the point is that a district magistrate should not be placed in the invidious position of being the prosecutor and the judge at the same time. He may not actually be the prosecutor, but in the public mind he is associated with being the prosecutor. Now, Sir, there were some reasons given by the Honourable Mr. Hallett as to why this proviso could not be accepted. One reason that he gave was that if this proviso was accepted it would involve the Punjab Administration and the other Administrations in some expenditure. Now, Sir, what will be the expenditure incurred? Rs. 18,000 in the Punjab. Well, Sir, if we can have the Lee concessions at this time of economic distress, I do not see any reason why we should grudge this small sum of Rs. 18,000 for a salutary judicial reform, for a judicial reform which will help to purify our system of administration. Then, Sir, it was said that in the Punjab, Burma and the North-West Frontier Province there is no demand that there should be this reform and that no resolution that a change of this character should be made in the Code of Criminal Procedure has been moved in the local Legislature. Well, Sir, the Code of Criminal Procedure is an All-India Code. How could the local Legislature recommend that the Code of Criminal Procedure should be amended? It would certainly have been beyond the province of the local Legislature of the Punjab to move for an amendment.

THE HONOURABLE MR. M. G. HALLETT: Sir, the local Legislature could amend the Criminal Procedure Code with the sanction of the Governor General in Council.

THE HONOURABLE MR. P. N. SAPRU: The proviso, or the amendment to this proviso, was moved by a Punjab Member and I am certainly entitled to infer from that that the Punjab Member who represents a large constituency has public opinion behind him. In any case, Sir, the question of the separation of judicial and executive functions has formed one of the main planks in the platform of Indian political parties; legal circles have always been of the opinion that the judicial and executive functions should be separated and I think, Sir, that it is not correct to say that public opinion in the Punjab does not favour this change. I do not know, Sir, what public opinion is; if public opinion means the opinion of papers like the *Tribune* certainly public opinion favours this change; but if public opinion means opinions which district officers can gather from their sycophants and from those who flock to them in the morning to salaam them, then of course public opinion is against this measure. Then, Sir, it was said by the Honourable Mr. Hallett that district and sessions judges are very much overworked. I know that our judicial officers are very much overworked; in our own province, our judicial officers have got to work long hours and I have got a very great deal of sympathy with them; they are a hard worked class. But, Sir, would my friend, the Honourable Mr. Hallett, say that district magistrates are not overworked? Sir, I thought—

THE HONOURABLE MR. M. G. HALLETT: Sessions judges unfortunately very often get into arrears with their work; district magistrates do not get into arrears with their work.

THE HONOURABLE MR. P. N. SAPRU: I have not the statistics before me, but I thought that one of the duties of a district magistrate was to get himself in touch with the public of his district; he has got to see many people; he has got to take interest in the local activities of the district over which he is presiding. If he is a good district magistrate he must take some interest in the social services of the district also, so that, Sir, in that way, he is very much overworked and if we gave him some relief in this direction, he would be able to take some more interest in these beneficent activities of the district. Therefore, Sir, as one who wants our district magistrates to take some more interest in nation-building activities, I would favour this change. Then, Sir, it was said by the Honourable Mr. Hallett that this arrangement conduces to the convenience of the parties. He pointed out that in Bihar five districts would be affected—districts in the Chota Nagpur Division. If you push this argument to its logical conclusion then why not have a separate High Court for these five districts? Why not have a High Court for each district because it is certainly inconvenient for a man living, say, in Dehra Dun to go to Allahabad. Dehra Dun is about 500 miles from Allahabad and it would be more convenient if the district magistrate of Dehra Dun were converted into a High Court Judge. If you push that argument to its logical—

THE HONOURABLE SIR DAVID DEVADOSS (Nominated : Indian Christians): The Bar would be very pleased to have a High Court in every town!

THE HONOURABLE MR. P. N. SAPRU: I do not know. The Dehra Dun Bar might be pleased, but certainly the Allahabad Bar would not. If you push this argument to its logical conclusion, it comes to this, that you must give the accused really no right of appeal at all. An appeal means going to a district or town which is not your own; the appellate court is sometimes situate in a place far removed from the place where you are living. If you were to consult, Sir, the parties, they would certainly prefer to be tried by sessions judges and the reason for that is obvious. If I were an accused I would like my case to be tried by the most competent and the most impartial agency that I could think of. Certainly as the accused, I would consider a sessions judge who has had judicial experience to be more impartial and to be more competent than a district magistrate. I mean no reflection on our district magistrates, but after all a district magistrate is not a judicial officer; his training is not judicial; his training is executive, and I would like, if I were an accused, to have my case tried by an officer who has a judicial bent of mind, whose mind is not saturated with certain executive ideas.

Therefore, Sir, I think if we analyse the argument advanced by Mr. Hallett there is in fact no force in it. Then, Sir, we have in our province—I do not know the exact position in the Punjab—we have in our province assistant sessions judges. Now, these assistant sessions judges are also subordinate judges. They do civil work and they do criminal work and they do it quite well. Now, why cannot this power be vested in these assistant sessions judges? If the sessions judges are overworked, why not utilise the services of our Provincial Service men—the new nomenclature for subordinate judges in our province is civil. Why not utilise the services of these civil judges for this kind of work? I think, Sir, the greatest contribution which Britain has made to the progress of this country is the establishment of the rule of law and I think, Sir, this question of the separation of judicial and executive functions raises a fundamental question of principle which we cannot dismiss as academic. Sir, one's experience is that there is a tendency in this country to support the police, right or wrong. I am quite prepared to recognise, Sir, that there has been an improvement in the quality of the police force during the last 15 or 16 years. But, Sir, we have had cases in which police officers have been commented upon by the High Court and no action has been taken by Government against them. Sometimes there has been scathing condemnation of them by the High Court and nothing has been done by the Local Government. And the reason for that is obvious. The reason for that is that in the political circumstances which exist in this country the tendency to support the police whether the police is right or wrong is very natural and that being so the police very often feel that they are the masters of the situation. In England the police look upon themselves as the servants of the people. Here the police have a different opinion of themselves. In England the policeman is respected and he is liked; he is very often the best friend of the poor and the oppressed. Well, Sir, here he is unfortunately very often the oppressor of the poor and the oppressed. Well, that is one's

experience of the police force in this country and I think, Sir, that sometimes great *zulum* is done under these security sections. A man is inconvenient to the district authorities for some reason or other and they cannot find any definite charge against him, then a charge is brought under sections 109 and 110, and it is easy to have evidence in this country. You can have any number of witnesses to support any complaint that you file. Witnesses can be hired unfortunately in this country and sometimes we have convictions which are not really justified by the evidence on the records. Therefore, Sir, it is necessary that these appellate powers under these sections should be exercised by experienced men, by men who have a judicial habit of mind and whom the public trusts. For these reasons, Sir, I support this Bill and I would ask this House to revise its earlier view in the light of the experience that this House has gained during the last 10 or 15 years. Very soon, Sir, we shall have some sort of autonomous administrations in the provinces and I think it would encourage these semi-autonomous Governments if this House were to remove a blot from the Code of Criminal Procedure.

With these words, Sir, I support the Bill.

THE HONOURABLE NAWAB MALIK SIR MOHAMMAD HAYAT KHAN NOON (Punjab: Nominated Non-Official): Sir, the object of the proposed amendment in the existing law is to take the appellate powers of the district magistrates which they exercise under the security section of the Criminal Procedure Code in certain provinces in India. Of those provinces, as far as this work is concerned, the Punjab is the most important. Now, I have been magistrate and again district magistrate in the Punjab for a number of years, and I speak from personal experience. (*An Honourable Member*: "That disqualifies you"!) You may think so. I think otherwise. As a district magistrate I do not remember even a single instance in which the police tried to influence my decision of such appeals. In the Punjab, Sir, a very large number of such appeals is disposed of by the district magistrate. I am sorry the exact number of appeals is not available but I can mention the number of people who have been dealt with under these sections. In 1932, Sir, 9,777 persons were bound down under section 107, C. P. C., and 5,882 under sections 109 and 110. In 1933 the number of persons dealt with under these sections was 16,205. I do not know, Sir, how the Government has come to this estimate that one sessions judge will be able to cope with all such work in the Punjab but personally I think they will need more than one officer. If in future this appellate power is to be taken away from the district magistrate, the Government shall have to appoint a sessions judge or assistant sessions judge or two sessions judges for this purpose, which will involve a certain amount of expenditure. That amount may not be very big, as suggested by the Honourable Member, still, conceding that we will soon have provincial autonomy in the provinces, we have to be cautious about incurring additional expenditure.

Besides, Sir, in the Punjab in several districts we have no sessions court and the sessions court work from these districts has to go to the sessions courts which are located in other districts. So, if these appeals are to be heard by the sessions judges, the result will be that, where there are no sessions courts in the districts, the appellants will have to go far away from their

[Sir Mohammad Hayat Khan Noon.]

headquarters to other districts where the courts are located, and this will mean considerable expense to the men. As far as I know, Sir, there were no serious complaints by the press or by the public against the present procedure. Nor have the Honourable Judges of the High Court of the Punjab condemned the present system or declared that the appellate work of the district magistrates under these sections were unsatisfactory. I presume, Sir, that the High Court have recommended no change. Nor has there been any protest against the present procedure in the Punjab Council. Sir, such being the case, why any change at all? It may be, Sir, that some district magistrates in some rare cases might have committed error of judgment or irregularity of procedure but that does not prove that the system is bad. With due deference to the sessions judges, I will say that in a sessions court in murder cases some men are sentenced to death by certain judges and are then acquitted by the High Court, so it does not show that sessions judges are not competent to try murder cases.

I said before, Sir, that the proposed change, if carried out, will necessitate the appointment of some additional sessions judges or assistant sessions judges. In the Punjab, Sir, we have a system of assistant sessions judges. The assistant sessions judges are appointed from amongst the magistrates. That has been the practice in the Punjab. The district magistrates are also appointed from amongst the magistrates. Is there any justification to presume that if a magistrate is appointed assistant sessions judge, the quality of his work improves and he becomes more judicial minded but if a magistrate is promoted to the post of a district magistrate, the quality of his work deteriorates and he bids good-bye to his conscience and spirit of justice? Most of these sections are used to prevent crime being committed and a very small percentage of the persons dealt with under such sections are sent to jail. Most of those ordered to furnish security do furnish security and are set free. I cannot understand, Sir, why so much importance should be attached to this work? If a district magistrate cannot be trusted to dispose of this work with fairness, why is he authorised to try important cases under the Indian Penal Code? The only other thing to do is to take away all the magisterial work from the district magistrate and have sessions judges for the trial of all cases, big or small.

My Honourable friend Mr. Kalikar has stated that one of the reasons why he wants this change is that in all other provinces in India these appeals are heard by sessions judges. He asks why this should not be so in the Punjab also. I think that is not the question. The question is whether the present procedure in the Punjab is so defective or wrong as to necessitate a change. The mover of the Bill has not been able to prove that there is anything seriously wrong with the procedure in vogue in the Punjab. In my opinion if the proposed change is carried out, it will result in inconvenience and will prove expensive to all concerned. But, Sir, there is one exception. The gentlemen of the legal profession may be able to charge a higher fee for appearing in the

sessions court than what they charge now for appearing in the district magistrate's court.

Sir, I oppose the Bill.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab: Non-Muhammadan): Sir, I rise to support the Honourable mover in this Motion. The Honourable mover and my Honourable friend Mr. Sapru have dealt with the subject exhaustively and have not left much for me to say. But I will try to cover the ground which they have not covered. In the first place, I think I can assure the Honourable the Home Secretary that as far as the Punjab is concerned, the work of deputy commissioners and of district magistrates has increased abnormally. If I understand aright, Sir, they have been ordered to be on tour so many days every month, and to devote a great deal of their time to rural uplift. Over and above that, political and communal agitation is on the increase, and in the Punjab, unfortunately, crime is also on the increase. We find that all the Punjab jails now are crowded and Government are finding difficulty in finding accommodation for convicts. Sir, rural uplift has thrown heavy touring work on district magistrates. They are now so over-burdened with work that we cannot expect them to go through all the security cases that are put before them. The Honourable the Home Secretary observed that no representation has been made by the province in this regard. I might say that the Punjab has got its elected representatives in both the Houses of the Central Legislature and they are giving expression to the views of the public of the Punjab. The Honourable the Home Secretary also observed that the sessions judges are over-worked and that there is a lot of arrears of cases which remain undisposed of. Arrears will increase now from time to time because of the reasons I have already given. Sir, the person who deals with the case first as the executive head ought not to try that very case on appeal. I cast no slur or discredit on the district magistrates. I have got very great regard for most of them. But as they are now being very heavily over-worked, we cannot expect that they will do justice to security cases which are increasing heavily. The Honourable Nawab Sir Mohammad Hayat Khan Noon has told us that there are no sessions courts in all the districts of the Punjab. I might tell you, Sir, that even now, the deputy commissioners and the district magistrates are generally on tour and are not generally available at headquarters.

THE HONOURABLE NAWAB MALIK SIR MOHAMMAD HAYAT KHAN NOON: These are generally heard at headquarters.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: That is not a fact now. In the city of Lahore, the Punjab Government went so far as to provide quarters in the Lahore kotwali for the district magistrate and on this a sum of about Rs. 20,000 odd was spent. That shows, Sir, that there is so much work on the district magistrate of Lahore that he cannot do all the executive work, but has to deal with political agitation, communal riots and other disciplinary measures generally at the kotwali instead of at the district office.

THE HONOURABLE NAWAB MALIK SIR MOHAMMAD HAYAT KHAN NOON: He has an officer, with district magistrate's powers, to assist him.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: That is solid proof of what I say. When the district magistrate is so busy, he cannot satisfactorily attend to every one of his duties in the way in which Government expects him to do.

The Honourable Nawab Sahib has also given figures of security cases. He has not given comparative figures from which this House can form an idea as to what extent there has been a heavy increase in the security cases. He has also put in an argument which did not appeal to me at all. He has said, that for want of public confidence, "district magistrates should be relieved of their magisterial powers which should be passed on to sessions judges". If we stretch that argument, then, according to him, all the powers should lie with the High Courts, for even sessions judges' decisions are sometimes upset and over-ruled by the High Courts.

Well, Sir, the Punjab at present needs speedy justice. Justice delayed is justice lost, and additional sessions judges will be required in any case to deal speedily with the increasing criminal appeals that lie to them, and even if it does cost Rs. 18,000 I think that sum will be well spent. People will get justice and will have confidence that their cases have been well tried. I think therefore that the Motion made by my friend Mr. Kalikar deserves the support of this House.

THE HONOURABLE SAIYED MOHAMED PADSHAH SAHIB BAHADUR (Madras: Muhammadan): Sir, barring the objection on financial grounds, the main argument advanced on behalf of Government in opposition to this Motion is that district magistrates are as competent to do justice as sessions judges and are quite as impartial. But, Sir, their efficiency and impartiality are not in question. The question is, are district magistrates supposed by the public to be in the same position as sessions judges to dispense justice? As has been argued by my Honourable friend Mr. Sapru, we have to see not only that efficient, impartial justice is administered, but also that there is confidence in the mind of the public about the tribunal which dispenses justice in the country. It is on this ground that applications for transfers of cases from one court to another are admitted. But it cannot be supposed for a moment that the court which allows the transfer applications thinks that the court from which the transfer is sought will not dispense impartial justice, or that it is prejudiced and will dispose of the case in a partial manner. Therefore we have to take care to inspire a feeling of confidence in the public as regards the agency through which justice is administered.

Again, Sir, we have to take into account the nature of the proceedings that are held under these sections. We know that they are altogether different from the rest of the penal provisions of the criminal law of the country, and we know that in most of these cases proceedings are initiated merely on suspicion and hearsay. It is therefore highly necessary that in cases like this where the proceedings are initiated on suspicion and not on very substantial grounds the inquiry should be done with every possible care and caution. And since the magistrates before whom the inquiry is first held and where the order is first made are executive officers interested in the maintenance of peace and order and who are likely to be obsessed with an undue zeal for the maintenance

of peace and order, it is just and proper that when an appeal is made from this order the appeal should be effective and should afford to the appellant a fair chance of having the whole case investigated and scrutinised properly and impartially. I do not say that these magistrates or the district magistrates are consciously partial. But the district magistrate is the head of the executive in the district to whom all reports from the police and subordinate magistracy go with reference to various people in the district, and it is but natural that as such he would sometimes have formed his own opinion about the people, it is just possible that he will not be able to assess evidence before him in an impartial and dispassionate manner. It is impossible to expect these district magistrates to always do justice even in cases where proceedings have emanated from them which happens sometimes in cases involving the keeping of the peace. It is impossible to expect that these magistrates would be capable of doing something which sometimes will not be humanly possible. In view of these considerations, though in 1923 when the Code was revised this Honourable House restored this power, under some restrictions, it did not intend it to be used on all occasions. It was meant to be used only in limited areas, for the word mentioned in the proviso is "district" not province. That is a clear indication of the fact that this power should be exercised only in regard to a limited area, and the fact that a notification has been issued and this is to be restricted to a limited area goes to show that this power should be exercised only for a temporary period and should not be a permanent feature of the law of the land. It is therefore very strange to find that in the Punjab and Burma this power has been invoked for all time and that it applies to the whole of the province without distinction between one part and another. As I submitted, Sir, this power was meant to be used only to meet abnormal situations. When any unusual amount of crime is prevalent in any specified area it may be necessary to employ this power, and it might on very rare occasions be used when there is a heavy pendency of cases in the sessions courts.

It has been suggested that it is impossible without the addition of an additional sessions judge to dispose of the cases under these sections. I think it is but fair that an additional sessions judge should be employed, instead of getting justice administered through an agency about which there is all this objection in the country. After all, Sir, we find that the expense is not going to be very much and in view of the salutary effect that this will have upon the mind of the public, I think we would be well advised in incurring that expenditure and trying to inspire greater confidence in the mind of the public as regards the way in which justice is administered here. Again, Sir, there has been a demand for nearly a century in this country for the separation of judicial from executive functions and I wish the Government could see their way to do this. Sir, in my own province a committee was appointed and I had the privilege of working on that committee and I was one of those who wanted the separation to be effected, and though we submitted a report about 13 years ago, we find that no action has been taken in regard to this matter. I feel that if the Government could see their way to give effect to the suggestion of my Honourable friend, Mr. Kalikar, it would be doing something in the direction of making the separation of judicial from executive functions.

4 P.M.

THE HONOURABLE KHAN BAHADUR SHAMS-UD-DIN HAIDAR (Bihar and Orissa : Nominated Non-Official) : Sir, the Honourable the mover of the Motion and the previous speakers have told us that the amendment refers to the first proviso to section 406 of the Code of Criminal Procedure, which it seeks to eliminate completely. The Honourable the Home Secretary has told the House that this proviso was brought on the Statute-book in 1923, when the Code of Criminal Procedure Amendment Bill (Act XVIII of 1923) came up for consideration. This proviso was allowed to go with the amended section after a careful and lengthy discussion and by a large majority of votes of this House. Sir, we can gather from the debate which took place in the year 1923 that this proviso was considered necessary for reasons of economy and convenience—which was a very vital reason so far as our province of Bihar was concerned—which, in the words of Sir Otto Niemeyer, “has been generally recognised as the poorest province in India”.

We have to consider next whether Local Governments have been judicious in the exercise of their powers of notifying districts where appeals shall lie to the district magistrate instead of to the sessions judge. In our province of Bihar there are six such notified districts, namely, Ranchi, Hazaribagh, Manbhum, Singhbhum, Palamau and the Sonthal Parganas. These are one and all those districts which have no resident sessions judge or have a judge who is stationary there for a short time only and is moving about at other times. Both these conditions contribute to delay the disposal of appeals and increase the expenses of the party and hamper administration by keeping in suspense the security of the district.

Sir, the speeches in support of the Motion in the other House as well as in this House show that the speakers distrust the magistracy. This distrust, I am in a position to assert—

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Nobody has expressed distrust in the distrust magistrate.

THE HONOURABLE KHAN BAHADUR SHAMS-UD-DIN HAIDAR : No, Sir. The Bill is conceived in a spirit of distrust. As I was saying this distrust, I am in a position to assert from actual results, is ill-founded and unjust.

As regards the initiation of security proceedings, it has been suggested that proceedings under sections 107, 109 and 110 of the Criminal Procedure Code are, as a rule, started after consultation by the police with the sub-divisional magistrate and the district magistrate.

Sir, I was a sub-divisional magistrate and a district magistrate for a fairly long time before I went to the Secretariat and I can emphatically assert that there was not one single case under any of the security sections which was started at my instance or that I was ever consulted by the police either before or after the initiation of such proceeding.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Nobody blamed you.

THE HONOURABLE KHAN BAHADUR SHAMS-UD-DIN HAIDAR : That was what was suggested with regard to the magistracy. The practice in our

province is this. The inspector of the circle tabulates the evidence according to the directions contained in the Bihar and Orissa police Manual and submits his report to the superintendent of police, who, if he agrees, refers the matter to the Public Prosecutor for his opinion as to whether a proceeding under any of the security sections mentioned in the report of the inspector can be started on the evidence available to the police and detailed in the report.

Sir, not only are the security proceedings not initiated at the instance of the magistracy, but when initiated in the manner indicated above, they are dealt with by the magistracy in a manner which, judging from the results, ought to dispel every bit of suspicion regarding them from honest minds.

I quote figures. These figures are collected from the Report on the Administration of Criminal Justice in the Province of Bihar and Orissa :

Year.	Number of persons called upon to execute bonds for keeping the peace and for good behaviour.	Number of persons ordered to execute bonds by trial courts.	Percentage.
1932	4,314	1,683	39.1
1933	3,882	1,499	38.6
1934	3,642	1,700	46.5

Sir, the above results are wholly inconsistent with the imputation that the magistrates themselves inspire the security prosecutions, that they never deal with their cases in a judicial manner and are not judicially minded tribunals. (An Honourable Member : “Nobody said that.”) That was the suggestion made by my friend, the Honourable Mr. Sapru, and others.

Sir, to my knowledge there are magistrates who write elaborate, well-reasoned and well-considered judgments and in my humble opinion the justice done by district magistrates is in no way inferior to the justice done by sessions judges.

Sir, I am sorry I have not been able to find any published Government reports in which the results of appeals in security cases decided by sessions judges and district magistrates are separately shown, but figures of all kinds of appeals decided separately by these officers are given in Table No. IV on page 27 of the Report on the Administration of Criminal Justice in the Province of Bihar. I shall give these figures. Appeals to district magistrates from subordinate magistrates. Total number of persons 6,013 (in the year 1932), total number of persons whose appeals or applications were rejected 3,435, giving a percentage of 57. Appeals to courts of session from the orders of the magistrate (in the year 1932), the number of persons

[Khan Bahadur Shams-ud-Din Haidar.]

who appealed was 6,295. Of these the appeals or applications of 3,809 were rejected, giving a percentage of 62. In the year 1933, appeals were heard by the district magistrate of 5,918 persons; appeals of 3,345 were rejected, giving a percentage of 56.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: What were the arrears of undecided cases?

THE HONOURABLE KHAN BAHADUR SHAMS-UD-DIN HAIDAR: Well, I have left out the arrears; I am only giving the figures of decided cases.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Are those arrears not very heavy?

THE HONOURABLE KHAN BAHADUR SHAMS-UD-DIN HAIDAR: No, I do not think so. Please refer to the report and you will find they are not very heavy.

Well, Sir, as I was talking of appeals to the court of session from the orders of the magistrate for the year 1933, 6,282 persons appealed, the appeals of 3,942 persons were rejected, giving an average of 63 per cent. In the year 1934, total number of persons who appealed to district magistrates was 5,231, appeals of 3,004 persons were rejected giving a percentage of 57. To court of sessions from the orders of magistrates 5,382 persons appealed; appeals of 3,220 persons were rejected, giving a percentage of 60.

I quote these figures just to show that the district magistrate who is accused of deciding appeals to suit the exigencies of his criminal administration reverses the judgments of the subordinate magistracy in greater proportion than the sessions judge does.

One word more, Sir, and I have done. Though separate figures of appeals in security cases decided by sessions judges and district magistrates are not available in published reports, I have been able to obtain from office records these figures for the year 1935, for the two important districts of Patna and Ranchi. Sir, Patna is not one of the districts covered by the Bihar Government's notification and appeals from orders in security proceedings are heard by the sessions judge and Ranchi is one of the six districts covered by the Bihar Government's notification. The figures are as follows:

1935.

Name of district.	Appeals decided by	Total number of appeals.	Orders upheld in
Patna ..	Sessions judge ..	42	36 cases (giving a percentage of 86).
Ranchi ..	District magistrate ..	7	4 cases (giving a percentage of 57).

These figures, Sir, carry their own conviction and ought to induce any conscientious jury to return a verdict of "Not guilty" in favour of the district magistrates. (Cheers.)

Sir, I have placed before the House the procedure that is followed in our province with regard to security cases. I have also placed convincing figures to show that the distrust of the magistracy is unfair and purely sentimental. (*An Honourable Member*: "Nobody distrusts.") I know my friend, the Honourable Mr. Kalikar, has an open mind and now that the true facts are before him he will agree with me in the view that the amendment is uncalled for and unnecessary. It will not be out of place to say here that nobody in my province has asked for this amendment.

Sir, with these words, I oppose the amendment.

THE HONOURABLE DIWAN BAHADUR G. NARAYANASWAMI CHETTY (Madras: Non-Muhammadan): Sir, my friend the Honourable Mr. Sapru said that the work of the district magistrate has considerably increased recently and therefore they were not able to do justice. I do not think that is quite correct. I know the district magistrate's work has considerably decreased since 1922 when the work of the district board was transferred to non-official agency as well as the work of the income-tax department. I do not think it can be said that the district magistrate is overworked.

THE HONOURABLE MR. V. V. KALIKAR: Sir, I was surprised to see the attitude of the Government on my Bill. I say so, Sir, because the Bill was not opposed at the third reading in the other House. I know the Bill was opposed at the time of the second reading but when the Bill went to the Select Committee, no minute of dissent was appended to the report of the Select Committee by the Government Members. I will read the last paragraph and the names of the three Government signatories to the Select Committee report.

THE HONOURABLE THE PRESIDENT: That does not prevent Government reconsidering the whole question.

THE HONOURABLE MR. V. V. KALIKAR: I do not say that they should not reconsider the question. But they ought to have taken a uniform attitude in both the Houses. In the last paragraph of their report the Select Committee say:

"We think that the Bill has not been so altered as to require republication and we recommend that it be passed as now amended."

This has been signed by Sir N. N. Sircar, Sir Henry Craik and Sir Lancelot Graham. The others are the non-official Members. So, when I took up this Bill for piloting it in this House today, I thought I would get the support of the Government because no Government Member had appended a minute of dissent to the Select Committee report. Then I come to the last speech of the Honourable Sir Henry Craik in the other House. He said, Sir,—these are the proceedings of the last session and not of this session,—

"I am sorry I did not make myself clear. The principle of the Bill had been accepted by the House on the second reading. It was not altered in any respect by the Select Committee and I do not intend to oppose the further stage, the third reading. I only want to make it clear that I dislike the Bill".

[Mr. V. V. Kalikar.]

That is, he personally disliked the Bill, but it was not the view of the Government to oppose the Bill. He said he will not oppose it. So, the change of mentality here is rather surprising to me.

Now, I come to the points raised by the Government in opposition to the Bill. They have opposed the Bill on the ground of economy and on the ground that public opinion in the Punjab is not so strong as to support this Bill. I may bring to the notice of the House that a majority of the Members of the other House have supported this Bill there very strongly.

THE HONOURABLE MR. M. G. HALLETT: My point, which is being misrepresented, was that the matter had not been raised in the proper forum, which is the local Legislature. I was not referring to opinion in the Assembly.

THE HONOURABLE MR. V. V. KALIKAR: I am coming to that. I must bring to the notice of the House that this is an all-India legislation. The Criminal Procedure Code was recast by the Legislative Assembly and the Council of State, that is, the Indian Legislature, and not by the Punjab Legislative Council and therefore the Punjab Legislature thought it best to leave the matter to the Central Legislature. I will again come to that point and ask the Government how many times they have given effect to the Bills or Resolutions passed in the local Councils. I can say from my experience as a Member of the local Council of Nagpur that we passed so many Resolutions but the Government of India or the Local Government did nothing. The other day I was discussing a proposition here about grazing rates. My local Council recorded a vote in favour of reduction of grazing rates. But the Government here did not consider my proposal sympathetically. So, it is no use pointing to the Punjab Legislative Council. I submit that the press in the Punjab has supported this Bill and the members who have been returned from the Punjab have also strongly supported the view that Punjab should not be treated on a different basis from other provinces.

Now, the question of expenditure has been brought before us. That does not require much consideration. We have been told that Rs. 18,000 —

THE HONOURABLE MR. M. G. HALLETT: I did not stress that point.

THE HONOURABLE MR. V. V. KALIKAR: I thank my Honourable friend for that. But, Sir, I submit that for implementing a very sound principle, if you require Rs. 18,000, it does not matter much. We have been spending lakhs and crores of rupees on other things. So, this question of expenditure should not come in the way of meting out fair and impartial justice to the accused in the Punjab.

Then, Sir, somebody said here that the district magistrates are not over-worked. My Honourable friend, Khan Bahadur Shams-ud-Din Haidar said that district magistrates are not over-worked there. I do not know how far I should believe his statement. But I will cite the statement of a very high personality in India who says that district magistrates are over-worked; that they should be relieved of their desk work and that they should devote more attention to rural work. I mean the statement of His Excellency the Viceroy.

THE HONOURABLE KHAN BAHADUR SHAMS-UD-DIN HAIDAR: On a point of personal explanation, Sir. I never said that the district magistrate is not over-worked.

THE HONOURABLE DIWAN BAHADUR G. NARAYANASWAMI CHETTY: I said so, Sir.

THE HONOURABLE MR. M. G. HALLETT: I am prepared to accept the statement as having been read. I know it quite well.

THE HONOURABLE MR. V. V. KALIKAR: So, my point is, that as His Excellency the Viceroy has told us in his broadcast speech that district magistrates should be relieved of their desk work, the Government of India should abide by the instructions given by His Excellency the Viceroy. His Excellency has told us also that he is examining the question in consultation with the Provincial Governments and his advisers. I am now giving an opportunity to his advisers, the Government of India, to follow that advice and to examine this question and accept my Bill. If the district magistrates are freed from this work, their energies and their time can be better utilised for other purposes. My Honourable friend Mr. Hallett does not want to stress the question of expenditure. I think, Sir, that no question of additional expenditure should come in because, if the district magistrates are relieved of this work, that will naturally be transacted by the sessions judges; if the sessions judges are over-worked, the additional sessions judges or assistant sessions judges can take up this work and one or two district magistrates in the district may be retrenched. That does not show that there will be additional expenditure.

We had a very good discussion on the point of retaining the powers of the district magistrates. I think it is quite natural and quite human that those who enjoy the power should be most unwilling to relinquish it. That is our experience. When the Montagu-Chelmsford Reforms were introduced the bureaucracy raised a hue and cry against the transfer of power. From that I can take it that district magistrates are not capable of taking a detached view of things. We have seen today that some of the district magistrates who spoke against the Bill wanted that their powers should not be taken away.

THE HONOURABLE THE PRESIDENT: They did not say anything of the sort.

THE HONOURABLE MR. V. V. KALIKAR: They said that the district magistrates are capable of deciding the appeals. This attitude on their part constrains me to infer that they are reluctant to part with powers. In the beginning of my speech I have said that I do not want to cast reflections on district magistrates, but I submitted that the people concerned must not only get impartial justice but they must have full confidence that they will get impartial justice. From my experience I know of various cases where the district magistrate has been consulted and cases under these sections have been chalaned in court on their instance. So far as the Punjab is concerned, I find from the debate on this Bill in the other House where a Public Prosecutor has stated that district magistrates do initiate proceedings in some of the cases which come under these sections. I have no personal knowledge of the Punjab but I can speak with authority of my own province and say that in some cases the district magistrates do take a personal interest in these cases. So my points

[Mr. V. V. Kalikar.]

is that in order to be fair to the parties concerned in these proceedings, it is the duty of the Government to repeal this proviso, so that the Punjab, Bihar and other provinces should be brought on the same level as the other provinces in India. Sir, the Government have tried to gain the support of this House to their attitude by stating that this House was responsible for enacting the proviso in 1923. I submit that we are living in changed times. We ought to be more liberal in our views. We are expecting provincial autonomy. We are expecting more democratic principles to be implemented in this country, and therefore I appeal to all my colleagues here to be broad in their views, on this small point of separation of the functions of judicial and executive, and they should support my Bill.

THE HONOURABLE MR. M. G. HALLETT: There is only one small point I would like to make in reply to the Honourable mover and that is to remove some misapprehensions that may have been aroused about the attitude of the Home Member on the third reading of this Bill in the Lower House. He had opposed the Bill strenuously in the second reading, but unfortunately Government were defeated. He had opposed the Bill in Select Committee, and if you read the report of the Select Committee you will see that it was a majority who turned down a suggestion which Government would have accepted that some amendment should be made in this section so as to make the notification dependent on the recommendation of the High Court. However Government were defeated and the Opposition carried the proposal that the Bill should be passed in the form in which it was originally introduced.

THE HONOURABLE MR. V. V. KALIKAR: But no note of dissent was attached to the report.

THE HONOURABLE MR. M. G. HALLETT: Sir Henry Craik admitted that that was a mistake. He might have written a note of dissent but by a mistake he did not do so. He explained at the time of the third reading that he was still opposed to the Bill and it is for that reason I am opposed to the Bill. My main argument is—I am not stressing the point of the expenditure involved or anything of that kind—I am not going to discuss the question whether district magistrates are partial or impartial—I am not going to discuss the point whether assistant sessions judges and sessions judges are as competent to hear these appeals as district magistrates—my main point is that we should leave this to the provinces concerned. The Honourable Mr. Kalikar seems to have a lot of knowledge of the Punjab. He even seems to know what are the ideas and thoughts inside the minds of the Members of the Punjab Legislative Council, because he says they took the point of view that because the Criminal Procedure Code had been amended in the Centre it should again be amended in the Centre. How he got that information I do not quite know. A point I also wish to make is that even if the system is objectionable there is no need to amend the law. You can get the change made without amending the law, if the Punjab Legislative Council press the Punjab Government to withdraw the notification. It is clearly a matter for Local Governments to decide. Reference has been made to the desirability of carrying out His Excellency the Viceroy's policy of setting district magistrates free for work in villages, for touring round their districts and for rural uplift. That is being considered by the Local Government

and if the Local Governments come to the conclusion that the hearing of these appeals interferes with that work, then I have no doubt they will cancel their notifications. Do not let us take away from them the power which they have exercised with due discretion of deciding which authority should decide the appeals. Let that power still remain with them, and I have no doubt they will exercise it with due discretion.

THE HONOURABLE THE PRESIDENT: Motion made:

"That the Bill further to amend the Code of Criminal Procedure, 1898, as passed by the Legislative Assembly, be taken into consideration."

The Question is:

"That this Motion be adopted."

The Council divided:

AYES—8.

Banerjee, The Honourable Mr. Jagadish Chandra.	Ram Saran Das, The Honourable Rai Bahadur Lala.
Halim, The Honourable Khan Bahadur Hafiz Muhammad.	Sapru, The Honourable Mr. P. N.
Kalikar, The Honourable Mr. V. V.	Sinha, The Honourable Kumar Nripendra Narayan.
Padshah Sahib Bahadur, The Honourable Saiyed Mohamed.	Suhrawardy, The Honourable Mr. Mahmood.

NOES—29.

Akbar Khan, The Honourable Lieutenant-Colonel Nawab Sir Mahomed.	Ishrat Husain, The Honourable Saiyid.
Akram Husain Bahadur, The Honourable Prince Afsar-ul-Mulk Mirza Muhammad.	Ismail Ali Khan, The Honourable Kunwar Haji.
Arthur, The Honourable Mr. C. G.	Jagdish Prasad, The Honourable Kunwar Sir.
Ayyangar, The Honourable Diwan Bahadur Narasimha Ayyangar Gopalaswami.	Johnson, The Honourable Mr. J. N. G.
Buta Singh, The Honourable Sardar.	Kameshwar Singh of Darbhanga, The Honourable Majarajadhiraja Sir.
Charanjit Singh, The Honourable Raja.	Lal, The Honourable Mr. Shavax A.
Chetty, The Honourable Diwan Bahadur G. Narayanaswami.	Menon, The Honourable Diwan Bahadur Sir Ramunni.
Choksy, The Honourable Khan Bahadur Dr. Sir Nasarvanji.	Nixon, The Honourable Mr. J. C.
Clow, The Honourable Mr. A. G.	Noon, The Honourable Nawab Malik Sir Mohammad Hayat Khan.
Dow, The Honourable Mr. H.	Pandit, The Honourable Sardar Shri Jagannath Maharaj.
Ghosal, The Honourable Sir Josna.	Parker, The Honourable Mr. R. H.
Glancy, The Honourable Sir Bertrand.	Raghunandan Prasad Singh, The Honourable Raja Sir.
Hafeez, The Honourable Khan Bahadur Syed Abdul.	Ray of Dinajpur, The Honourable Maharaja Jagadish Nath.
Haidar, The Honourable Khan Bahadur Shams-ud-Din.	Russell, The Honourable Sir Guthrie.
Hallett, The Honourable Mr. M. G.	

The Motion was negatived.

DURGAH KHWAJA SAHEB BILL.

THE HONOURABLE THE PRESIDENT : The next item of business is the Bill of the Honourable Raja Ghazanfar Ali Khan. In view of the opinions which have been circulated only today, I should like to ask Honourable Members if they are prepared to proceed with this Bill. In any case I shall give the Honourable Raja Ghazanfar Ali Khan permission to move only the consideration of this Bill and the debate will take place on the next non-official day. I am mentioning this because I have to see that a fair opportunity is given not only to the mover of the Bill but also to his opponents, and unless the Council agrees that the Bill should be discussed today, I propose to adjourn the Council after having given an opportunity to Raja Ghazanfar Ali Khan just to read his Motion. (To the Honourable Raja Ghazanfar Ali Khan): What do you propose to do ?

*THE HONOURABLE RAJA GHAZANFAR ALI KHAN (West Punjab : Muhammadan) : Sir, I am entirely in your hands. I quite realise that opinions have been received very late and I think very few Honourable Members have had an opportunity of reading those opinions. I personally, Sir, am prepared to adopt any of the two courses which you, Sir, and my Honourable colleagues would like to adopt—firstly, that I should move the Bill and if they move an amendment, a Select Committee may be appointed to report before the 6th. I accept that amendment, or if after I move the consideration, no objection is raised to the consideration of the Bill, then I would request that the clauses may be taken up on the next non-official day when Honourable Members will have seven days to read the opinions and send amendments which they think proper.

THE HONOURABLE THE PRESIDENT : You are perhaps aware that I have received notice of amendment regarding the re-circulation of the Bill for public opinion and I do not wish to anticipate at this stage arguments of the Honourable Member. I would like to know whether you would prefer to proceed with the reading of your Bill today, the first stage ; the discussion will take place on the next non-official day.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : Very well, Sir. I have no objection.

THE HONOURABLE KHAN BAHADUR SYED ABDUL HAFEEZ (East Bengal : Muhammadan) : My amendment is to circulate the Bill—

THE HONOURABLE THE PRESIDENT : I will give my decision at the right and proper time. (To the Honourable Raja Ghazanfar Ali Khan) : Will you please read the Motion ?

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : I beg to move :

“ That the Bill to make better provision for the administration of the Durgah and the Endowment of the Durgah of Khwaja Moin-ud-Din Chisti, generally known as Durgah Khwaja Sahib, Ajmer, be taken into consideration.”

*Not corrected by the Honourable Member.

STATEMENT OF BUSINESS.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Leader of the House) : Sir, I wish to make a statement as regards the business of the House. The Cantonments Bill has already been laid on the table and I propose that the consideration of this Bill be taken up on Tuesday, October the 6th. I think that it is the general feeling of the House that it should be taken up on Tuesday next.

THE HONOURABLE THE PRESIDENT : The Council will now adjourn.

—————
The Council then adjourned till Eleven of the Clock on Tuesday, the 6th October, 1936.

COUNCIL OF STATE.

Tuesday, 6th October, 1936.

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

MEMBERS SWORN :

The Honourable Mr. George Richard Frederick Tottenham, C.S.I., C.I.E. (Defence Secretary).

The Honourable Mr. Reginald Maitland Maxwell, C.S.I., C.I.E. (Home Secretary).

QUESTIONS AND ANSWERS.

MISAPPROPRIATION OF GOVERNMENT MONEY BY THE EXTRA DEPARTMENTAL BRANCH POSTMASTER, SAONTALPUR, JALPAIGURI POSTAL DIVISION.

112. THE HONOURABLE KUMAR NRIPENDRA NARAYAN SINHA :
(a) Was the Extra Departmental Branch Postmaster of Saontalpur in the Postal Jalpaiguri Division sent up for trial in a Court of Law on a charge of misappropriation of Government money ?

(b) Did the Court of Law where the Extra Departmental Branch Postmaster of Saontalpur was tried find him not guilty of the charges brought against him ?

(c) What is the result of the trial of the case ?

(d) If the reply to (a) and (b) is in the affirmative, will Government please state whether the Extra Departmental Branch Postmaster of Saontalpur has been retained in Government service ? If not, under whose authority has he been removed from service and why ? What is the length of his service in the Postal Department ?

THE HONOURABLE MR. A. G. CLOW : (a) to (d). Government have received no information of this case and I have ascertained that there is no record of it in the Office of the Director General of Posts and Telegraphs. If, as the Honourable Member suggests, the individual in question has been removed from service and considers that that removal is not warranted, it is open to him to appeal in the ordinary way.

THE HONOURABLE MR. HOSSAIN IMAM : Is it open to extra-departmental officers to appeal to higher authority ?

NOTE.—Questions Nos. 112—116 were put by the Honourable Mr. Mahmood Suhrawardy.
M65CS (241) B

THE HONOURABLE MR. A. G. CLOW: Everybody has the right to send a memorial even if the right of appeal does not exist.

THE HONOURABLE MR. HOSSAIN IMAM: But the Honourable Member used the word "appeal".

THE HONOURABLE MR. A. G. CLOW: So far as I know, he always has the right of at least one appeal.

THE HONOURABLE MR. HOSSAIN IMAM: The question is, Sir, whether a dismissal should be inquired into by the superior officers or not. I want to know the rule on the point as to what happens when an Imperial Service officer is dismissed who has been declared "Not guilty" by the Court.

THE HONOURABLE THE PRESIDENT: How does it arise from the answer given by the Honourable Member?

THE HONOURABLE MR. HOSSAIN IMAM: Very well, Sir. Will the Honourable Member let us know whether the person was discharged as "Not guilty" and given the benefit of the doubt?

THE HONOURABLE MR. A. G. CLOW: As I stated at the beginning of my answer Government have not received any information on the case.

THE HONOURABLE MR. HOSSAIN IMAM: Will the Government inquire into the case?

THE HONOURABLE MR. A. G. CLOW: No, Sir. As I said at the end, if the individual in question considers he has a grievance, he can represent in the ordinary way. I submit, Sir, with great respect that this Council can hardly act as a court of appeal in this matter.

THE HONOURABLE MR. HOSSAIN IMAM: What I wanted to know was the regulation on the point.

THE HONOURABLE THE PRESIDENT: The Honourable Member has answered the question.

COMMUNITY TO WHICH THE EXTRA DEPARTMENTAL BRANCH POSTMASTER, SAONTALPUR, JALPAIGURI POSTAL DIVISION, BELONGS.

113. THE HONOURABLE KUMAR NRIPENDRA NARAYAN SINHA: Will Government please state to what community the newly appointed Extra Departmental Branch Postmaster of Saontalpur belongs?

THE HONOURABLE MR. A. G. CLOW: He is an Indian Christian.
RESTRICTION OF CASUAL LEAVE IN THE JALPAIGURI HEAD POST OFFICE, ETC.

114. THE HONOURABLE KUMAR NRIPENDRA NARAYAN SINHA: (a) Is it a fact that the postmen of Jalpaiguri head post office (Bengal) are not granted casual leave by the officers competent to grant such leave?

(b) Is it a fact that the local service Union as also the postmen represented to the Postal Superintendent of Jalpaiguri Division their grievance in connection with the refusal of grant of casual leave? If so, will Government please state whether the grievance of the postmen has since been removed? If not, why not?

(c) Is it a fact that postmen of other places in India are granted casual leave? If so, what is the reason for differential treatment being accorded to the postmen of Jalpaiguri head post office and who is the officer responsible for this?

THE HONOURABLE MR. A. G. CLOW: (a) and (b). Government have no information that casual leave has been restricted in the Jalpaiguri head post office nor are they aware of the result of the representation said to have been made by the local service Union to the Divisional Superintendent in the matter. They have no reason to suppose that the orders on the subject are not being correctly interpreted. I may, however, inform the Honourable Member that casual leave is not regular leave, but is sanctioned at the discretion of the officer empowered to grant it and is subject always to the exigencies of the service. The officials concerned are at liberty to represent any difficulties they experience to the Postmaster General through the proper channel.

(c) The answer to the first part of the question is in the affirmative. In view of the reply to parts (a) and (b) of this question, the second part does not arise.

THE HONOURABLE MR. HOSSAIN IMAM: Will the Government inquire into the case and find out if the allegations are correct or not?

THE HONOURABLE MR. A. G. CLOW: No, Sir. I think it hardly necessary to inquire. The officials concerned can represent their case but if the Honourable Member so desires I am willing to send a copy of the question and answer to the Postmaster General.

MR. RASIK RANJAN DUTTA, POSTAL EMPLOYEE, JALPAIGURI POSTAL DIVISION.

115. THE HONOURABLE KUMAR NRIPENDRA NARAYAN SINHA: (a) Was the pay of Mr. Rasik Ranjan Dutta, a postal employee of the Jalpaiguri Division, reduced to the next stage below by the Superintendent of Post Offices, Jalpaiguri Division?

(b) Did Mr. Rasik Ranjan Dutta appeal to the Postmaster General of Bengal Circle against the orders of the Divisional Superintendent imposing punishment on him?

(c) Did the Postmaster General reverse the orders of the Divisional Superintendent to a partial extent and communicate his decision to the Postal Superintendent for action?

(d) Is it a fact that the orders passed by the Head of the Circle were not given effect to by the Postal Superintendent?

(e) If the reply to part (d) above is in the affirmative, what steps do the Director General of Posts and Telegraphs propose to take against the Postal Superintendent for his disregard of the orders of the Head of the Circle?

(f) Was Mr. Rasik Ranjan Dutta, an employee of the Jalpaiguri Postal Division, transferred several times at Government expense during the

regime of the present Superintendent? If so, what steps do Government propose to take in order to save Government money from being spent on frequent transfers?

THE HONOURABLE MR. A. G. CLOW: (a) to (f). Government have no information. The matter is within the competence of the Head of the Circle to whom a copy of the question is being sent for such action as he may consider suitable.

THE HONOURABLE MR. HOSSAIN IMAM: Is it not the concern of the Governor General in Council that the expenditure incurred on account of frequent transfers should be curtailed?

THE HONOURABLE MR. A. G. CLOW: Not unless the transfers are unnecessary.

THE HONOURABLE MR. HOSSAIN IMAM: Then we ought to inquire into the necessity of these transfers.

THE HONOURABLE THE PRESIDENT: Order, order. The Honourable Member is arguing now.

MR. JITENDRA CHANDRA KARANJAI, POSTAL EMPLOYEE, JALPAIGURI POSTAL DIVISION.

116. THE HONOURABLE KUMAR NRIPENDRA NARAYAN SINHA: (a) Will Government please state whether during the regime of the present Postal Superintendent of Jalpaiguri Division, Mr. Jitendra Chandra Karanjai, a Postal employee of the Jalpaiguri Division, was transferred from Siliguri post office to Matigora post office and thence again to Cooch Behar head post office and from Cooch Behar post office again to Nagrakata post office?

(b) Is it a fact that Government had to pay travelling allowance to Mr. Jitendra Chandra Karanjai for three transfers in a short time? If so, who is responsible for spending Government money in the shape of travelling allowance to a single official? What steps do Government propose to take in the matter?

THE HONOURABLE MR. A. G. CLOW: (a) Government are not in possession of these particulars but a copy of the question is being sent to the Postmaster General, Bengal and Assam Circle, within whose competence the matter lies, for such action as he considers suitable.

(b) If the transfers were made, travelling allowance would be payable; but that does not necessarily mean that the expenditure was not justified. The steps which Government propose to take have been indicated in reply to part (a).

THE HONOURABLE MR. HOSSAIN IMAM: Will the Honourable Member lay on the table the action taken by the Postmaster General on this question?

THE HONOURABLE MR. A. G. CLOW: The Postmaster General has not taken any action as far as I am aware.

THE HONOURABLE MR. HOSSAIN IMAM: When he has taken action?

THE HONOURABLE MR. A. G. CLOW: That will depend on the result of the inquiry.

THE HONOURABLE MR. HOSSAIN IMAM: That is what I want. Will the Honourable Member refer to the action taken on this representation on some future date in the Council of State?

THE HONOURABLE MR. A. G. CLOW: If the Honourable Member will table another question at a later date—when I hope he will be back here—the matter will be considered.

FIRST BOMBAY (PARSI) URBAN INFANTRY.

117. THE HONOURABLE MR. P. N. SAPRU: (a) Will Government be pleased to state the name of the province for which the first urban of the Indian Territorial Force was to be constituted?

(b) Did it ever exist? Has it been abolished? If so, why?

(c) Are these Urban Infantry meant for adults, who are not students of universities but reside in big towns?

(d) Is there a difference between them and the Provincial Battalions of the Indian Territorial Force?

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

(b) The 1st Bombay (Parsi) Urban Infantry did exist. It was abolished on account of the lack of support from the Parsi community of Bombay.

(c) Yes.

(d) There are differences as to the territorial limits of liability for military service and training. In this connection the Honourable Member's attention is invited to the Indian Territorial Force Act, sections 9 and 10 and the Indian Territorial Force Rules Nos. 15 (1) (2) and 16 (1) (2).

SANCTIONED STRENGTH OF A BATTALION OF URBAN INFANTRY.

118. THE HONOURABLE MR. P. N. SAPRU: Will Government be pleased to state:

(a) The sanctioned strength of each battalion of the Urban Infantry?

(b) The names of the towns where the detachments of these are maintained?

(c) The names of the towns where the 4th Urban Infantry will be constituted?

(d) The course of training that is given to these urban battalions?

(e) The progress that these battalions have so far made?

(f) The progress which the Infantry Units of the Auxiliary Force have made? and

(g) The nature of their duties and the nature of the duties of the Auxiliary Force?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: (a) 346 of all ranks.

(b) I would refer the Honourable Member to Appendix III of the Regulations for the Indian Territorial Force, 1930.

(c) The 4th (United Provinces) Urban Infantry is already in existence. The Honourable Member's attention is invited to Appendix III, Indian Territorial Force Regulations, 1930.

(d) I would refer the Honourable Member to Indian Territorial Force Rules Nos. 15 (2) and 16 (2).

(e) With the exception of the 3rd (Madras) Urban Infantry which is wasting due to lack of support, their progress has been satisfactory within the limits of their role.

(f) Their progress has been very satisfactory.

(g) I would refer the Honourable Member to paragraphs 122 and 123 of the Regulations for the Auxiliary Force (India).

AMOUNT SPENT ON THE AUXILIARY FORCE (INDIA), URBAN INFANTRY AND UNIVERSITY TRAINING CORPS.

119. THE HONOURABLE MR. P. N. SAPRU : Will Government be pleased to state the amount spent on Auxiliary Forces, Urban Infantry and the University Training Corps ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : Auxiliary Forces Rs. 54,50,000 ; Urban Infantry Rs. 70,000 and University Training Corps Rs. 6,30,000 approximately per annum.

EX-UNIVERSITY TRAINING CORPS MEMBERS IN URBAN INFANTRY.

120. THE HONOURABLE MR. P. N. SAPRU : Are there any ex-University Training Corps men in the Urban Battalion ? If so, what is their actual number ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : Presumably, but Government have no precise information.

EFFICIENCY OF URBAN INFANTRY.

121. THE HONOURABLE MR. P. N. SAPRU : Will Government be pleased to state whether the work of the Urban Infantries has been satisfactory or not ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : The attention of the Honourable Member is invited to the reply to part (e) of question No. 118.

PUBLICITY IN URBAN AREAS OF THE EXISTENCE OF URBAN INFANTRY.

122. THE HONOURABLE MR. P. N. SAPRU : Will Government be pleased to state whether the existence of Urban Infantry units is generally known among the urban people ? If not, do Government propose to take measures for giving greater publicity to these corps ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : The existence of the Urban Infantry is known to the Local Governments concerned and should be known to the public. An Advisory Committee is authorised for each area. No further action is therefore considered necessary.

DESIGNATIONS USED IN URBAN INFANTRY.

123. THE HONOURABLE MR. P. N. SAPRU : (a) Will Government be pleased to state the designations by which members of the Urban Infantry are known ?

(b) Is Government aware that there is dissatisfaction with these designations among the public ?

(c) Do Government propose to change these designations and to adopt the same designations as those by which members of the University Training Corps are known ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : (a) The same as for the regular Indian Army.

(b) and (c). No.

APPLICATION FROM THE ALLAHABAD UNIVERSITY FOR A SPECIAL RESEARCH GRANT FOR RESEARCH WORK ON RADIO.

124. THE HONOURABLE MR. P. N. SAPRU : Will Government be pleased to state whether an application was ever received by them for a grant of Rs. 50,000 to be distributed over five years, for carrying out a programme of research work on radio propagation ? If so, what action do Government propose to take on it ?

THE HONOURABLE MR. A. G. CLOW : Government received an application from the Allahabad University for a research grant of Rs. 50,000 but informed the University that as they had established a research organisation as a part of All-India Radio, they were unable to offer the University the special grant asked for. It is hoped that the Research Branch of All-India Radio will be able to co-operate with universities which may be interested in broadcasting development.

RADIO RESEARCH BOARD.

125. THE HONOURABLE MR. P. N. SAPRU : (a) Will Government be pleased to state whether they have had any communication from eminent British scientists recommending that the Government of India should have a Radio Research Board and finance university teachers doing research work of this character ?

(b) Will Government be pleased to state whether the British Government in England has any provision for fundamental research and whether this provision is meant for professors and teachers doing research ?

(c) Are Government aware that the importance of this kind of research has been recognised by most countries of the world and that Radio Research Boards have been set up in most countries ?

THE HONOURABLE MR. A. G. CLOW : (a) No.

(b) I understand that the British Government have set up a Radio Research Board, but I do not know whether provision is made for professors and teachers doing research.

(c) No.

LICENCE FEES OBTAINED FROM WIRELESS LICENCES FROM BURMA.

126. THE HONOURABLE CAPTAIN MAUNG AYE : (a) Will Government be pleased to state the amount of licence fees obtained from wireless licences from Burma ?

(b) Will Government be pleased to state whether any sum of money has been allotted to Burma for the purpose of constructing a broadcasting station ? If not, please state the reason why no sum of money is kept apart for Burma ?

THE HONOURABLE MR. A. G. CLOW : (a) The revenue from all types of wireless licenses in Burma during 1935-36 was Rs. 8,010.

(b) No. The Government of India do not allot money to provinces for setting up broadcasting stations. They have recently decided to erect their own stations in areas selected so as to ensure that, from the funds available for the purpose, a good service can be given to the greatest possible number of people.

RECOMMENDATIONS OF THE APPLICATION COMMITTEE ON FINANCIAL ADJUSTMENT BETWEEN INDIA AND BURMA.

127. THE HONOURABLE CAPTAIN MAUNG AYE : (a) Will Government be pleased to state the recommendations of the Application Committee appointed by Government to consider the financial settlement between India and Burma in the event of separation ?

(b) Will Government be pleased to state the recommendations of the Committee on the Defence Force of Burma ?

THE HONOURABLE MR. J. C. NIXON : (a) The Committee has not yet reported.

(b) The recommendations of the Committee have been sent to the Secretary of State and no pronouncement can be made at this stage.

DELAY IN SETTLEMENT OF THE QUESTION OF SHARING OF SUPPLIES OF THE TUNGABADHRA RIVER BETWEEN THE GOVERNMENTS OF MADRAS, BOMBAY, HYDERABAD AND MYSORE.

128. THE HONOURABLE DIWAN BAHADUR G. NARAYANASWAMI CHETTY : Will Government be pleased to state :

(a) Whether a delay of over two years has occurred in respect of the settlement of the question of the sharing of the supplies of the Tungabhadra River between the Governments of Madras, Bombay, Hyderabad and Mysore ?

(b) Whether it is a fact that the conference of the four Governments could not come to an agreement on this question ? and

(c) Whether the Government of India propose to appoint a tribunal with instructions to issue their award on this question at as early a date as possible after hearing the case of each Government ?

THE HONOURABLE MR. A. G. CLOW : (a) and (b). Yes.

(c) Government are aware of the importance of expediting a decision, and the question of appointing a tribunal is under consideration.

ANNUAL RESERVE ACCUMULATED IN THE SUNDAY FEES FUND AT MAJOR PORTS DURING THE LAST FIVE YEARS.

129. THE HONOURABLE MR. HOSSAIN IMAM : (a) Will Government be pleased to state the annual reserve accumulated in the Sunday Fees Fund at the various major ports of India during the last five years ?

(b) Will Government be pleased to state in what manner the amount collected in the Fund is being utilised ?

(c) Will Government be pleased to state whether the unexpended balance of these reserves is brought forward from year to year and whether any credit for interest is given to these reserves ?

THE HONOURABLE MR. J. C. NIXON : (a) There has been no surplus to carry forward.

(b) After making payments on account of Crown overtime fees, the balance is distributed to Seamen and Customs Welfare Institutions subject to a minimum such payment of Rs. 88,000.

(c) Does not arise.

MANNER IN WHICH THE PROCEEDS OF THE SUNDAY FEES FUND ARE UTILISED.

130. THE HONOURABLE MR. HOSSAIN IMAM : (a) Will Government be pleased to state whether the proceeds of the Sunday Fees Fund are utilised for the benefit and welfare of Indian seamen and, if so, how ?

(b) Will Government be pleased to state the amount spent for the benefit of European seamen and Indian seamen, respectively, from the proceeds of this Fund during the years 1933-34 and 1934-35.

THE HONOURABLE MR. J. C. NIXON : (a) Yes—a part of the Fund is used for the benefit of Indian seamen. A grant is made to the Indian Sailors' Home, Bombay, and to certain hospitals in Burma which cater for Indians as well as for Europeans.

(b) A sum of Rs. 8,200 is paid yearly to an exclusively Indian institution. Rs. 3,120 a year is paid to hospitals. About Rs. 38,000 a year is paid to other institutions which are mainly, but not in all cases, for European seamen. During 1933-34 and 1934-35 an additional non-recurring grant of Rs. 12,870 was made to the Mayo Marine Institute.

MARINE CLUB, CALCUTTA.

131. THE HONOURABLE MR. HOSSAIN IMAM : (a) Will Government be pleased to state whether the Marine Club of Calcutta is receiving any grant directly or indirectly through the Seamen's Welfare Association from Government ?

(b) Will Government be pleased to state whether Indian officers are allowed admission to the Marine Club of Calcutta ?

THE HONOURABLE MR. J. C. NIXON : (a) Yes. The Marine Club of Calcutta received grants of Rs. 8,850 for each of the years 1935-36 and 1936-37.

(b) Indian officers are allowed admission to the Club.

ANNUAL EXPENDITURE INCURRED ON PASSAGES FROM 1931 TO 1935 DUE TO THE LEE CONCESSIONS.

132. THE HONOURABLE MR. HOSSAIN IMAM: Will Government be pleased to state the annual expenditure incurred on Lee concession passages year by year from 1931 to 1935?

THE HONOURABLE MR. J. C. NIXON: The information is being collected.

PROBABLE COST OF THE DEFENCE FORCE OF BURMA, ETC.

133. THE HONOURABLE CAPTAIN MAUNG AYE: Will Government please state:

(a) Whether they have considered the various questions relating to (i) the defence of Burma, (ii) Burmanisation of the defence forces, and (iii) their probable cost to Burma?

(b) When they will be able to announce their recommendations or decisions thereon? and

(c) Whether the Legislature of Burma would be consulted or given an opportunity to discuss them before they are adopted or enforced?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: (a), (b) and (c). The matter is mainly one for decision by the future Government of Burma in consultation with His Majesty's Government. The views of the Government of India have already been communicated to His Majesty's Government, but they are confidential and the Government of India have no information when decisions will be announced.

DATE OF PUBLICATION OF THE REPORT OF THE APPLICATION COMMITTEE ON FINANCIAL ADJUSTMENT BETWEEN INDIA AND BURMA.

134. THE HONOURABLE CAPTAIN MAUNG AYE: Will Government please state when the Report of the Application Committee on Financial Adjustment between India and Burma will be published and whether the Legislatures of India and Burma will be given an opportunity to discuss the report?

THE HONOURABLE MR. J. C. NIXON: The purpose of the Application Committee is almost exclusively to work out the resultant account on the lines illustrated in the Appendix to the Report of the India-Burma Financial Tribunal. A provisional and preliminary account will be submitted for the budget purposes of the year 1937-38 but the final account will certainly not be ready before the end of 1938. The Committee's duties being of this restricted nature, no useful purpose could be served by a discussion in the Legislature.

REPORT OF THE COMMITTEE FOR THE FINANCIAL SETTLEMENT BETWEEN BURMA AND THE FEDERATION OF THE SHAN STATES.

135. THE HONOURABLE CAPTAIN MAUNG AYE: Will Government please state whether the Committee for financial settlement between Burma

proper and the Federation of Shan States after the separation of Burma from India have submitted their report and whether the Legislature of Burma will be given an opportunity to discuss the report on the general question of such settlement?

THE HONOURABLE MR. J. C. NIXON: The Government of Burma have been asked by wire whether the Committee has submitted its report. No reply has yet been received, but it is hoped that the information will be available before the reply to a corresponding question is given in the other House.

As regards the latter part of the question, I may remark that the Committee has been appointed to advise the Governor of Burma, and that the settlement is to be made through an Order in Council under section 68 (2) of the Government of Burma Act. The question is therefore one primarily for His Majesty's Government and I can accordingly give no undertaking that the Legislature of Burma will be given an opportunity to discuss the matter.

TRADE AGREEMENT BETWEEN BURMA AND JAPAN.

136. THE HONOURABLE CAPTAIN MAUNG AYE: Will Government please state:

1. Why Burma has been left out of the negotiations for a fresh trade agreement with Japan? and

2. Whether Burma would be at liberty to make negotiations and enter into a trade agreement with Japan separately?

THE HONOURABLE MR. H. DOW: As regards the first point the attention of the Honourable Member is invited to the Press Communiqué, dated the 12th August, 1936, a copy of which is in the Library. The Government of India are not in a position to answer the Honourable Member's second point as it relates to a matter that is for His Majesty's Government in the United Kingdom to decide.

CUSTOMS DUTY ON OVERLAND IMPORTS OF TEAK TIMBER FROM SIAM INTO BURMA.

137. THE HONOURABLE CAPTAIN MAUNG AYE: Do Government propose to exempt teak logs imported into Burma through the River Salween from the protective customs duty of 25 per cent. *ad valorem* and to make them subject to the 7 per cent. transit duty as before the 11th July, 1936, for the reasons stated by the President of the Moulmein Timber Traders' Association in his memorial to His Excellency the Governor General in Council, dated the 30th July, 1936? If not, will Government please state the reasons for not doing so?

THE HONOURABLE MR. H. DOW: The import duty in question is not protective. It was raised to the level of the sea customs rate at the instance of the Government of Burma. The Government of India are awaiting the views of the Local Government on the memorial of the Moulmein Timber Traders' Association before reconsidering the matter.

INCLUSION OF WOMEN VOTERS IN THE ELECTORAL ROLL OF THE COUNCIL OF STATE.

138. THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: (a) Will Government be pleased to state whether women voters have been included in the electoral roll of the Council of State after acceptance of the Resolution on the subject in the last Simla session?

(b) If not, why?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: (a) and (b). The Resolution was passed on the 18th September, 1935. The necessary Regulation was made on the 25th September, 1935. On the 28th September, 1935, Local Governments were requested to see that effect was given thereto in the course of the preparation of electoral rolls. The Government of India presume that all eligible women whose claims were brought to the notice of registering authorities were duly included in the relevant roll.

CANTONMENTS (AMENDMENT) BILL.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: Sir, I move:

"That the Bill to amend the Cantonments Act, 1924, for certain purposes, as passed by the Legislative Assembly, be taken into consideration."

Those Honourable Members who are interested in this Bill will no doubt have followed closely its course through two Select Committees and through the Lower House. It will be unnecessary for me, therefore, to go into any great detail at this stage, but the House will expect me to give a brief account of its main provisions, and I should also like to make one or two personal observations with regard to it.

From my point of view, perhaps the most important feature of the Bill is that it recognises and confirms the principle that cantonments are, first and foremost, places for troops and military officers to live in. Honourable Members, I am sure, will recognise the justice of this principle, and will understand me when I say that it is for this reason, and this reason alone, that we in the army attach so much importance to retaining control over cantonment administration by preserving an official majority on Cantonment Boards. If the armed forces are to be fully efficient, it goes without saying that the conditions in which they live *must* be the best and most healthy that we can devise. It is not that we resent the presence of large civilian populations in cantonments. We are, indeed, partially responsible for having brought them there ourselves; and we must recognise the fact that they exist and that they have a natural desire to play some part in the civic administration of the place. The point is that, in administering cantonments, we in the army are solely concerned with efficiency. We are less concerned with purely local and personal considerations, which often play a large part—and not, perhaps, always to the best advantage—in municipal politics. On the other hand, if we can secure the active co-operation of the civil population in keeping cantonments clean and healthy places to live in, we are fully prepared to accept that co-operation and to work with the representatives of the people in securing the object in view.

The contents of this Bill are, I submit, sufficient evidence of the truth of this statement. We are replacing the old military official executive officers by a new service of civilian executive officers, who will cost the taxpayer less and who will be recruited through the Public Service Commission. That, I think, is a reform which will be welcomed by this House.

Secondly, we are, for the first time introducing the principle of election in every cantonment in India. At present, I think, only about half of the 76 cantonments in India have what is known as elected Boards; and there are about 30 cantonments which are run by the Officer Commanding the Station alone, without a municipal board of any kind. Even the smallest cantonment in future will be able to elect one non-official to share in the administration. That, again, is a distinct step forward from the non-official point of view.

Finally, we are going even further than this. We are recognising that there are areas in cantonments in which it may be said that the interests of the civil population are as great as, if not greater than, those of the army. I refer, of course, to bazaar areas. We are introducing the experiment of making it compulsory for all the larger Cantonment Boards to appoint a Bazaar Committee, containing a majority of non-official members, to deal with the many matters that must arise from day to day in the administration of bazaar areas. I must confess myself to some slight misgiving as to the success of this experiment. It will need a spirit of co-operation and a careful balancing of the interests on both sides to make it work properly; but one thing I must make quite clear. There can be no question of setting up two parallel and rival bodies to administer different parts of the cantonment. These Bazaar Committees will be, and must be recognised as, committees of the Cantonment Board. They must derive their powers from the Cantonment Board, and the extent of their powers must be capable of variation by the Board in the interests of the cantonment as a whole. If these committees work successfully in the interests of the health and sanitation of the bazaar—in the interest of the public, and not of individuals—we shall welcome their co-operation, and shall be only too glad to relieve the official members of the Board of a great deal of detailed work which, at present, is apt to occupy their time to the prejudice of their more strictly military duties. If, on the other hand, the result of their working is a deterioration in the standards of sanitation and public health in bazaar areas, we shall have to reconsider the position.

Meanwhile, I can only repeat the assurances that have already been given on this subject. We have every intention of giving this experiment a fair trial; and we can only do so by giving these committees, to start with, duties and functions which will involve the exercise of some real responsibility.

These, Sir, are the main features of the Bill, from what may be called the non-official point of view. There are other matters of detail in which we have endeavoured to meet popular opinion, but I do not think I need mention them here. My main point is that we have gone a very considerable way—perhaps I might say very considerably out of our way—to meet the non-official view regarding cantonment administration.

[His Excellency the Commander-in-Chief.]

On the other hand, the Bill contains certain provisions to which the military authorities themselves attach considerable importance. The new provisions regarding water supplied by the Military Engineer Service will, we hope, lead to more business-like methods, and put an end to a considerable waste of water, and thereby, loss of money, which is going on at present.

Secondly, the new provisions regarding the erection or re-erection of buildings will give the Cantonment Board the power, which they do not possess at present, of rejecting applications which offend against the terms of a lease, or represent an encroachment on Government property, although they may comply with the technical requirements of the building bye-laws of the cantonment. In this connection, I may say that we have no desire to harass the owners of house property in cantonments, and I hope very much that the negotiations which have recently taken place will put an end to many of the disputes regarding rights in land, which are now apt to be a source of friction in cantonment areas. At the same time, I hope the House will recognise that we have every justification for desiring to preserve the amenities of cantonments, and especially of the residential areas in cantonments. The last thing we want is to see these areas over-crowded, and covered with commercial buildings or petty shops. They are areas primarily for officers to live in, and they must be retained as such. There is a tendency in some quarters to assume that Government are being unfair in refusing to allow the owners of bungalows in cantonments to "develop their property", as it is put, and thereby make a greater income out of it. It is sometimes argued that these individuals were induced against their will to come into cantonments, and spend money on building bungalows for officers to live in, and that therefore they deserve every consideration at the hands of Government. Nothing, Sir, could be further from the truth. I am quite sure that no Indian who has invested money in house property in cantonments has failed to secure a very handsome return on his capital. They pay nothing for their occupancy rights in the land. The bungalows were mostly built at a time when building was cheap; their upkeep and repair, even if they have been properly looked after, which I am afraid is not always the case, have cost comparatively little; and for many years the owners have been receiving regular rents which have repaid their capital over and over again. I do hope that this House will support me when I say that Government have every intention of preserving the amenities of cantonments, and are fully justified in refusing to allow residential areas to be exploited for the personal profit of a limited class of individuals.

I do not think, Sir, that I have any more to say. I can only hope that the House will recognise that this Bill represents a fair compromise between military necessities on the one hand and popular aspirations on the other. I hope that those Honourable Members who live in cantonments will exert their undoubted influence in securing that the Bill is worked in a spirit of co-operation and I trust that the House as a whole will accept the Bill as an agreed measure without opposition.

THE HONOURABLE MR. V. V. KALIKAR (Central Provinces : General): Sir, I rise to support the Bill. But I must state frankly that I am not fully

satisfied with it. I know the Government has tried to some extent to meet the wishes of the popular representatives in the other House, and in Select Committee they agreed to set up Bazaar Committees. But I think if they had accepted the popular wish to have an elected majority on the Cantonment Boards, I do not think that that elected majority would have interfered in any way with the smooth working of this Bill so far as cantonment administration is concerned. However, Sir, I am one of those who think that half a loaf is better than no bread, and therefore I am satisfied that something has been done and that we shall get under this Bill an elected Cantonment Board in every cantonment with the number of elected members varying from one to seven.

I admit that the interests of the troops do predominate in the administration of cantonments, but the interests of the civil population of a cantonment also must be kept in view. In every cantonment a large civil population has settled and the troops depend for their various amenities on the efforts of the civil population. So, as one Commander-in-Chief stated, as it is the business of Government to look after the welfare, health and discipline of the troops, so also it is equally necessary that the interests of the civilians living in cantonments should be looked after.

An apprehension exists in certain quarters that these Bazaar Committees are a device to divide the Cantonment Board into two parts, one part consisting of the military officials and the other part of the Bazaar Committee on which there will be an elected majority of non-officials, and it is thought that the Bazaar Committee will have to bear the odium of increasing the taxes and assessments. I hope that that apprehension will prove groundless when the Bill is put into operation, but this apprehension does exist in certain quarters.

There is a further complaint about the money spent by the military authorities on primary education. I understand that before 1924 the position was that everything rested with the Government. At present considerable revenue derived from land is being taken by the military authorities and the military authorities have a predominant voice and they will have a predominant voice according to the provisions of this Bill. Now, Sir, it is stated that in enacting this Bill the intention of the Government is to give the municipal character to the Cantonment Board. If that analogy is carried to its logical extent, then I submit, Sir, that municipal administration is generally under the supervision of the Local Government and the Local Government give a large share for the education of the school-going children under the Compulsory Free Primary Education Act. I am open to correction on this point, but I understand that a very small amount is being given by the military authorities at present—and that I understand is Rs. 87,000 for 12 cantonments for the education of school-going children. I submit, Sir, that the military authorities should give more money for the education of the children of the civilian population staying in cantonments when this Bill comes into force.

Then, Sir, I come to the principle of taxation and here, Sir, I cannot see eye to eye with His Excellency the Commander-in-Chief. The power of taxation up till now rested with the Local Government. Now, under the provisions of this Bill this power of taxation is being given to the Cantonment

[Mr. V. V. Kalikar.]

Board. I object to this principle of giving the power of taxation to the Cantonment Board on constitutional grounds, because unless there is an elected majority in the Cantonment Board, the Board should not have any power of taxation. In the case of municipalities, district boards and local boards which have come into existence under the Montagu-Chelmsford Reforms, these bodies have a decided elected majority and under the present Bill the Cantonment Boards that are to come into existence have not got an elected majority. So, Sir, I would have preferred that the power of taxation should have vested with the Local Government instead of giving this power to these Cantonment Boards; and then, Sir, lastly, amongst all things that are creating more heart-burning amongst the minds in the civilian population in cantonments is the land problem. I personally cannot agree with His Excellency that all land in the cantonment belongs to the military authorities or to the Government. If I remember aright, a Law Member of the Government of India some years ago, I believe before 1924, had made a remark that measures of the kind which deprive a private owner of property of his ownership are nothing more than measures designed to confiscate private property. The civilian population have invested large amounts of money in buildings, in constructing structures, in developing markets and in giving various facilities for the convenience of troops there. Provisions have been made in this Bill which the civilian population in the cantonments think will come in their way of developing the cantonment area at their cost and also provisions about the erection and re-erection of buildings will to a very great extent obstruct the development of cantonments. I submit, Sir, that a suggestion was thrown out I believe in the Lower House about making the provision less stringent, but then, Sir, the Government did not see their way to meet that demand in the other House. However, as I say, Sir, half a loaf is better than no bread. I should request the military authorities to make use of this provision in such a way that they would not come in any way in the way of residents of cantonments, the civilian population, who desire to invest money in construction of buildings and in developing the cantonment area.

Sir, I have nothing further to state except that I do congratulate Government to some extent in meeting the wishes of the people in having an elected Cantonment Board and I take satisfaction over it.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN (West Punjab : Muhammadan): Sir, I cannot let this opportunity pass without placing on record my criticism of the two aspects of policy underlying the Cantonment Act. The first relates to the existing civilian executive officers who were recruited some time in 1928 in pursuance of the policy of Indianisation. I think, Sir, in accordance with the terms of this Bill they will be required to appear in a departmental examination. Now, these officers before their appointment passed through various tests. In the first instance, there was selection. Then they obtained regular training for this work. After the training period was over they were put on probation and after the probationary period was over they were confirmed in their appointments. Their number, as far as I know, is 35. I submit, Sir, that it would be a great hardship that those

officers who have now been serving for four or five years in the position of executive officers and whose work has been found satisfactory should be required to undergo another test. A circular letter was issued by the Northern Command some time in 1934 stating that when the new organisation of the cantonment administration takes place it is quite likely that the officers who are already serving may be required to undergo a departmental examination. As far as future recruitment is concerned, Sir, I have no intention of criticising the Government policy of recruiting executive officers through the Public Service Commission, although I would submit before the House that the examination is not the only test of somebody's efficiency for any work of administration, particularly an executive job, and if you will permit me, Sir, in this connection I will quote the opinion of the Chief Justice of the Punjab, Sir Douglas Young, but instead of reading a long quotation I will satisfy myself with merely giving the substance. Addressing the members of the Bar, he said:

"If efficiency were to be judged merely by the ability to pass an examination, I would be standing where you are standing and one of you surely be occupying the chair which I am occupying today".

THE HONOURABLE THE PRESIDENT: But that referred to the legal profession, not to service in the cantonment.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: That did not refer to the legal profession at all, Sir. It referred to judicial service in the Judicial Department. He said that as far as efficiency for judicial appointment is concerned an examination is not the only test. And now, Sir, as you seem to be under the impression that his remarks related to the legal profession, I would like to read the opinion:

"I am not one of those who think that a competitive examination is necessarily the best method of selection for the judicial service their".

It was in continuation of this speech, Sir, that he made those remarks. I personally believe that, if competition is not a sound test for judicial service, it is certainly not a fair test for an executive job. Therefore, Sir, I would submit that His Excellency the Commander-in-Chief will kindly consider the desirability of not merely going by the number of marks which one obtains at an examination. As far as the case of the executive officers now serving is concerned, Sir, it will be a great hardship if they are required to answer examination papers at this stage. Sir, may I remind the Honourable Members here that if even those of us who have a very great reputation in the Bar were now required to appear for a University Law examination, the majority of them would fail. Therefore, it is really a knack of answering certain questions in a particular form on the paper which makes a man shine in examinations. These officers who gave up their studies in the universities some years ago cannot be expected to obtain the same number of marks in the examination as boys fresh from the university. Sir, I would request His Excellency for an assurance that at least so far as the civilian officers now holding the posts are concerned, they will not be required to undergo another departmental examination. After all, Sir, the object of holding an examination is just to test whether a certain man will be able to discharge his duties satisfactorily or not. But a person who has already discharged his duties

[Raja Ghazanfar Ali Khan.]

satisfactorily for four or five years, to test him to find out whether he will be able to do the work appears to me to be absolutely unnecessary.

Sir, the second point I wanted to refer to was the policy of applying certain provisions of the Cantonments Act to the areas which do not belong to the cantonment. This policy seems to me to be a very questionable one. The military authorities in their excitement for showing their enthusiasm for uplift work in the villages are going, I consider, absolutely beyond their jurisdiction. I am one of those people who strongly believe that something ought to be done to bring about more sanitary conditions in the villages but this should not be done at the point of the bayonet and the military authorities would be entirely wrong if they expect that they will be right in enforcing the same discipline as they enforce on soldiers living in barracks on the poor villagers who are living outside their jurisdiction but who have the misfortune of being their neighbours. I know personally—and I am now talking about Jhelum Cantonment, where the military authorities have been insisting on applying certain provisions of the Cantonments Act to the villages of Saila and Idgah which are in the neighbourhood of the Cantonment but are outside the cantonment area. The inhabitants of these areas are feeling very miserable and I can assure you, Sir, that if the military authorities persist in this most unfair attitude of forcing those people to maintain the same standard of sanitation in their villages, I have no doubt that a time will come when these poor villagers will desert these places and go away somewhere else.

THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa : Muhammadan) : On a point of information, Sir. Will the Defence Secretary inform us whether the Cantonments Act applies to these villages ?

THE HONOURABLE MR. G. R. F. TOTTENHAM : There is a certain section of the Cantonments Act at present under which parts of the Act may be extended to certain areas outside a particular cantonment. But I submit it has nothing to do with the Bill under consideration today.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : Well, Sir, may I submit that while considering the Bill which is intended to amend the Cantonments Act, we are perfectly entitled to consider the policy as well as the provisions of the Act itself. And, after all, the Defence Secretary has made an allegation—

THE HONOURABLE THE PRESIDENT : You need not dilate on that point. I have not stopped you from speaking on it.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : I was just explaining to Honourable Members that when they have been informed that certain provisions in the Cantonments Act can be applied to areas which are outside the jurisdiction of the cantonment, they should seriously consider whether it would be wise to pass this Bill unless the military authorities are prepared to give an assurance that they will be very just and fair in applying such provisions.

THE HONOURABLE MR. HOSSAIN IMAM : Again, on a point of information, Sir. May I know if it is possible for us to bring forward an amendment to the unamended portion of the Act at this stage ?

THE HONOURABLE THE PRESIDENT : The Bill incorporates certain amendments which the Government desire to make in the old Act of 1924. The Bill is confined only to those amendments. That would not give power to any non-official Member to bring in any other amendment outside the scope of the Bill.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : Sir, that was exactly the reason why instead of moving a formal amendment I just wanted to bring these points before the House and also to invite the attention of His Excellency the Commander-in-Chief and the Defence Secretary, who is present here. As I was just submitting, Sir, some of the conditions are very rigid. If they throw their refuse at a place different from the one pointed out by the Army authorities they are liable to be *chalaned* and fined. I would ask the Cantonment authorities seriously to consider whether it is reasonable that they should go and interfere with the jurisdiction of other local bodies. As the Honourable Members are aware, in the urban areas there are the municipalities to look after the people, their sanitation and all other necessary matters. For the rural areas we have District Boards in every district, and every village which is not included in the area of a municipality or cantonment is a part of the District Board. Therefore, Sir, this is an interference with the authority of another local body. The result is that the inhabitants of such villages find themselves under the dual control of the military and the civil authorities. What happens is that they pay their local rate and other taxes to the District Board authorities. In return they get something in the way of either schools or roads or medical assistance. The Cantonment authorities want to extend their jurisdiction to areas where they will merely fine and punish people for not doing certain things, but they would not take the responsibility of providing the facilities which local bodies are providing. If the Military authorities were today to announce that they will take charge of those villages entirely and will ask the local bodies not to charge local rates from these villages but they will levy their own cantonment taxes, whatever they may be, I will be quite satisfied. But, Sir, is it fair that these people who have got no relation directly or indirectly with the Military authorities should be forced to observe certain rigid rules just because they have the misfortune of being neighbours ? And how did they become neighbours ? During the last 15 or 16 years, at least 2,000 acres of the land belonging to these Saila and Idgah villages was acquired by the Government for military requirements. They have been left now with a very, very small area and I can assure you, Sir, that if it were not for the love of the place where their ancestors are buried, they would have deserted that place and gone away.

THE HONOURABLE THE PRESIDENT : I do not understand your contention. If the cantonment limits are short of space for the population or for the occupation of troops or buildings for cantonment purposes, do you mean to say that Government should be debarred from extending their limits ?

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: They are quite welcome to extend their limits, but they do not do so. They just apply certain provisions of the Cantonments Act without extending their jurisdiction and including that village in it.

THE HONOURABLE THE PRESIDENT: I do not think that could be done.

THE HONOURABLE MR. G. R. F. TOTTENHAM: May I explain? I think the Honourable Member does not quite understand. There is a section—section 286—in the present Cantonments Act. This section is not subject to amendment by this Bill. But this section contains a provision under which certain provisions of certain chapters of the Act may be extended to areas in the vicinity of cantonments. These provisions do not include Chapter V which is the chapter dealing with taxation. We are not able under the present law to impose taxation—nor do we ever do so—on any area outside the cantonment. Any area that we wish to include in the cantonment, such as the lands to which the Honourable Member has just referred, we usually acquire and thus extend the cantonment. But what is done under this section 286 is this. In certain cases where we may have insanitary villages on the border of cantonments, we are enabled by this section to introduce certain sanitary measures into those villages without any cost to the inhabitants.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: I hope you are now satisfied, Sir, that they do not extend the area of the cantonment; they do not extend the jurisdiction. They just apply one or two provisions which are most troublesome for the inhabitants. I would not mind—they are perfectly entitled to include any area they like, which they require for military purposes, within their jurisdiction.

THE HONOURABLE THE PRESIDENT: Why should not the Cantonment authority, for the sanitary safety of the cantonment, extend these hygienic rules and regulations to other parts without charging them any money?

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: For the simple reason that, after all, these people are not living in a regime of martial law. They are citizens of the British Empire. They have got the same rights as the inhabitants of any other part of the country; even the civil authorities cannot force them to observe certain hygienic conditions; they can only persuade them; they can only go and give lectures and use friendly influence with them; it is only by persuasion that they can ask these people to observe these conditions. Is anybody entitled to come into my house and say, "You must observe a particular hygienic condition in your house; if you do not, I am going to *chalan* you"? Is it not, Sir, an undue interference with the liberties and rights of every citizen? If the Cantonment authorities think that it is undesirable that such unhealthy villages should continue in the vicinity of the cantonment, I would beg to them to acquire the rest of the area. Nobody would mind that. Nobody would object to that. They can certainly acquire and extend their jurisdiction.

THE HONOURABLE THE PRESIDENT (to the Honourable Mr. Tottenham): If any action is necessary under those sections, it is done after due notice, is it not?

THE HONOURABLE MR. G. R. F. TOTTENHAM: Certainly, Sir, and the action is taken by the Local Government, and not by the military authorities.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: I will now, Sir, for the information of the Honourable the Defence Secretary, mention that they referred this matter—I am referring to Salla—to the District Board of Jhelum asking them whether they had any objection to certain provisions of the Cantonments Act being applied to the villages of Salla and Idgah which were under the jurisdiction of that District Board, and the result was that the matter was placed before the District Board of Jhelum and they unanimously resolved to refuse to give permission. They will strongly resent it if the Army authorities did that, and in spite of that reply, they are doing it.

THE HONOURABLE THE PRESIDENT: The Cantonments Act gives them permission to do that.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: The Cantonments Act, unfortunately, gives them permission to apply some of the provisions of the Act to any area even if it is not within their jurisdiction.

Now, Sir, I would welcome the hygienic conditions of those villages being improved—

THE HONOURABLE THE PRESIDENT: I think the Council has quite understood your arguments now. Please do not dilate on this point and proceed further.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: I can assure you, Sir, that I will not repeat what I have said. I have just now described in full detail the hardships and difficulties which the inhabitants in those villages are experiencing. Now, I would ask the Military authorities to consider whether it would not be just that they paid for those sanitary arrangements which they required these inhabitants to make? If, Sir, they want that a certain pit should be filled up and that certain steps should be taken to make the villages healthy and more hygienic, they should pay for that. But they should not merely threaten those people with being *chalaned* and fined when they are too poor to maintain a standard of life in accordance with the high standard set by military cantonments.

Sir, I am sure I have fully explained this difficulty and I hope that the Military authorities will pay serious attention to the matters which I have now brought before them.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab: Non-Muhammadan): Sir, whenever any amending measure is brought before

12 NOON. this House or the other the objective is to improve upon the existing legislation. In this respect I endorse whatever

my friend Raja Ghazanfar Ali Khan has said about the treatment meted out by the Military authorities under a certain provision when they wish to enforce their wishes on adjoining villages or areas of cantonments. Sir, as I have said many times on the floor of this House, the Defence Department for some time past has been making the Civil or Railway Department bear its legitimate expenses. There are certain roads which are purely or mainly strategic, yet their upkeep and repair is borne by the Civil department. Similarly, the

[Rai Bahadur Lala Ram Saran Das.]

deficit on the strategic railways, the maintenance and the cost of military yards, wagons, etc., are also borne by the Railway Department and not by the military. And again, here, instead of the Defence Department bearing the expense of any sanitary or other improvements they want to make in adjoining villages or areas, they want the cost to be borne by the District Board or some other authority. Sir, the present economic condition of the District Boards is so bad that it is impossible to expect a great deal from them. I have been connected with the Lahore District Board for over 20 years, and I can say that although we want to make many improvements, our funds do not permit it and it is impossible to impose any fresh taxation. The Honourable Raja Saheb has made a very reasonable proposal that if there is any improvement which the Defence Department desire to effect in villages adjoining a cantonment, they should do it at their own expense. That is quite reasonable and just, and I strongly support what the Raja Saheb has said about the extension of the powers of the Cantonment Authority beyond their cantonment limits in such cases.

Sir, His Excellency the Commander-in-Chief observed that landlords in cantonments make a very good return on their investment in houses. With due deference to His Excellency I might say that that might be all right in the case of those landlords who own a great number of houses in each cantonment, but those landlords whose holdings are not very big generally lose. I happen to be an owner of some houses in several cantonments, and my experience is that generally I make nothing out of those bungalows, and indeed every year I am a loser. There are a number of cases in which army officers leave India suddenly on transfer to foreign countries with arrears of rent which sometimes amount to thousands of rupees which become irrecoverable. I will give you a personal case of my own. A certain high army officer owed me a few thousand rupees arrears of rent when he was suddenly transferred to Cairo or some other foreign place, and although I put the case into court the reply was that that officer was no more under the jurisdiction of the Government of India and nothing could be done in execution of the decree given.

THE HONOURABLE THE PRESIDENT: It was your fault! Why did you allow the arrears to accumulate to such an extent?

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Sir, I am glad you have put me that question. I did everything that was possible. I drew the attention of the Officer Commanding the Station and of the Divisional Commander to the position, but red-tapeism, Sir, as you know takes a long time, and before action is taken sometimes that action is too late and so of no use. And that is what happened in my case. I took every sort of action but it was all a waste of time and of money. I think that equity and justice requires that the Cantonment authorities should safeguard the landlords in such cases. They protect the tenants in every possible respect, but the landlord is not treated in the manner he ought to be.

Then, another point I would mention for His Excellency's attention is in regard to the repair, alteration or remodelling of a bungalow as required by the Military authorities. The Cantonment Authority issues an order that such and such a thing should be done and a certain percentage return upon the

additional outlay is allowed by way of an increase in rent. That looks very reasonable in theory but in practice it does not work well. For instance, the new work may cost the landlord, say, Rs. 2,000, and a certain rate of interest is allowed on this in the shape of so much additional rent per month. But a few months after this additional rent is enforced the resident officer is transferred and the house thereafter remains vacant for six or more months, and the additional rent on the extra outlay becomes non-existent.

THE HONOURABLE THE PRESIDENT: Why do you build houses in cantonments?

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Sir, an observation was made by His Excellency. I have been told that, long before I was born, it was at the entreaty of the Government that bungalows were built in cantonments by the public. Otherwise, they would not have built any. In those early days they received fair treatment. After all, Sir, as these rules are becoming stringent, people are selling their cantonment property at nominal prices and are trying to invest money elsewhere. I think, Sir, a time will come soon when Government will have to find their own money to build bungalows in cantonments. I know that in certain cantonments owing to the policy adopted by Government bungalows have been acquired and prices paid under the Land Acquisition Act at low prices. However, that is a matter that will play in future when the people want to put in money in cantonment property. Sir, I want the Government to treat the people in the cantonments in an equitable and just manner.

THE HONOURABLE MR. G. R. F. TOTTENHAM (Defence Secretary): Sir, when I had the honour to be nominated a Member of this Honourable House, it was in the expectation that there might be some awkward questions connected with this Cantonments Bill on which Honourable Members might wish to have detailed information, and as I have been connected with the framing of this Bill from the very start, I felt that I would be able to give the House any information they might require in connection with the Bill. Fortunately, Sir, my task is easy this morning because of the speeches that have been made only one was strictly relevant to the clauses of the Bill itself. I shall deal, if I may, with the points made by the Honourable Mr. Kalikar later. I should like first of all to say just a few words with regard to the points made by the Honourable Raja Ghazanfar Ali Khan and the Honourable Leader of the Opposition. None of the matters to which they referred had any direct connection with the clauses of this Bill. The Honourable Raja Ghazanfar Ali Khan started by asking certain questions regarding civilian executive officers and whether they would be made to pass a departmental examination. Well, Sir, there is nothing in the Bill about civilian executive officers or rather, about the terms and conditions of their service. It is a matter which will be settled by rules after this Bill becomes law. I may explain to the Honourable Member that, of course, there is no intention of making it necessary for those persons who have already been employed as civilian executive officers and who are found suitable for permanent appointments to pass any examination set by the Public Service Commission, which is going to be the channel of entry for future entrants to the service. At the same time the question whether

[Mr. G. R. F. Tottenham.]

those civilian executive officers who have already been appointed should or should not be required to pass any departmental examination is a matter that is now under consideration. We will take the Honourable Member's comments into consideration in deciding the matter; but I do submit that if, as he has assumed, these officers by their actual experience in cantonments are already efficient, then in that case they would have no difficulty whatever in passing this departmental examination. The departmental examination is only a test of whether they know their rules and regulations and the books they ought to know. If they do know them, they will have no difficulty in passing the examination.

Then, Sir, as regards the other point which was mentioned by the Honourable Raja Ghazanfar Ali Khan and the Honourable Leader of the Opposition, I have already explained that this section 286 of the Cantonments Act is not a section which is subject to amendment by this Bill and therefore it is quite impossible of course to amend it at this moment. I am not fully aware of all the details regarding the particular cantonment to which the Honourable Member referred and the action that has been taken there, I think he has asked certain questions on the subject which will be answered in due course.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: The answer was that information is being collected.

THE HONOURABLE MR. G. R. F. TOTTENHAM: Well, Sir, when the information is collected, he will know more about it. I can, however, assure him that we have no intention of applying these various sections of the Cantonments Act to areas outside cantonments unnecessarily. We have no intention of imposing hardships on villagers. I am quite sure it is done for their good; it is done in close co-operation with the Local Government who ought to be in a position to protect the interests of the villagers. However, Sir, I will not say more on that matter; nor, I am afraid, can I say much on the unfortunate personal experiences of the Honourable Leader of the Opposition as the owner of houses in cantonments. The relation between landlord and tenant is not regulated by this Act in any way and it would be impossible by any amendment to put an end to perhaps, I may say, the grievances that the Honourable Member has in this respect. I can, however, assure him that we will look into the matters that he has mentioned and if we can give him any assistance in recovering his just dues we shall always be ready and anxious to do so.

I now turn to the Honourable Mr. Kalikar's speech, which did refer to certain important matters connected with the Bill itself. In the first place, referring to these Bazaar Committees, he mentioned the fact that there was a fear in certain quarters that the odium might be laid on them of imposing increased taxation in bazaars. Well, Sir, I can assure him that that apprehension is not well founded, because it is perfectly obvious that one of the functions that must fall to the Board as a whole is the imposition of taxation; the taxation of the cantonment as a whole must be the business of the Board as a whole. Therefore, there can be no question of the Bazaar Committee having to accept responsibility in the matter of taxation. The Honourable Member then

referred to the amount of money spent on primary education. I have not got the exact figures here, but I would refer him to clause 37 of this Bill. Clause 37 makes an alteration in section 116 whereby it will be obligatory on Cantonment Boards to assist primary education, even if they do not maintain primary schools of their own. That, Sir, I hope will go some way to improve the position in this respect, if it requires improvement. I can say that, if more funds are required, Government are responsible for the solvency of cantonments and, if a case is made out, they are always prepared to make available a certain amount of money by way of grants-in-aid for a laudable object of this kind. Then, Sir, the Honourable Member referred to the power of imposing taxation. He objected to Cantonment Boards being empowered to impose taxation. That, Sir, is a matter that is regulated by clause 22 of this Bill and section 60 and the following sections of the Cantonments Act. At present under section 60 of the Act the Local Government has the power to impose taxation in cantonments. Under clause 22, to which I have referred, the only change that is going to be made is that the initiative in this matter is going to rest with the Board; but the Boards are not going to have any power to impose taxation without the consent of the Local Government. It is therefore merely a change of form rather than a change of substance. It was pressed upon us by the Select Committee in the Lower House who pointed out that in all Municipal Acts, the initiative with regard to taxation lay with the local body, although the sanction for the taxation might be with some higher authority. We are merely following that practice in this Bill and putting cantonments on exactly the same footing as municipalities.

THE HONOURABLE MR. V. V. KALIKAR: In municipalities they have got an elected majority.

THE HONOURABLE MR. G. R. F. TOTTENHAM: I submit, Sir, that that makes no difference to the point the Honourable Member has in mind. What he objected to was the Board having the power to impose taxation. I was trying to point out that the Board under this Bill would have no power to impose taxation. They would only have the power to suggest to the Local Government that certain taxes should be imposed. That is the position.

Lastly, the Honourable Member referred, I think, to the land problem and rightly stressed the importance of it. I can assure him that there is no question of any intention on our part of going in for confiscation, and that we would not have taken the action that we are taking, or have taken during the past ten years, unless we were quite clear that our legal position was a sound one and that we were also acting in an equitable manner. I would point out that, at the long discussion that I had the other day with the members of the All-India Cantonment Association, they themselves came forward and declared that quite a large number of house-owners in cantonments were now prepared to recognise that the land itself did belong to Government—that they would no longer claim that the land was their private property. All that they wished to be assured of was that they might be allowed to continue in occupation of the land without harassment by the local officials; and it is in order to secure that object that we are now trying to concoct a new form of model lease which will give to the owners of these houses a very clear title and define exactly what their rights are.

[Mr. G. R. F. Tottenham.]

Further, Sir, the Honourable Member expressed the wish that these new provisions regarding the erection and re-erection of buildings should not be used except with moderation and so on, and expressed some doubt whether they did not go too far. Well, there again, the provisions of the Bill were reached after very lengthy discussions in the Select Committee and the final decision was to make the provisions in our Bill exactly the same as the provisions in the Punjab Municipal Act. We on our side accepted that compromise, and I can assure the House and the Honourable Member that the provisions of our Bill are not in any way stricter than those of a model Municipal Act such as the Municipal Act of the Punjab Government.

These, Sir, are all the specific points that were raised by the Honourable Members in the course of the debate. I do not think it is necessary for me to say any more.

THE HONOURABLE MR. HOSSAIN IMAM : On a point of information, Sir. Will the Honourable Member consider the desirability of acquiring lands rather than imposing section 286, where the local authorities object ?

THE HONOURABLE MR. G. R. F. TOTTENHAM : Well, Sir, I do not think I can give an answer off-hand to that. It is a new point that has been raised today. All I can say is that the Government will look into the matter.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : Will the Defence Secretary give us an assurance that the answer to these questions will be laid on the table before this Council adjourns ?

THE HONOURABLE MR. G. R. F. TOTTENHAM : I will see that they are laid on the table as soon as we can possibly do so. I believe that we have received the information quite recently, and I think that the answers will be laid in a few days.

THE HONOURABLE THE PRESIDENT : Does His Excellency wish to make any further remarks ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : No, Sir.

THE HONOURABLE THE PRESIDENT : Motion made :

"That the Bill further to amend the Cantonments Act, 1924, for certain purposes, as passed by the Legislative Assembly, be taken into consideration."

The Motion was adopted.

Clause 2 was added to the Bill.

Clauses 3 to 20 were added to the Bill.

Clauses 21 to 45 were added to the Bill.

Clauses 46 to 51 were added to the Bill.

THE HONOURABLE THE PRESIDENT : Clause 52.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : In clause 52, Sir, the Government takes power to ensure that a building that has been sanctioned and partly built can be suspended by superior authority.

THE HONOURABLE MR. G. R. F. TOTTENHAM : Sir, I think that clause 52 of the Bill refers to building bye-laws. It has nothing to do with stopping erection.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Well, Sir, the ordinary Cantonment Authority gives sanction for a building and it is started, and when that building is three-quarters built or fully built, the higher authority refuses sanction. What will be the plight of the owner of such a building ?

THE HONOURABLE THE PRESIDENT : That is a legal question. You must ask your lawyer !

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : I would say, Sir, that the sanction should be final.

Clause 52 was added to the Bill.

Clauses 53 to 69 were 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 would like to take the opportunity of thanking the House for passing this Bill and I now formally move :

"That the Bill, as passed by the Legislative Assembly, be passed."

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Sir, I put an objection on clause 52 as detailed on the note. I expected that the Honourable Defence Secretary would give some sort of answer. On the third reading, Sir, before I make a speech I shall request the Honourable Mr. Tottenham to answer the question put by me.

THE HONOURABLE THE PRESIDENT : It was not Mr. Tottenham's fault. I did not think the question important enough to call on him to deal with the point.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Do you think, Sir, that this point is of no importance ?

THE HONOURABLE THE PRESIDENT : You can now say what you think necessary and then the Honourable Member will reply. There is nothing to prevent you from saying what you wish.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Sir, what I want to represent at this stage is that in the case of buildings which have been completed or partially completed after the sanction of the sanctioning authority, there should be no power given to any higher authority to suspend the original sanction or to cancel it.

THE HONOURABLE MR. HOSSAIN IMAM : Mr. President, this seems to me a great constitutional question of the utility of the Legislature in the province. If we are here just to say "ditto" to whatever the Government decides, then it seems that the Legislature is a mockery. We are here to guard the interests of the people who are governed and in order to do that we are content, Sir, to bring forward questions before the Government benches which have not been observed or which might be passed over. We have pointed out our difficulties. My Honourable colleague from West Punjab brought forward certain troubles of the villagers. My Honourable friend the Leader of the Opposition brought forward certain other points.

THE HONOURABLE THE PRESIDENT : But the Honourable Mr. Tottenham did answer all those questions.

THE HONOURABLE MR. HOSSAIN IMAM : Well, Sir, he did answer a part of the question.

THE HONOURABLE THE PRESIDENT : It may not have been to your satisfaction, but he did answer them.

THE HONOURABLE MR. HOSSAIN IMAM : We are, according to your ruling, Sir, debarred from bringing in any amendment to that portion of the original Act which is not sought to be amended by the Government. So, the only step that we can take constitutionally is to bring the matter to the notice of the Treasury benches and ask them to take suitable action. In a similar manner, Sir, the Honourable the Leader of the Opposition wished to bring to the notice of the Army authorities the point that sanction for the construction of buildings should be given finally, once for all, and that there should be no tinkering with the sanction when once it has been given, and that it should not be refused afterwards so that people might be saved from harassment and loss which is liable to occur if sanction is refused after buildings have been half proceeded with.

THE HONOURABLE THE PRESIDENT : What is there to prevent you from bringing in an amending Bill ?

THE HONOURABLE MR. HOSSAIN IMAM : Sir, in the Council of State it is rather difficult even to think of bringing in an amending Bill. They might do it in the Assembly. There is also another obstacle, and that is, the refusal of the sanction of the Governor General. As at present constitutionally situated, we are not able to do anything without the co-operation of the Government. I do say that we have done something, but we have always done things with the co-operation and goodwill of the Government, and it is in order not to alienate the goodwill of the Government but rather to secure their sympathy that we bring forward our grievances for them to redress.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : Sir, I wholeheartedly support the objection which has been raised by my Honourable friend, the Leader of the Opposition. It will be a very serious hardship if a person, after obtaining regular sanction, starts building a house and then

subsequently, when he has completed half of it, an order comes from higher authority that the building should be stopped. This objection is a very serious one and the Defence Secretary should give a guarantee that no higher authority will interfere with the decision of the Local Board. It is extraordinary, Sir, that the Cantonment authorities must have everything different from other local bodies. In the municipalities there is a rule that no building can be erected or re-erected without the permission of the municipality. But the municipality is the last authority on the subject, and if sanction has been obtained, no other higher authority has any right to interfere. If there is an apprehension that after sanction has been obtained, a still higher authority may intervene and stop the building from being completed, it will be much better if in doubtful cases the Board, before granting sanction, obtains the sanction of the higher authority and then gives the permission. I know, Sir, that it is very keenly felt by a person who wants to build a house if his application is kept pending for a long time.

THE HONOURABLE THE PRESIDENT : Is it not your experience that even in the case of municipalities, sanction has first been given and subsequently they have temporarily stopped the construction of that building ?

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : No, Sir.

THE HONOURABLE MR. G. R. F. TOTTENHAM : Which section of the Act is the Honourable Member referring to ? Clause 52, on which the Honourable the Leader of the Opposition spoke, merely deals with the scope of bye-laws.

THE HONOURABLE THE PRESIDENT : All this discussion has taken place outside the scope of this Bill.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Leader of the House) : The Defence Secretary wants to know which particular clause of the Bill or section of the Act which is now before the House is the Honourable Member referring to ?

THE HONOURABLE MR. HOSSAIN IMAM : Clauses 53 to 61, page 3 of the Notes on Clauses.

THE HONOURABLE MR. G. R. F. TOTTENHAM : I think the Honourable Member must refer to the numbers of the clauses of the Bill as it is before the House. To which clause of the Bill does he refer ?

THE HONOURABLE MR. HOSSAIN IMAM : The notes do not mention the changes that have been made. It is the duty of the Government to mention these.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : I am thankful to the six gentlemen for discussing amongst themselves while I was trying to make my point. I happened to be the President of a Municipal Committee in the Punjab myself, and I can assure you that I know the rules regarding the construction of buildings so far as they are applicable to municipalities, and the municipality is the final authority for giving sanction. No higher authority can interfere or stop a building.

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THE HONOURABLE MR. G. R. F. TOTTENHAM: To which clause is the Honourable Member referring?

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: You have already given your ruling, Sir—

THE HONOURABLE THE PRESIDENT: These discussions are outside the scope of the Bill as now before us.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: I think, Sir, you have already given a ruling that we are perfectly within our rights in discussing the provisions of the Cantonments Act itself when you are bringing in a Bill to amend this Act.

THE HONOURABLE MR. G. R. F. TOTTENHAM: May I ask which provision of the Cantonments Act the Honourable Member is referring to?

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: If the Defence Secretary can say that no such provision exists in the Cantonments Act, we will then most respectfully withdraw all our objections and we will apologise to the House for having taken up its time. But if the Defence Secretary cannot deny that the provision is there, is it not necessary for him to give the guarantee that we want?

THE HONOURABLE THE PRESIDENT: Order, order. I have ruled that in the final stage, namely, the third reading of the Bill, you are entitled to travel from China to Peru.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: It is only after that ruling that we want to take the opportunity of discussing certain matters for which no direct provision exists in this amending Bill.

Now, Sir, turning to the other question which I raised in my earlier speech, I must express my disappointment at the reply which was given by the Defence Secretary. It is our misfortune that we, the elected representatives of the people, have been put in a position in this House where the Government are intoxicated with the idea that they will get the Bill passed even if we try to obstruct or oppose it. That however should not be any reason for them not to pay heed and sympathetic attention to the points which we raise, whether we are in a minority or majority. I raised two questions. What was the answer to the first? He may put it in any words he likes, but it really comes to this that the civilian officers now serving under the Government would be required to appear in the departmental examination. That was exactly the point I objected to. In whatever phrase you may couch your words, whatever language you may use—

THE HONOURABLE THE PRESIDENT: The Honourable Mr. Tottenham has informed you on that point that he will see what can be done and probably the rule will not be strictly enforced.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: I wish the Honourable the Defence Secretary had put it in such sweet language as you have put it. Then there would have been no need for our criticism.

As far as my second point is concerned, after I had finished my previous speech, I came to know of a very notable instance which happened in one

of the villages, and that village belongs to my Honourable friend, Colonel Nawab Sir Mahomed Akbar Khan. One of the villages is unfortunately situate just near to, but outside the cantonment limits, and the people there are forced to sow certain crops and not to sow certain other crops. Can you conceive of a worse instance of interference with individual liberty than that the military authorities should issue commands on what a man should sow in his own fields and what he should not sow and that also in an area which does not lie within their jurisdiction? I should have thought personally that if such a question were raised, supported by such glaring instances of injustice, in the other place, the Defence Secretary would probably have given a different reply and he would have at least said, "If I am convinced that such things do happen, I here declare that we will put an end to it". That would have been the reply there. I have no doubt that this Bill will be passed. But I must submit that we feel keenly disappointed that the most reasonable points which we have raised have remained unanswered or at least no satisfactory answer has been given to the objections that we raised.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA (United Provinces Central: Non-Muhammadan): I rise to congratulate His Excellency the Commander-in-Chief and the Defence Secretary on bringing this amending Bill. The Bill does not go far enough but it certainly is an improvement on the Cantonment Act of 1924 and if it is worked in a spirit of co-operation and goodwill I am sure it will give much more benefit to the inhabitants in the cantonment areas. Sir, one or two objections have been brought to the notice of the Government and I regret a satisfactory answer has not been given. The objection in regard to the position in respect of the erection of a building, pointed out by the Leader of the Opposition, still remains under this Bill. I would refer my friend the Defence Secretary to section 51 of this Bill, that is the amendment of section 185 of Act II of 1924. It is certainly not proper for the military authorities to stop any building when it is in the course of erection and thus cause loss to the builders.

Sir, there are many other points in the Act in regard to which no amendments have been introduced in the Bill, and in accordance with your ruling I will not point them out. But I would request the Military authorities to take a suitable opportunity to bring amendments to those sections, so that the Act as a whole may become advantageous to the residents in cantonment areas.

With these words, Sir, I support the Bill as it has been presented to this House.

THE HONOURABLE SIR PHIROZE SETHNA (Bombay: Non-Muhammadan): Sir, I understood the Honourable the Defence Secretary to say that this matter was not before the House. My attention has been drawn to section 185 of the existing Act, which reads:

"A Cantonment Authority may, at any time, by notice in writing, direct the owner, lessee or occupier of any land in the cantonment to stop the erection or re-erection of a building in any case in which the Cantonment Authority considers that such erection or re-erection is an offence under section 184, and may in such case in like manner direct the alteration or demolition, as it thinks necessary, of the building, or any part thereof, so erected or re-erected:

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[Sir Phiroze Sethna.]

"Provided that the Cantonment Authority may, instead of requiring the alteration or demolition of any such building or part thereof, accept by way of compensation such sum as it thinks reasonable".

This is now referred to in the amending Bill and the alteration commencing at the bottom of page 13 reads as follows :

"(2) A Board shall by notice in writing direct the owner, lessee or occupier of any land in the cantonment to stop the erection or re-erection of a building in any case in which the order under section 181 sanctioning the erection or re-erection has been suspended by the Officer Commanding-in-Chief the Command, under clause (b) of sub-section (1) of section 51 and shall in any such case in like manner direct the demolition or alteration, as the case may be, of the building or any part thereof so erected or re-erected where the Officer Commanding-in-Chief the Command thereafter directs that the order of the Board sanctioning the erection or re-erection of the building shall not be carried into effect or shall be carried into effect with modifications specified by him :

"Provided that the Board shall pay to the owner of the building compensation for any loss actually incurred by him in consequence of the demolition or alteration of any building which has been erected or re-erected prior to the date on which the order of the Officer Commanding-in-Chief the Command has been communicated to him".

This provision, Sir, is certainly satisfactory, inasmuch as, if the further progress of the building is stopped, the owner will get compensation. But the owners of houses in cantonments urge that such compensation at the best can but be very meagre. And, more than that, my friends here who have raised this point seem to think that they will have to depend very much on the whims and caprices of the officer in charge at the moment.

THE HONOURABLE THE PRESIDENT: Why did you not bring in an amendment?

THE HONOURABLE SIR PHIROZE SETHNA: I admit that should have been done, but as that has not been done I think the intention of my friends here is to draw the attention of the authorities to the matter so that something might be done hereafter to amend this particular section. All they want is that instead of the officer who succeeds the previous one deciding whether the building should be demolished or not, the case should be referred to a higher authority. If that is done I think they will have no reason to complain.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: What I said was that the sanction should be final, and in case there is any chance or possibility of suspension or any change, the authority sanctioning should first consult the higher authorities before the sanction is given.

THE HONOURABLE MR. G. R. F. TOTTENHAM: Sir, I regret very much that Honourable Members should have been dissatisfied with my reply to the points they raised during the discussion at the consideration stage. But I do submit, Sir, that it is a little hard on Government to charge us with not having given full answers to matters of this kind—matters which were entirely outside the scope of the Bill itself and of which we had no notice whatever before this meeting today. If they had been connected with a particular clause of the Bill or if any formal amendment had been put down to clauses in the Bill, we should have been fully prepared to consider them and to see how far we could accept them. But as it is, with the best will in the world,

it is impossible for us to do anything at the present moment. No amendment to the Bill was proposed and some of the sections spoken of were outside the scope of the Bill altogether. Therefore I submit I can only give an assurance that these matters will be gone into and considered later. That is all I wanted to say on that point.

I am grateful to the Honourable Sir Phiroze Sethna for making it clear what section certain Honourable Members were referring to. The Leader of the Opposition spoke on clause 52 of the Bill. It now appears that the clause he meant was clause 51 and not clause 52. Probably the re-numbering has put him out. But there again I can only say that clause 51 is not opposed to ordinary municipal practice. The amendments to the existing provisions of the law made by this clause are really only intended to provide that the Board shall not be liable to pay compensation for building which is carried on in between the time of the order suspending sanction and the time when that order is made absolute. Under the law as it stands at present there is a gap there. This matter was discussed in Select Committee and they accepted the necessity for filling the gap, but did not see any reason at that time for altering the substantive provision; and I regret it is quite impossible to do so at the present moment.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Sir, it is said that I referred to clause 52 instead of clause 51. The mistake, Sir, was due to the reference on page 3 of the Notes on Clauses. Sub-paragraph (5) under clauses 53 to 61 says :

"To ensure that building can be stopped when sanction to erection or re-erection has been suspended by superior authority under section 52 (1) (b)—new section 185 (2)".

So, Sir, I was misled and the mistake, which I correct now, is due to that.

THE HONOURABLE THE PRESIDENT: The Question is :

"That the Bill further to amend the Cantonments Act, 1924, for certain purposes, as passed by the Legislative Assembly, be passed."

The Motion was adopted.

THE HONOURABLE THE PRESIDENT: This closes today's business. Tomorrow we have a long list of business to go through and as Honourable Members are aware, there is an important meeting at 5-15 P.M. of the Empire Parliamentary Association to select a delegate to be sent to Australia for their centenary celebrations. I have therefore decided, with the concurrence of the Leader of the House, to convene the meeting tomorrow at 10 A.M. instead of 11 A.M.

The Council then adjourned till Ten of the Clock on Wednesday, the 7th October, 1936.

COUNCIL OF STATE.

Wednesday, 7th October, 1936.

The Council met in the Council Chamber at Viceregal Lodge at Ten of the Clock, the Honourable the President in the Chair.

MEMBER SWORN :

The Honourable Sir Bertrand Glancy, K.C.I.E., C.S.I. (Political Secretary).

QUESTIONS AND ANSWERS.

CREATION OF CERTAIN TECHNICAL POSTS IN THE HOME, FINANCE, COMMERCE, LEGISLATIVE AND THE IMPERIAL COUNCIL OF AGRICULTURAL RESEARCH DEPARTMENTS IN 1930.

139. THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : Is it a fact that :

(a) In 1930, a few new posts were created in the Home, Finance, Commerce, Legislative and Imperial Council of Agricultural Research Departments, under the Government of India, with the sanction of the Finance Department and with the approval of the Standing Finance Committee ?

(b) These posts were meant to be filled by technical experts ?

(c) Such experts were recruited, neither through the Public Service Commission nor with their concurrence before actual recruitment, but by the department concerned, direct from another Government technical office ?

(d) Such candidates were recruited on the clear understanding that they would be confirmed after a six months' probationary period on their giving satisfaction in their work ?

(e) Such candidates, after passing the selection tests, got their services transferred to the new departments in the hope of being confirmed after six months ?

(f) Such posts were abolished during the retrenchment days and the candidates were retrenched on one month's notice ?

(g) No further action was taken by Government either (i) to confirm them in some other posts, or (ii) to find employment for them in some other department, or (iii) to approach the Public Service Commission to register their names for any vacancy in any department in the near future ?

(h) Such technical experts, besides their technical duties, also performed clerical duties ?

(i) No adequate consideration was given to such directly recruited experts?

(j) No retrenchment concession was given, under the Government of India circular, to such retrenched hands?

If so, will Government kindly state their reasons for not giving adequate consideration to such cases so long?

THE HONOURABLE MR. R. M. MAXWELL: Sir, with your permission, I propose to answer questions Nos. 139 and 140 together.

I regret that the information desired is not readily available and could not be collected without an expenditure of time and labour incommensurate with its value.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: May I understand that the answer will be given in a few days?

THE HONOURABLE MR. R. M. MAXWELL: No, Sir. It is not possible to conduct a random search of the records for six years of the different departments referred to in the Honourable Member's question.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: What is the difficulty, Sir?

THE HONOURABLE THE PRESIDENT: He has already said that the labour involved is not commensurate with the value and that his answer is complete. You cannot ask any supplementary questions on it.

NAMES OF CANDIDATES, ETC., RECRUITED FOR THE TECHNICAL POSTS CREATED IN 1930.

140. THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: Will Government kindly furnish a statement showing:

- (a) Names of candidates referred to in the preceding question?
- (b) Their mode of recruitment?
- (c) Nature of technical work?
- (d) Technical office from which recruited?
- (e) Amount of continuous combined service rendered both in old and in new office?
- (f) Number of times they were re-employed in their own departments; if any, in any subsequent permanent vacancy? and
- (g) Reasons for not confirming in such posts such candidates?

(See reply to question No. 139.)

COMPULSORY RETIREMENT OF GOVERNMENT SERVANTS WHO HAVE ATTAINED 50 YEARS OF AGE.

141. THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: (a) Is it a fact that Government have under consideration a scheme for making retirement compulsory for those employees who have

attained 50 years of age and have put in 25 years' total service, including temporary and permanent Government service in order (i) to enforce revised scales of pay, and (ii) to provide the retrenched staff and unemployed persons?

(b) If so, from which date do Government propose to enforce the necessary orders giving effect to the scheme and what amount of pension and what concession, if any, will be given in such circumstances?

THE HONOURABLE MR. J. C. NIXON: (a) No such question is under consideration.

(b) Does not arise.

EXTENSION OF SERVICE TO GOVERNMENT SERVANTS WHO HAVE ATTAINED 55 YEARS OF AGE.

142. THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: (a) Is it a fact that Government is contemplating to stop granting extensions to those Government servants who have completed their services?

(b) If not, why?

THE HONOURABLE MR. J. C. NIXON: (a) No such question is under consideration.

(b) The attention of the Honourable Member is invited to the reply given to question No. 819 in the Legislative Assembly in February, 1936.

RE-EMPLOYMENT OF PENSIONERS.

143. THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: (a) Is it a fact that pension holders are being re-employed in a few departments of the Government of India and their Attached Offices?

(b) If so, the reasons for such re-employment?

THE HONOURABLE MR. R. M. MAXWELL: Presumably the Honourable Member refers to the re-employment of members of the clerical staff who were thrown out of employment as a result of the general retrenchment campaign of 1931-32. It was decided by the Government of India to re-employ, as far as practicable, such of the retrenched personnel as may be considered suitable for re-employment in order to make good, to some extent, the loss sustained by them owing to retrenchment. They are mostly re-employed on the new scales of pay and in view of their past experience their appointment is considered to be conducive to the public interest.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: May I know whether these pension holders are getting pension at the same time also?

THE HONOURABLE MR. R. M. MAXWELL: I would like notice of that question, Sir.

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RECRUITMENT AND POSTING OF RELATIVES IN A DEPARTMENT OR BRANCH OR SECTION.

144. THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: Is it a fact that Government committed themselves in the Delhi Assembly Session, 1935, "to issue instructions to all the departments of the Government of India, to the effect that the recruitment and posting of relatives in a department or branch or section should be sedulously avoided"?

THE HONOURABLE MR. R. M. MAXWELL: Government have not been able to trace any general undertaking in the sense referred to by the Honourable Member.

RECRUITMENT AND POSTING OF RELATIVES IN THE OFFICES OF THE PRIVATE SECRETARY TO THE VICEROY AND MILITARY SECRETARY TO THE VICEROY, AND THEIR BRANCH OFFICES.

145. THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: Is it a fact that the procedure referred to in the preceding question is not yet followed in the Offices of the Private Secretary to the Viceroy and Military Secretary to the Viceroy and their branch offices?

THE HONOURABLE MR. R. M. MAXWELL: As stated in my reply to the previous question no undertaking has been given either generally or in respect of the particular offices mentioned by the Honourable Member.

STRENGTH OF OFFICERS IN THE FOREIGN AND POLITICAL DEPARTMENT.

146. THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: Is it a fact that:

(a) The entire strength of officers in the Foreign and Political Department of the Government of India was only six formerly?

(b) The present strength on the Political side only is made of the Political Secretary, Additional Secretary, Joint Secretary, Joint Secretary—Federation, Deputy Secretary and Under Secretary?

(c) Besides these six officers three more officers have been recently appointed for the forthcoming Federation work?

(d) There are more officers on the Political side than there are branches for which they can be called branch officers?

If so, what are the reasons for such an abnormal increase in the number of officers?

THE HONOURABLE SIR BERTRAND GLANCY: (a) Yes, assuming that the Honourable Member refers to the Foreign and Political Department Secretariat.

(b) The present strength of officers in the Secretariat of the Foreign and Political Department whose duties are concerned with the Political side only is three: Political Secretary, Joint Secretary and Deputy Secretary.

(c) Three officers have been appointed by His Excellency the Viceroy for temporary employment as his special representatives.

(d) No.

The last question does not arise.

APPOINTMENT OF A FINANCIAL ADVISER IN THE FOREIGN AND POLITICAL DEPARTMENT.

147. THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: (a) Is it a fact that a Financial Adviser has been appointed in the Foreign and Political Department of the Government of India?

(b) If so, will Government state the date of his appointment, the period for which he has been appointed, the reasons for his appointment, and his present pay and secretariat rank?

(c) Is it a fact that the present Adviser has with the concurrence of the Finance Department already taken another officer to deal with the budget work of the Department? If so, what are the reasons for extra recruitment?

(d) Is it a fact that the Political Secretary used to discharge such Adviser's duties, with the assistance of his junior officers and with the help of the Finance Department, the Central Board of Revenue and the respective Agents to the Governor General? If so, what are the reasons for creating extra posts of Adviser and Assistant Adviser? Why is not such work distributed among the new additional officers?

THE HONOURABLE SIR BERTRAND GLANCY: (a) No.

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

APPOINTMENT OF AN INDIAN TO THE CENTRAL CYPHER BUREAU, FOREIGN AND POLITICAL DEPARTMENT.

148. THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: (a) Is it a fact that an Indian has been appointed in the Cypher Branch?

(b) If so, will Government kindly state the name of the candidate, the date of his appointment, the mode of recruitment, his present pay and grade and whether he has been appointed against a temporary or a permanent post?

THE HONOURABLE SIR BERTRAND GLANCY: (a) Yes.

(b) Mr. Bakhtiyar Ali Khan, a permanent clerk of the Foreign and Political Department was transferred to the Central Cypher Bureau in December, 1935. He is at present officiating in the second division on a salary of Rs. 132 per mensem.

NORMAL STRENGTH OF THE CENTRAL CYPHER BUREAU, FOREIGN AND POLITICAL DEPARTMENT.

149. THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: Will Government kindly state the respective strengths of the male and female staff in the Cypher Branch with their various grades?

THE HONOURABLE SIR BERTRAND GLANCY: The normal strength of the Central Cypher Bureau consists of 15 persons of whom at present ten are men and five women. Their grades are:

One assistant secretary, one superintendent, seven assistants, one stenographer, one second division clerk, and four routine division clerks.

RE-EMPLOYMENT OF RETRENCHED TECHNICAL CLERKS.

150. THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: (a) Is it a fact that the Government of India has issued instructions to the Public Service Commission to register the names of the following class of retrenched persons only for re-employment:

- (i) Permanent clerks retrenched from offices which recruit through the Public Service Commission?
 - (ii) Retrenched temporary clerks of offices which recruit through the Commission who have qualified at any of the Ministerial Service Examinations held by the late Staff Selection Board or the Public Service Commission?
 - (iii) Retrenched clerks of offices situated at Simla and Delhi which do not recruit through the Commission, who have qualified at any of the examinations mentioned in (ii) above?
- (b) If so, has the Government of India issued any instruction to the Public Service Commission to register the names, at the same time, of the retrenched technical candidates, who were recruited, not on the basis of the above rules and tests, by the departments concerned, but directly, on the understanding that they would be confirmed at the end of the probationary period? If not, what are the reasons for not doing so?

THE HONOURABLE MR. R. M. MAXWELL: (a) Yes.

(b) Since recruitment to the technical posts for which these persons are suitable is not made through the Commission, there would have been no object in asking the Commission to register their names. The departments from which they were discharged or other departments requiring persons of similar technical qualifications can re-employ them if they need their services. It would not be possible to absorb them in vacancies for assistants and clerks as their qualifications are different.

RECRUITMENT OF TECHNICAL CLERKS.

151. THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: (a) Will Government kindly state whether a department:

- (i) Can make direct recruitment to a technical post without consulting the Public Service Commission?
 - (ii) Can give an undertaking to confirm them at the end of the probationary period?
- (b) If so, what are the reasons for the Commission not granting exemptions when requested, and for not registering their names so long after retrenchment?

THE HONOURABLE MR. R. M. MAXWELL: (a) and (b). If a post has been excluded from the regular cadre of a department on the ground that it requires technical qualifications the department can recruit direct to this post

without consulting the Commission and can confirm the person so recruited if he proves suitable. Persons so recruited are not exempted from the Public Service Commission's examination and are not eligible for posts on the regular cadre of the department which are filled through that examination, but are eligible only for the technical posts which have been excluded from the regular cadre. The reasons for not registering their names for re-employment have been explained in reply to the Honourable Member's previous question.

REPRESENTATION FOR PROVINCES IN THE OFFICES OF THE PRIVATE SECRETARY TO THE VICEROY AND MILITARY SECRETARY TO THE VICEROY.

152. THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: (a) Is it a fact that Government have not so far taken any step to give effect to the question of provincial representation in the Offices of the Private Secretary to the Viceroy and Military Secretary to the Viceroy and their branch offices? If so, why?

(b) Do Government propose to enquire into this matter and to furnish a statement showing the respective numbers of Hindu and Muhammadan employees in the above offices, province by province, serving at present against temporary, permanent and leave vacancies, the province which overwhelmingly predominates there, their reason for not taking into consideration such a question so long?

(c) Is it a fact that, even now, temporary and leave vacancies are filled by Hindu and Muhammadan candidates from one single province? If so, why?

THE HONOURABLE MR. R. M. MAXWELL: (a) to (c). It has on several occasions been explained in this House that the Government of India do not undertake to secure representation for provinces in the services under their control which are recruited on an all-India basis. The attention of the Honourable Member is invited to the replies given to the Honourable Mr. Jagadish Chandra Banerjee's questions Nos. 238 and 239, on the 14th December, 1933, and to the Honourable Khan Bahadur Syed Abdul Hafeez's questions Nos. 161 and 163, on the 27th April, 1934. In view of this, Government are not prepared to take the action suggested.

TYPHOID IN VICEREGAL ESTATE.

153. THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: Is it a fact that:

(a) Typhoid is spreading in an epidemic form in the Private Secretary to the Viceroy's Press quarters, in the Public Works Department quarters under the Viceregal Estate, and in the menial quarters?

(b) Anti-typhoid injections were many times administered to all the employees of Viceregal Lodge?

(c) The Military Secretary to the Viceroy, the Comptroller, the Surgeon and the Sanitary Officer, finding the situation serious, set up an enquiry in this matter?

(d) They came to know that it was due to bad sanitation, very poor accommodation, over-congestion and bad management?

(e) The authorities expressed their desire to make immediate additions and alterations in these old quarters?

If so, what immediate action Government have so far adopted to remove the difficulties in the matter?

THE HONOURABLE MR. A. G. CLOW : (a) There were six cases amongst the members of the Private Secretary's Press and one in the inferior establishment. There was no case amongst the members of the Public Works establishment.

(b) A large number of members of the staff were inoculated during the last Delhi season and in the current Simla season.

(c) An enquiry was held.

(d) The enquiry showed that three of the six cases occurred in quarters occupied by large families where there was a certain amount of congestion, and that three of the quarters where typhoid was contracted adjoined each other. It also showed that the sanitary arrangements of the quarters were satisfactory. Typhoid occurred only among the non-inoculated personnel and was probably fly-borne.

(e) The matter is under examination.

EMPLOYMENT OF CANDIDATES WHO FAILED IN HANDWRITING.

154. THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA :

(a) Do Government propose to consider the cases of those candidates who appeared in the last ministerial service examination held by the Public Service Commission and secured excellent marks in all subjects except one subject, *e.g.*, handwriting?

(b) Have Government appreciated their merits and appointed them in a few departments of the Government of India and their Attached Offices in temporary posts where they are rendering satisfactory service?

If so, will Government kindly state whether such candidates will be offered permanent posts? If not, why?

THE HONOURABLE MR. R. M. MAXWELL : (a) No: it is a matter with which the Public Service Commission are primarily concerned.

(b) Candidates who failed in handwriting but secured the requisite number of marks in the aggregate were appointed, with the concurrence of the Commission, to fill temporary vacancies for which qualified candidates were not available. Such candidates are not eligible for permanent appointment.

RULES FOR THE SUBMISSION OF MEMORIALS BY STATE RAILWAY SERVANTS.

155. THE HONOURABLE RAJA SIR RAGHUNANDAN PRASAD SINGH : (a) Will Government state whether there are any rules for the submission of memorials by State Railway servants? If so, will Government be pleased to state whether those rules are applicable to representations and not to memorials to heads of departments? If not, will Government be pleased

to state whether there are any separate sets of rules for submission of representations by State Railway servants?

(b) Will Government be pleased to state whether the rules for the submission of memorials and for the submission of representations by State Railway servants are the same as those applicable to the other Government of India servants?

(c) Will Government be pleased to lay on the table of the House a copy of the rules for submission of memorials and those for the submission of ordinary representations both for the State Railway servants and for the other Government of India servants?

(d) Is there any rule which debars joint representations by subordinates in one branch or in one department of a State Railway office from being entertained by heads of departments? If so, will Government be pleased to state the rule?

(e) If there is no such rule, will Government be pleased to state whether in the Eastern Bengal Railway, and the Great Indian Peninsula Railway head offices such joint representations have been returned to the persons who signed the representations on the ground that such joint representations cannot be entertained and, if so, how many were refused during the last two years?

(f) Will Government be pleased to state whether such action of the officers was correct?

THE HONOURABLE SIR GUTHRIE RUSSELL : (a) The reply to the first part of the question is in the affirmative and to the second and third parts in the negative.

(b) and (c). The rules governing the submission of appeals by non-gazetted railway servants will be found in the "Rules regulating discipline and rights of appeal of non-gazetted railway servants", a copy of which is in the Library of the House. The rules for the submission of memorials are the same for State Railway servants as for other Government servants and will be found in the Home Department Notification No. F. 6/7/33-II, dated the 19th June, 1933, a copy of which is in the Library of the House.

(d) I would invite the Honourable Member's attention to rule 18 of the Rules regulating discipline and rights of appeal of non-gazetted railway servants and to instruction (6) in the memorial rules referred to in reply to parts (b) and (c) of the question.

(e) and (f). Do not arise.

PROPOSAL FOR RESTRICTING THE OUTPUT OF COAL.

156. THE HONOURABLE RAJA SIR RAGHUNANDAN PRASAD SINGH : Will Government be pleased to state whether there was a proposal for the coal raising control in the collieries of the Raniganj, Dhanbad, Jharia and other coal districts? If so, was the proposal made for the purposes of stopping wastage and unfair competition and for the purpose of raising the general price level of Indian coal? If so, will Government be pleased to state whether

the coal control proposal has been accepted by Government and, if so, when will the necessary legislation be effected?

THE HONOURABLE MR. A. G. CLOW: Proposals were made for restricting the output of coal with a view to securing a rise in price. These were rejected by Government. But Government have had under consideration for some time the question of exercising further control over the methods of extracting coal, both to secure a greater measure of safety for those employed and to prevent avoidable waste of coal resources. As I stated in this House on 24th April, they contemplate appointing a committee to advise them on the measures that should be taken. No legislation is likely to be undertaken until after the committee's report has been received and considered.

INAUGURATION OF FEDERATION.

157. THE HONOURABLE RAJA SIR RAGHUNANDAN PRASAD SINGH: Will the Federation be brought into existence soon after the introduction of provincial autonomy next year? If so, will Government be pleased to state whether the Federation will come into being by the beginning of 1938? If not, when is Federation expected?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: It is not possible at this stage to make a forecast as to the probable date of the inauguration of Federation.

ISSUE OF ORDERS BY THE POSTMASTER GENERAL, BENGAL AND ASSAM CIRCLE, FOR THE TRANSFER OF POSTAL AND RAILWAY MAIL SERVICE OFFICIALS.

158. THE HONOURABLE MR. H. P. BARUA: (a) Is it a fact that the Postmaster General, Bengal and Assam Circle, has issued orders for the transfer of postal and Railway Mail Service officials who have more than five years' service in one place? If so, has he got any instructions from Government to do so?

(b) Will Government be pleased to state whether such orders have been issued in other circles also? If not, why have such orders been issued especially in Bengal and Assam alone?

(c) Is it a fact that while making enquiry about the pay and prospects of the postal and Railway Mail Service officials in 1925, Sir Bhupendranath Mitra issued orders to recruit these officials from the revenue districts or divisions and to post them to their own districts or divisions? If so, why have orders been issued by the Postmaster General, Bengal and Assam Circle, in contravention of those previous orders?

(d) Is it a fact that nearly 80 per cent. of the officials will have to be transferred in the Railway Mail Service Division if these orders of the Postmaster General are given effect to?

(e) Are Government aware that the Calcutta University has introduced the system of teaching students in the respective vernaculars of Bengal and Assam from 1937 and that the Railway Mail Service officials will be put to great difficulty in the matter of the education of their children if Bengali officials are transferred to Assam and Assamese to Bengal under the said

orders of the Postmaster General, Bengal and Assam Circle? If so, do Government propose to rescind the said orders?

THE HONOURABLE MR. A. G. CLOW: (a) Instructions have been issued by the Postmaster General, Bengal and Assam, to Superintendents that post office clerks and sub-postmasters should not be retained in the same station for more than five years. I do not know if these orders extend to Railway Mail Service officials. No orders were issued by Government.

(b) I am not aware of any exactly similar orders, but orders of this character relating to clerks in Divisional Offices and some other employees have been issued elsewhere at the instance of the Director General of Posts and Telegraphs. The latter part of the question does not arise.

(c) The reply to the first part of the question is in the negative. The second part does not arise.

(d) As I have stated, I am not aware that the orders apply to the Railway Mail Service.

(e) I am not aware of the Calcutta University's intentions in the matter. The transfer of officials to areas where there are no schools teaching in their own language, though sometimes necessary, would give rise to some difficulty, but I have no reason to suppose that any wholesale inter-provincial transfer is contemplated. As regards the last part, I would refer to the answer I have given to part (d).

NUMBER OF GUARDS RECRUITED FOR THE LAHORE DIVISION, NORTH WESTERN RAILWAY.

159. THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE: Will Government be pleased to state:

(a) The number of guards appointed by the North Western Railway in the Lahore Division by direct recruitment in 1936?

(b) Whether all these guards recruited directly were transferred to the Delhi Division? If so, will Government be pleased to state whether a large number of permanent railway employees from the different grades of service in the Delhi Division of the North Western Railway have qualified themselves as guards after appearing at the necessary examinations? If so, will Government be pleased to state the reasons why these qualified men of the Delhi Division have not been absorbed before men were brought from the Lahore Division?

(c) Whether the seniority of the guards is based on an inter-divisional basis? If so, will Government be pleased to state why qualified men from Multan Division who are junior to the qualified men in the Delhi Division have been transferred to the Delhi Division as guards?

(d) The number of qualified guards now waiting to be absorbed in the Delhi Division?

(e) Whether these qualified guards qualified themselves along with those of the other qualified guards of other divisions?

THE HONOURABLE SIR GUTHRIE RUSSELL: I am collecting information and will lay a reply on the table of the House in due course.

BLICK STAFSINE MACHINES.

160. THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE :
(a) Is it a fact that the Railway Department have purchased two time punching machines for noting down the time of arrival and the time of departure of each member of the Railway Department staff ?

(b) Will Government be pleased to state :

(i) The number of men working in the Railway Department for whom these machines have been purchased ?

(ii) What system of checking attendance was in vogue in the Railway Department before these machines were purchased ?

(iii) The cost of maintaining the attendance register per annum and the reason it was given up in favour of these machines ; and

(iv) Whether these machines are from a British factory ?

(c) Is it a fact that some Railway Board officer is interested in the British factory manufacturing these machines ?

THE HONOURABLE SIR GUTHRIE RUSSELL : (a) Yes. Blick Stafsine machines.

(b) (i) Seventeen officers, 137 other staff.

(ii) The usual attendance registers used in most Government offices.

(iii) The cost of a book and part of the salary of the clerk maintaining it, but the machines were adopted as they afford a more effective check than the registers.

(iv) The machines were purchased through the Indian Stores Department. They are manufactured in England.

(c) No.

BLICK STAFSINE MACHINES PURCHASED BY STATE RAILWAYS.

161. THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE :
Will Government be pleased to state :

(a) How many machines like those in use in the Railway Board have been purchased up till now by the State Railways in India since those machines were first imported into India ?

(b) When was the first machine of the kind imported into India ?

(c) Whether the selling agent of this machine is a Britisher and is related to some officer of the Railway Board either at present working or some one who has just retired and gone to England.

THE HONOURABLE SIR GUTHRIE RUSSELL : (a) and (b). Government have no information on these points.

(c) The selling agents are Messrs. Walter Locke and Co. (1933), Ltd., Lahore, but no officer on the Railway Board is in any way related to any member of that firm.

USE OF BLICK STAFSINE MACHINES IN WORKSHOPS AND PRESSES.

162. THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE :
Will Government be pleased to state whether :

(a) Time-punching machines are used generally in Government workshops and printing presses where attendance of a large number of men is involved ?

(b) Time-punching machines and a time-keeper is employed in workshops and presses for employees who are paid overtime allowances or for payment according to the number of hours work is rendered ? If so, will Government be pleased to state whether the staff of the Railway Board will be paid overtime for extra hours put in by them or less for lesser number of hours of work rendered ? If not, what is the reason for importing these machines ?

(c) The cost of each of these machines is Rs. 700—or thereabouts and that this money has been spent from the contingent grant without previous sanction of the Finance Department ?

(d) The sanction of the Standing Finance Committee for Railways was obtained before spending the money ? If not, why not ?

(e) The officers of the Railway Board including the Member-in-charge are using this machine daily for keeping a record of their attendance ?

THE HONOURABLE SIR GUTHRIE RUSSELL : (a) Government have no information on this point.

(b) Allowances for overtime are inadmissible. The machines have been installed for the purpose of checking the times of arrival and departure of the staff.

(c) Previous sanction of the Finance Department was not required. Each machine cost Rs. 336.

(d) The sanction of the Standing Finance Committee was not required.

(e) The Honourable Member in charge of the Department does use the machine. The officers of the Railway Board record on the machine the time of their arrival and departure.

HOURS OF WORK OF OFFICERS AND OFFICE STAFF.

163. THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE :
Is it a fact that generally the subordinate staff in all Government departments and offices puts in more hours of work in office than the officers with higher salaries do ?

THE HONOURABLE MR. R. M. MAXWELL : The reply is in the negative.

LOSS OF INCOME BY THE KALKA-SIMLA RAILWAY DUE TO ROAD MOTOR COMPETITION.

164. THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE :
(a) Is it a fact that owing to road competition the Kalka-Simla Railway is losing income heavily and is being run at a loss ? If so, will Government be pleased to state whether the North Western Railway Administration have done

anything to regain their traffic from the road motor? If so, what are the steps they have taken during the last three years for that purpose?

(b) Will Government be pleased to state the number of rail motor passengers carried by the rail motors on the Kalka-Simla Railway during the last two years and will they be pleased to state the number of pass-holders who used the rail motor of the Kalka-Simla Railway during that period?

(c) Will Government be pleased to state the proportion of the pass-holders who travelled on the Kalka-Simla Railway to the total number of passengers carried on such rail motors during the last two years?

THE HONOURABLE SIR GUTHRIE RUSSELL: (a) I would refer the Honourable Member to the reply given by the Honourable Sir Maurice Brayshay to the Honourable Khan Bahadur Dr. Sir Nasarvanji Choksy's question No. 6 on the 17th September, 1935.

(b) 7,670, out of which 3,176½ were pass-holders.

(c) About 41 per cent.

RAISING OF RAIL MOTOR FARES BETWEEN SUMMER HILL AND SIMLA.

165. THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE: (a) Will Government be pleased to state when and why the rail motor fares between Summer Hill and Simla were raised from 9 annas to 14 annas a trip?

(b) Will Government be pleased to state the earnings from the rail motor passenger traffic between Summer Hill and Simla during the years 1933, 1934, 1935 and in 1936 till July?

(c) Do Government propose to reduce the fares on monthly tickets by rail motors between Summer Hill and Simla? If not, why not?

THE HONOURABLE SIR GUTHRIE RUSSELL: (a) Passenger fares were reduced over the Kalka-Simla section from 1st March, 1933 as an experimental measure, and the cost of a single journey first class ticket from Summer Hill to Simla was then reduced from fourteen annas to nine annas. As the experiment did not prove successful, the fares previously in force were reverted to.

(b) Earnings from passengers carried by rail motor are not separately recorded. The total earnings from first class passengers between Summer Hill and Simla in 1933 were Rs. 485-1-0, in 1934 Rs. 115-11-0, in 1935 Rs. 160-10-0 and in 1936 up to the end of July Rs. 108-8-0.

(c) No: the basis for charge is the same as between any other two stations on the North Western Railway, and there is no particular reason for differentiating in the fares between Summer Hill and Simla.

NORTH WESTERN RAILWAY BOOKING OFFICE ON THE MALL, SIMLA.

166. THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE: Will Government be pleased to state whether the North Western Railway Booking Office in Simla on The Mall is self-supporting or is a losing concern? If

it is a losing concern, is it kept open only for the convenience of the European officials?

THE HONOURABLE SIR GUTHRIE RUSSELL: I am unable to understand the Honourable Member's question. The provision of booking offices in large towns away from a railway station is intended to afford additional facilities and conveniences to passengers, and there can, therefore, be no question of any such office being either self-supporting or a losing concern. The latter part of the question does not therefore arise. It will, however, interest the Honourable Member to know that during the months of May to September, 1936, 785 third class tickets were issued from this booking office in addition to over 1,000 tickets of other classes.

FORMATION OF A STEEL MERGER IN INDIA.

167. THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE:

(a) Will Government be pleased to state whether a Steel Merger Company has been formed in India? If so, will Government be pleased to state whether Government has recognised such a merger company for the purposes of placing orders for steel and steel materials required by Government and State Railways?

(b) Will Government be pleased to state the amount of British capital and the amount of Indian capital invested in the company and the ratio each of such capitals bear to the whole capital of the company?

(c) Will Government be pleased to state the number of Indian shareholders and number of British shareholders in the company?

(d) Are Government aware that such a merger has been formed for the purposes of unfair competition with other Indian steel companies that are in existence and will come into being and which are outside the merger company?

THE HONOURABLE MR. H. DOW: (a) Government have seen reports about the proposal in the press. They have not been approached for any concession by the promoters. It is not possible to supply detailed information about the company before it is registered.

(b) and (c). The information is not available.

(d) No.

STATEMENT LAID ON THE TABLE.

PROTECTION OF INDIAN INTERESTS IN PALESTINE.

THE HONOURABLE SIR BERTRAND GLANCY (Political Secretary): Sir, I lay on the table the information promised in reply to question No. 7 asked by the Honourable Kunwar Haji Ismail Ali Khan on the 22nd September, 1936.

(a) Yes.

(b) and (c). As far as the Government of India are aware there is no representative of the "Indian Association" in the Supreme Moslem Council, but any complaint submitted by a member of the Indian community is duly considered by the Government of Palestine. The Government of India therefore do not propose to take any action in the matter.

DURGAH KHWAJA SAHEB BILL.

THE HONOURABLE THE PRESIDENT: Raja Ghazanfar Ali Khan, the next item on the list of business is your Bill. You will now proceed with your speech, but I may remind you that you made a very exhaustive speech on the 26th of February, 1936 and the whole proceedings have been reported. It is not necessary for you, therefore, to traverse over the whole ground again, but in a few words you will explain to the House the purport of this Bill.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN (West Punjab : Muhammadan): Sir, at the very outset of my speech I think it would be appropriate that I give a very brief history of this piece of legislation. As Honourable Members are aware, the Bill was first introduced in the last Simla session. It reached the consideration stage in February last and then on an objection being raised regarding the validity of the Bill on the ground that the Governor General's previous sanction had not been obtained, I agreed to withdraw the Bill. On the same day I gave notice of a fresh Bill. And, Sir, here I must acknowledge that you were kind enough to provide every possible facility for this Bill coming before the House before the session was over. I, Sir, further acknowledge the kindness shown by my Honourable friend, the Political Secretary, for circulating this Bill under executive order. This was what I had expected, Sir, after the Government of India had made a technical mistake in writing to me that the Bill did not require the Governor General's sanction.

Well, Sir, this new Bill was introduced some time in March last and six months have now passed. So much has been written about this Bill in all the papers all over India, whether English or vernacular, that it would be hardly necessary for me to give the details. It is a matter of gratification, Sir, that the Bill has received universal support. I have not come across a single opinion expressed by either any Local Government or any public body who are opposed to the principle of the Bill. Of course, certain suggestions have been made with regard to the changing or amending of certain clauses. But everybody agrees that the state of affairs now prevailing in Ajmer requires to be eradicated.

Now, Sir, as you very kindly remarked, I made quite an exhaustive speech in connection with the last Bill, therefore I have no intention to detain the House on that point; but to refresh the memory of Honourable Members I will very briefly narrate the short history of this greatest holy place of Muslims in India, in regard to which this Bill has been brought forward. The Durgah is the greatest Muslim centre and the Durgah Khwaja Saheb of Ajmer is regarded with the greatest veneration by high and low alike. The Saint hailed from Seistan and was universally venerated for his piety. The Kings of Malwa, the Moghul Emperors of India, and lately, the Nizam of Hyderabad, and other Muslims have contributed to the building of the dome, mosques and other structures in the Durgah. The Durgah was first endowed by King Akbar the Great in 1567. But, Sir, as I know my Honourable friend, Colonel Nawab Sir Mahomed Akbar Khan, who we all know is a great authority on history and religion, will be able to throw more light on this aspect of the subject, I pass on to my next point.

Sir, from the very commencement of the Durgah, the property remained under the direct management of the Moghul Emperors. They used to issue *farmans* appointing mutawallis and also giving instructions as to how the property should be managed. In 1818, the Collector of Ajmer, when the British occupied the territory, took charge of the management of the Durgah and up to 1863 the Durgah was managed by the Collector of Ajmer through a manager. Then, Sir, some agitation was started in England that it was not a wise policy for the British Government to interfere in the management of religious places and the result was that the Religious Endowments Act of 1863 was passed according to which an inquiry was to be made whether a particular religious place was managed by a hereditary mutawalli or manager or a non-hereditary one, and it was decided that in those places where the mutawalli was not hereditary a committee should be appointed to make arrangements. This committee was appointed in 1866. Sir, the constitution of the committee and how the election takes place is, I am sure, fresh in the memory of Honourable Members. The period of membership is lifetime, and the method of election is that whenever one member dies, the other members put up a notice that all those people who are interested in voting should reach a certain place by 12 noon. When they are collected there, the members of the committee stand outside the gate and every single voter passes and records his vote. The votes are then counted and the man who obtains the largest number of votes is declared elected. The committee consists of five members, the mutawalli, the sajjadanashin, two khadims and one independent Muslim from Ajmer. It is also laid down that the independent Muslim should always be the president of the committee. Sir, for the last several years, unfortunately, this shrine has been the resort of civil suits, litigation and various quarrels, with the result that the management of this great shrine has deteriorated to a very great extent. It was noted some time ago by the officers on the spot, the District Magistrates of Ajmer, that things in Ajmer regarding this Durgah management were unsatisfactory and that something should be done. I would remind Honourable Members that if there is any party who can be called responsible for my bringing forward this measure, it is the Government officials, particularly the Political Department. I had no intention of meddling in the affairs of a Durgah which is situated at such a long distance from my own residence, but when I read the opinions expressed by such unbiassed and impartial officers whom I knew personally, and for whose opinions I had great regard, I thought I must bring forward this measure. Sir, I would appeal to all Honourable Members here, whether they be Muhammadans or non-Muhammadans, whether they be officials or non-officials, kindly to listen carefully to the extracts which I am going to read. I am reading from page 8 of the small pamphlet circulated to Honourable Members, entitled "*What Indian Mussalmans and Provincial Governments in India think of the Durgah Khwaja Sahib Ajmer Bill*". Mr. E. B. Howell, District Magistrate, Ajmer, writes in the course of a judgment:

"I cannot refrain from the comment that this case presents a striking picture of the management of the Durgah, the holiest Muhammadan shrine in India, which, if anything, might have been expected to enjoy some degree of immunity from the unbridled rapacity of its attendants. But with a manager slovenly careless and unbusinesslike to the last degree, besides being by no means above suspicion in the matter of honesty, the greedy horde of his underlings have matters all their own way. And if the great one to whom the

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shrine is dedicated can still take cognisance of mundane matters he must contemplate with profound melancholy the degeneracy and incompetence of his modern representatives ”.

Sir, this is an opinion expressed by an impartial judge, an officer who lived in Ajmer for a number of years and who had personally to deal with the various quarrels arising between the various members of the committee and the management.

Then, Sir, the late Sir Charles Watson, whom I am sure most of the Honourable Members present here know, wrote in one of his judgments :

“ I share the opinion of my predecessors that the present constitution of the Durgah Committee is lamentably ill-fitted to secure the conservation of the shrine in the interest of the worshippers as a whole. Past experience has shown that the president, who is the only independent member, is powerless in the face of combinations among and quarrels between the other members who are more interested in securing profit to themselves than in using the revenue of the shrine for the charitable and religious objects demanded by an enlightened public opinion. The remedy is to have the Notification of 1867 and Act XX of 1863 amended by legislation ”.

Sir, this was written, I think, some time in 1923 or 1924. Twelve years have elapsed. One would expect that the Government would themselves take the initiative in the matter. But I regret, Sir, that the Government followed the old, old policy of just confining their activities to matters which concern the administration directly and not taking any steps towards improving the social or religious conditions in this country. I do not know, Sir, what attitude the Government are going to adopt today towards my Bill which, as I have proved, was brought at their instance? But from what I can judge from the symptoms, they are still suffering from that old disease of caution and being careful not even to help or co-operate in bringing forward or encouraging any social legislation.

THE HONOURABLE THE PRESIDENT: Why do you say that the Bill was brought at their instance?

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: Because, Sir, Sir Charles Watson said that the only remedy was to have the Act of 1863 amended by legislation.

THE HONOURABLE THE PRESIDENT: That has nothing to do with Government.

THE HONOURABLE MR. MAHMOOD SUHRAWARDY (West Bengal: Muhammadan): Local conditions then were different.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: Then I will remind the Honourable the Political Secretary that the Muhammadans of Ajmer submitted a Durgah Bill to the Agent to the Governor General at Rajputana. The Agent to the Governor General forwarded that Bill to the Government of India and the Government of India wrote back that the initiative should be taken by some private individual.

THE HONOURABLE THE PRESIDENT: That is quite different.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: That is exactly my point. It is the duty of the Government to help in removing the evils

which prevail in this sacred and holy place. It is more so when the Government have already interfered in such religious matters. If no Act were applied to the Ajmer Durgah, if the Durgah at Ajmer were managed by some private individuals or some private body, I would certainly have said that the Government are justified in saying that this matter should be left to the private members. But when the Government have already applied their Act of 1863 to it and the present committee is appointed by the Government themselves under the terms of that Act, then is it not the duty of the Government, when their officers have discovered that this Act is defective, to take the initiative and try to mend matters? However, Sir, when Government have now read the opinions expressed by the various Local Governments and various Muslim Associations I do expect that they would help me in getting this Bill through.

Now, Sir, I will not at this stage discuss the various clauses of the Bill. I will just confine myself to reading one or two opinions expressed by authorities who have a direct knowledge of the administration. The Agent to the Governor General in Rajputana says there is a strong body of opinion in favour of the Bill and only a minority who are interested are opposed to this Bill. He says:

“ The mutawalli, who is the head of the khadims, a body consisting of some hundreds of persons, contends that Muhammadan law, the *farmans* of the Moghul Emperors and decisions of civil courts alike require that the post should be hereditary. But the fact remains that it was not hereditary originally although it may have become so. The mutawalli's present legal position is however really irrelevant to the consideration of the present Bill, for whatever that position may be, there is no doubt that if this Bill becomes law, his position then will not be a hereditary one and he will not be a member of the committee of management. It is evident that hereditary managership is not conducive to efficient management. Moreover, if the management of religious property is hereditary in a family there must be inevitably a tendency in course of time for the members of that family to regard the property as their own ”.

Now, that is the opinion expressed by the present Agent to the Governor General in Rajputana. Then, Sir, the president of the present committee, Khan Bahadur Abdul Wahid Khan, strongly supports this Bill. Certainly, nobody could be in a better position to give an opinion about the management of the committee than the president of the committee himself. In view of these opinions I would appeal to Honourable Members to help me in getting this important Bill passed. Sir, I remember that in the Punjab Council when the Sikh Gurdwara Bill was brought His Excellency Sir Malcolm Hailey declared that the policy of the Government should be to help the communities who want to improve the management of their religious places. I would here remind my Honourable friends who are non-Muslims that when this Gurdwara Bill was brought forward there was not a single Muslim Member of the Punjab Council who did not support it. They said, we in this country cannot possibly desire to get separate legislatures for Hindus, Sikhs, and Muslims. Sometimes questions will come up which concern the Muslim community alone; at other times some measure will come up which concern the Parsi community alone, and so on. And if Members who belong to communities other than the one which happens to be concerned remain indifferent towards the fate of such measures, then I am sure we will not be honestly performing the duties which we are required to perform on being elected to this House. I would

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appeal to all Members to consider the matter in a judicial spirit, to weigh the merits of each clause and to record their votes in accordance with their conscience. I am sure that my Honourable Muhammadan friends will support this Bill and I may assure them that all the amendments which I consider reasonable and fair I will have no hesitation in accepting.

Sir, with these words, I commend the Bill to the Council.

THE HONOURABLE SIR BERTRAND GLANCY (Political Secretary): Sir, may I say one word about the attitude of the Government as regards this Bill. Government have got every sympathy for the welfare of the Durgah Khwaja Sahib, but they think that any questions relating to changes in its management should appropriately be left to those who are more directly concerned in Durgah affairs. The attitude of Government as regards this Bill is therefore strictly neutral.

THE HONOURABLE THE PRESIDENT: Honourable Members, I am now in possession of the list of amendments that have been proposed to this Bill to be moved today. It is necessary, therefore, before I allow a formal debate on the Bill itself, to dispose of some of the amendments. There are three descriptions of amendments. One set wish to refer the Bill to a Select Committee; another to circulate the Bill for eliciting public opinion; and the other to effect modifications in the clauses of the Bill. As regards the amendments for circulation, in view of the fact that Government have already circulated the Bill for public opinion and opinions have been obtained from all classes and especially from Local Governments, I consider this a dilatory Motion and I do not propose to allow amendments under this head.

Then, as regards reference of the Bill to Select Committee, I have received this morning an amendment from the Honourable Mr. Suhrawardy on the same lines as the amendment of the Honourable Saiyed Mohamed Padshah Sahib Bahadur who, I was informed by Mr. Suhrawardy, was ill, but I find that he is in his seat here today.

THE HONOURABLE SAIYED MOHAMED PADSHAH SAHIB BAHADUR (Madras: Muhammadan): Sir, I was not well yesterday.

THE HONOURABLE THE PRESIDENT: Then it is not necessary for me to consider Mr. Suhrawardy's amendment, and I will ask the Honourable Saiyed Mohamed Padshah Sahib Bahadur to move his amendment but to confine himself strictly to the amendment and not deal with the main Motion. Because if the amendment is carried there will be no need to discuss the main Motion, and if it is defeated I will allow a full dress debate on the original Motion.

THE HONOURABLE SAIYED MOHAMED PADSHAH SAHIB BAHADUR: I propose not to move my amendment about reference to Select Committee. Since sending in my amendment there has been some discussion between some of us and the Honourable mover and we have come to an agreement in regard to the Bill.

THE HONOURABLE THE PRESIDENT: I am not concerned with your agreement but wish to know whether you propose to move the amendment or not?

THE HONOURABLE SAIYED MOHAMED PADSHAH SAHIB BAHADUR: I do not propose to move the amendment as regards the Select Committee. But, with your permission, Sir, I would like to make some observations regarding the Motion before the House.

THE HONOURABLE THE PRESIDENT: That you can do at a later stage. The Honourable Mr. Suhrawardy.

THE HONOURABLE Mr. MAHMOOD SUHRAWARDY: Sir, I thank you for the courtesy shown in allowing me to speak on the floor of the House. I do not understand why my friend, the Honourable Saiyed Mohamed Padshah Sahib Bahadur, has adopted a new policy today. It is a shameful matter for the Muhammadans.

THE HONOURABLE THE PRESIDENT: Order, order.

THE HONOURABLE Mr. MAHMOOD SUHRAWARDY: Sir, we agreed that this Bill should be referred to a Select Committee.

THE HONOURABLE THE PRESIDENT: Please do not make any reference to what was agreed outside this House or use any unparliamentary language.

THE HONOURABLE Mr. MAHMOOD SUHRAWARDY: I should like, with your permission, Sir, to move my amendment. It is identically the same.

THE HONOURABLE THE PRESIDENT: I will give my ruling presently.

THE HONOURABLE KUNWAR HAJI ISMAIL ALI KHAN (United Provinces: Nominated Non-Official): Sir, on a point of order. The amendment proposed by my friend Mr. Mahmood Suhrawardy is an amendment to an amendment of the Honourable Saiyed Mohamed Padshah Sahib Bahadur.

THE HONOURABLE THE PRESIDENT: Order, order. He has not yet moved the amendment. When I allow him to move it and when he moves then you can raise the point.

In the circumstances stated by the Honourable Mr. Suhrawardy, I think it is only fair on my part that I should allow him an opportunity of moving his amendment, particularly as the opinions which are given on the paper and which I have read are of great importance, complexity and are capable of wrong interpretation. It is only fair therefore that I should allow the Honourable Member to move his amendment, especially as it was understood that the Honourable Saiyed Mohamed Padshah Sahib Bahadur would move it and I should not like the Council to be deprived of the opportunity of referring the case to a Select Committee.

THE HONOURABLE Mr. MAHMOOD SUHRAWARDY: Mr. President, I thank you for the courtesy and the justice you have done to me in allowing me to move my amendment, which is of all-India importance and which affects the Muslims all over India.

THE HONOURABLE THE PRESIDENT: Will you please read the amendment first?

THE HONOURABLE MR. MAHMOOD SUHRAWARDY: Very well, Sir.

"That the Bill be referred to a Select Committee consisting of (the names of the members to be mentioned here)——"

THE HONOURABLE THE PRESIDENT: Will you please mention the names!

THE HONOURABLE MR. MAHMOOD SUHRAWARDY: The Honourable Rai Bahadur Lala Ram Saran Das, Khan Bahadur Abdul Halim——(Sir, I accept the names which the Honourable Saiyed Mohamed Padshah Sahib Bahadur has supplied.)

THE HONOURABLE THE PRESIDENT: I have not got the list here. You have not given me the list.

THE HONOURABLE MR. MAHMOOD SUHRAWARDY: I am going to supply the list. I will read out the names.

THE HONOURABLE THE PRESIDENT: You can read out the names and immediately give the list to me.

THE HONOURABLE MR. MAHMOOD SUHRAWARDY: The Honourable Sir Bertrand Glancy, Mr. Shavax A. Lal, Rai Bahadur Lala Ram Saran Das, Khan Bahadur Abdul Halim, Sir David Devadoss, Raja Ghazanfar Ali Khan, Nawab Sir Mahomed Akbar Khan, Nawab Sir Hayat Khan Noon, Khan Bahadur Shams-ud-Din Haidar, Kunwar Haji Ismail Ali Khan, and the mover.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: On a point of order, Sir. In accordance with the Standing Order and the practice here, anybody who proposes the names of members of a Select Committee should take their consent first whether they are prepared to serve. I can assure you, Sir, that the Honourable Member has not taken my consent. He has not asked me and I have not given my consent. I refuse to give it. Similarly, he has not taken the consent of any Honourable Member whose name he has mentioned, and I am sure they are not prepared to serve on the Select Committee.

THE HONOURABLE THE PRESIDENT: The point of order is quite correct. There is no doubt that an Honourable Member who proposes names of members to a Select Committee must take their consent. There is no Standing Order to that effect, but it is the general practice. But in regard to yourself (Honourable Raja Ghazanfar Ali Khan) he has done you the courtesy as the mover of the Bill. Your objection on that score does not stand. Certainly, I am not aware whether other Honourable Members whose names he has mentioned have consented to serve on this Select Committee or not. If they have not consented to serve on the Select Committee, you cannot include their names.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab: Non-Muhammadan): Sir, I have not given my consent to serve on the Select Committee.

THE HONOURABLE NAWAB MALIK SIR MOHAMMAD HAYAT KHAN NOON (Punjab: Nominated Non-Official): Nor have I given my consent.

THE HONOURABLE SAIYED MOHAMED PADSHAH SAHIB BAHADUR: No, Sir, I have not given my consent.

THE HONOURABLE KUNWAR HAJI ISMAIL ALI KHAN: No, Sir.

THE HONOURABLE MR. MAHMOOD SUHRAWARDY (to the Honourable Rai Bahadur Lala Ram Saran Das): You were not in your seat and therefore I asked your Deputy.

THE HONOURABLE THE PRESIDENT: And Sir Phiroze Sethna?

THE HONOURABLE SIR PHIROZE SETHNA: No, Sir, I have not given my consent.

THE HONOURABLE THE PRESIDENT: All the Honourable Members whom you proposed to ask to serve on the Committee are not willing. Under the circumstances your amendment cannot be moved. The debate will proceed. I do not propose to allow the other dilatory Motions to be moved. The debate will therefore proceed on the main Motion.

THE HONOURABLE LIEUTENANT-COLONEL NAWAB SIR MAHOMED AKBAR KHAN (North-West Frontier Province: Nominated Non-Official): Sir, before proceeding to discuss the Durgah Khwaja Saheb Bill I would like to discuss and give a brief history of the wakf property and how it came to be recognised in Islam. Sir, Islam is no new religion. It is a mistaken view of some of the Christian missionaries and of the other religious authorities to say that Hazrat Mohammad originated Islam. Islam is as old as mankind. From Adam down to the Grand Patriarch Hazrat Ibrahim, the religion of Islam remained and it was called Hanifia, and a Muslim in those days was called Hanif. The first charitable endowment in the world was the dedication of a certain land by Hazrat Ibrahim, the Grand Patriarch, and his son Ismail in the name of the Invisible Almighty God, the strip of land called Kaba in Mecca. The Temple of Jerusalem was built by Hazrat Sulaiman, the son of Hazrat Daud, i.e., Solomon, the son of David, at about 1000 B.C. Hazrat Ibrahim, together with his son Ismail dedicated the Kaba or the Temple of Mecca about 4000 B.C., so the Temple at Jerusalem is at least 3,000 years after the first wakf and dedication of Kaba to God Almighty. After a long study of Indian history and the history of Persia, I can boldly say that Ramesh Chandra Dutt in his history of India clearly says that no temple to worship God was ever established in India before 3000 B.C. On the other hand the civilisation of Persia is much older than that of India and even in Persian history no trace can be found of any temple or place of worship before 3500 B.C. So, Sir, I can prove it that the Kaba in Mecca is the oldest dedication of land to God and is supposed to be the oldest wakf in the world. As I have previously said that Islam is as old as the creation of the first human being in the world and the dedication of Kaba by Hazrat Ibrahim is undoubtedly the oldest wakf and the temple of God for His worship.

The word Hanif, the religion of Hanifia, or Hunafa, means the people who follow the right path. Islam means submission to the right path. In fact Hanif or Hanifia and Islam are synonymous words in the Arabic language for

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the people following the right path. We Mussalmans claim that from Adam to Ibrahim every Muslim in those days was called Hanif worshipping the one Invisible God. Hazrat Mhammad purified the Hanifia religion, and the Kaba, that is, the first temple and first strip of land dedicated to God Almighty for His worship as a temple, to the form of the days of the Grand Patriarch Hazrat Ibrahim and his son Ismail. Sir, I am mentioning these facts for the benefit of the non-Muslim Members of this House, so that they might be able to judge aright the present case.

Secondly, when I speak on this subject, I do so because the Afghans were the first people who brought the Muhammadan religion into India in the days of Subaktagin and Mahmud of Ghazni in the Tenth and Eleventh Century A.D. Amir Mohlib's conquest up to Multan and Kassim's conquest of Sindh past like a whirlwind without leaving any trace of Muhammadanism behind it. The advent of Muhammadanism came into India through the source of the Afghan population, both by preaching as missionaries and the crusade called *jihad*, and hence every Afghan recognises himself to be the custodian of this religion in India. As I spoke two years ago in my well-known address, "The Islamic Influences in Europe and the World", at the Anjuman-i-Hemayatul Islam, Lahore, a pamphlet of 250 pages, which most of the Muslim Members of the present Legislature must have studied because the Anjuman-i-Hemayatul Islam, Lahore, distributed it freely in India and in that lengthy address of mine I proved it full well that no Arab preacher or lawgiver ever came to India to preach Muhammadanism here. All the Muhammadan Saints that came to India were people from Afghanistan and they devoted their life to the upliftment of humanity spiritually. They are commonly known as Sufis and with regard to Sufism in Islam I would like to explain to the non-Muslim Members of this House that renunciation of the world together with complete seclusion and a continual system of worshipping God, wholly devoting oneself to the worship of Almighty God and leading a quiet and pious life is called Sufism in Islam. There are four schools of thought of Sufism in Islam and these are: (1) Qadaria, (2) Chishtia, (3) Naqashbandia, and (4) Suhrawadia. A Sufi in Islam represents the Rishi of Hinduism, or the Guru of Sikhism and the Saint of Christianity, such as Vishva-Mitar, Jamadagni Kashap-Rishi, Valmaki, Mahatma Buddha, Sri Guru Baba Nanak Sahib, Guru Ramdas Ji, Guru Amardas Ji, Saint Anthony and Saint Augustine. To a Sufi or a Rishi, a Guru and a Saint there is no difference between any two religions, for they are not at all concerned with the conversion of anybody but are always exerting for the upliftment and betterment of humanity spiritually. Khwaja Moinuddin was a Sufi of the Chishtia school which got its origin from a village named Chisht in the Herat district in Afghanistan. All the Muhammadan law Commentators were mostly people from Afghanistan and Central Asia and even now the Afghan population of the Frontier and Afghanistan is supposed to be the most learned and well versed in Muhammadan law throughout the Islamic world.

Khwaja Moinuddin Chisthi, a resident of the village Chisht in the Herat district, came with Mohamed Ghauri in his well-known crusade or *jihad* of 1192 A.D. After disposing off the forces of Rai Pathora or Prithvi Raj in the battle

of Thanaser, Mohamed Ghauri entered Delhi and appointed one of his slaves named Qutbuddin Abeck as his viceroy in India. He gave over the Raj of Ajmer to the son of Prithvi Raj after the death of Prithvi Raj, but as the son found it difficult to acquire the suzerainty of Ajmer, Mohamed Ghauri with Khwaja Moinuddin Chishti hastened to his relief and established him there as the Raja of that place. On his return, Khwaja Moinuddin refused to go back to Afghanistan and undertook the work of a Muslim Sufi at Ajmer. As an Afghan Mussalman and keenly interested in the knowledge of history, I know more about the arrival of the Khwaja Saheb in India and for the information of the Honourable Members I would like to state that he was born at Chisht in 536 A.H. corresponding to 1117 A.D. He migrated to India in 611 A.H. corresponding to 1192 A.D. and died intestate in 633 A.H. corresponding to 1235 A.D. He did not bring his family with him to India, nor did he marry here because at the time of his migration to India he was nearly 75 years old. He died at the advanced age of 97 years, working for the spiritual upliftment of the people of this country for nearly 22 years. There are no direct descendants of his anywhere in India according to Tabqat-i-Nasari of Minhaj-jussaraj and this historical fact is further supported by Allama Abul Fazal in his well-known book, *Akbar Nama*, Volume II. Although Shaikh Hussain, an ancestor of the present Diwan Saheb of the Durgah Khwaja Saheb claimed to be a descendant of the Khwaja Saheb in the reign of the Moghul Emperor Akbar with the result that Akbar deputed his minister Abul Fazal to enquire into the genuineness of this descent of Shaikh Hussain. The finding of the inquiry in the actual wordings of Allama Abul Fazal was that:

"Bād az pairavi bisyar mālum shud ki dāvai-farzandi hāch asl nadāshst".

I am quoting this from memory because I have not the book with me and this quotation means that after a good deal of investigation and exertion this descent seems to be of non-existence. Subsequently, Mullah Abdul Qadar of Badayun in his well-known history, *Muntakhib-ut-Tawarikh*, says that although it is rumoured that the Khwaja Saheb had left descendants but, honestly speaking, there are no descendants of his as he died intestate. Well, Sir, I have the authority of Tabqat-i-Nasri, Akbar-Nama and Muntakhib-ut-Tawarikh, all of the one opinion that there do not exist any direct descendant of Khwaja Saheb in India. On the other hand the khadims and mutawalli claim their descent from Khwaja Fakhruddin Gardazi. Gardez is another village in Afghanistan and they claim that Fakhruddin Gardazi was a disciple and deputy of the Khwaja Saheb. But historically I am not in a position to verify this descent also. To the best of my information the Khwaja Saheb died childless, but if there is any descendant of his, he is not entitled to any share in the wakf of Durgah, because the wakf, *i.e.*, Khwaja Saheb, never left any will.

What is my own historical knowledge about this wakf is that Khwaja Moinuddin Chisthi took up his abode first on the hill which overlooks the Daulatbagh and subsequently at the Tripolia Darwaza where he lived up to the advanced age of 97 years. After his death people began to make pilgrimages to his tomb. The Durgah was commenced in the time of Shamshuddin Altamash and it was enlarged in the time of Giasuddin and in the reign of Akbar a mosque was built. Shahjahan built the present marble mosque. An Urs began to be held at the tomb for six days during the month of Rajab for it is

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uncertain on what day he died. Offerings began to be offered at the shrine which were divided between the diwan and the khadims. The Durgah was first endowed by Akbar and the first sanad on record is one of that Emperor of the year 1567 granting 18 villages and one per cent. on the sale of salt at Sambhar as Wakf-i-Langar-i-Mazar, i.e., "as a charitable endowment to the shrine". Of these villages only two, that is Nabab and Kanea, are now in the possession of the Durgah. In the tenth year of his reign, i.e., 1637 A.D., Shahjahan cancelled the old *farman* and gave a new jagir of the annual value of Rs. 25,780. Of this amount Rs. 10,057 was to be granted in cash and the remainder Rs. 15,723 was the estimated rental of 17 villages, i.e., Nabab, Parbatpura, Chandsain, Khwajpora, Kayar, Massena, Birwae, Koraree, Khyria, Pecholean, Tillora, Kishanpora, Hokran, Kanea, Raila, Kotree and Arnea. According to the sanad this grant is made as

"Waqf-i-raozai munawwara muqaddassa sarf-ul-urs wa langar-o-roshnai wa farsh-o-gul-o-arbabi-masjid-o-wazaif ashabi-istihqaque wa hifaz wa sadr-ul-warid wa sair wa wajh-al-khairat wa mabarāt".

Farukhsair added Budhwara and Dautra to the grant of 17 villages named above. It holds therefore 19 villages of which 16 are in British territory but including Kadampore which was separated from Nabab before the present measurement, it holds 17 villages in the Ajmer district. Of these 19 villages, 14 belong to the first class, three to the second, and so on. In the year 1769 Shah Alam issued a *farman* granting Hokran, Kishanpora to the Diwan Syed Imanud Din. In 1802 Daulat Rao Scindia granted Dantra, to Mir Azimullah Mutawali "Baiwaz Roziana Mutawali", i.e., for daily maintenance of the mutawalli. The annual value of Hokran and Kishanpora on an average of ten years collections is Rs. 3,534, that of Dantra Rs. 3,544. In this place it will be better for me to give the definitions of all the three classes of jagirs granted in regard to the Durgah. These are as follows:

1. (a) Endowments of the institution themselves.
- (b) Endowments of offices connected with the institution.
2. Grants to individuals.
3. Grants to corporations of which no name is specified in the grants.

This wakf is meant for the sacred shrine to be spent on lighting, carpeting floor, flowers, at oblations, hospitality to the congregation of the mosque, and to the pilgrims. Stipend to deserving persons such as the Reciter of the Koran, and stipulation to important pious persons engaged in wazaif, and other charitable purposes.

The cancellation of Akbar's *farman* of 1567 A.D. by Shahjahan is quite illegal and unauthorised in Muhammadan law because a wakf once made by a person cannot be cancelled, changed or substituted by another, and hence Shahjahan had no authority to cancel the wakf of his grand-father Akbar. It is therefore desired that the 16 villages taken by Shahjahan from the wakf of Akbar and the income of one per cent. sale of salt at Sambhar should be restored to the Durgah.

Now, Sir, it is claimed by the Diwan Saheb and most probably by the mover of this Bill that the village of Arnea, Raylon, Kotri and Sampdara situated in Udepur State, are leased out to some Thakars there. On the other hand, the mutawalli's party claim that these are certain villages administered by the Diwan Saheb as his personal property. Well, Sir, I must warn both the parties that wakf property is wakf property and that there can be no adverse possession of it and also that there can be no encumbrance on it. It can never be the personal property of anybody both according to the Muhammadan law corresponding to the existing British law by which we are administered at present. Because the Sikhs had a certain property in Pir Kali near Nowshera dedicated to Bhai Phula Singh Akalis' shrine, and certain Pathan individuals bought that property. The Sikh Gurdwara Committee brought a suit against them and the Judicial Commissioner, North-West Frontier Province, Mr. Barton (who eventually retired as Sir William Barton from the post of Resident of Hyderabad), decided that no adverse possession or sale of any wakf or charitable property can be valid and legalised under any court and hence the vendees must suffer for their indiscretion in buying such charitable and wakf lands.

Now, Sir, the controversy between the diwan (sajjadanashin) and the mutawalli (guardian) of this shrine or Durgah is no secret from anybody.

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Both of these factions tried to see me at Hoti and even here at Delhi, and I have heard both the parties very patiently. My reply to both of them was that as I am an Afghan Mussalman I will not take sides with any of them. As the Durgah belongs to a resident of Afghanistan my judgment on this question will be quite an impartial one. But, Sir, the difficulty is that each side, i.e., the diwan supported by the Honourable Raja Ghazanfar Ali Khan are both of the one and same opinion that the post of mutawalli (guardian) is not an hereditary one; on the other hand, the mutawalli in his book and pamphlet calls himself the hereditary mutawalli. The question is how the present aukaf originated, whether the donors or wakfs gave it to the Durgah nominating the mutawalli's ancestors to be hereditary, or during their life, or temporary mutawallis, for a certain period. Unless one can see the old Persian sanads or true copies of them, it is impossible for us here to decide one way or the other. To my mind the best course will be that the matter should be placed before a Board of Ulemas consisting of Jamiatul-Ulema, Deoband, Nadwah and one or two Ulemas of the North-West Frontier Province and all the sanads and other necessary papers placed before them, so that the unanimous school of the Hanafi sect called Sunatul-Jamat should pass a valid verdict on it. At the same time it cannot be definitely said how much of this wakf was donated in the lifetime of Khwaja Saheb for his mission and how much after his death by various Afghan rulers of India until its conquest by Babar in the year 1526 A.D. To the best of my information some thing was given by the Emperor Akbar and the greater portion of it was added by Shahjahan. What was given by his successors or the various Rajput Chiefs and Rajas is not known to me, and unless we know something about their respective sanads it is impossible for us to form an opinion on this subject.

Anyhow, as far as my knowledge goes, a wakf property is meant for a certain class, if the donor (wakf) intend to do so, and when that particular

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class becomes extinct the property is for the general public of the Mussalmans, and is supposed to be the property of God Almighty to be administered for the benefit of the Muslim community at large. No adverse possession of a thousand or two thousand years of it can ever have its force on wakf lands and no king or ruler can give the wakf property to anybody against the donor's will. If the original donor (wakf) gave the property to the Durgah it is wakf land and no judgment or sanad of any sort can make it the personal property of anybody. The question of wakf, Sir, is the patrimony of the Mussalmans from the days of the Grand Patriarch Hazrat Ibrahim known in Europe as Abraham who flourished about 4000 B.C., and the solution of wakf lands is a very simple matter for a Mussalman knowing Muhammadan law, if the attested copies are produced for his study. Every Frontier Afghan is bound to know something about Muhammadan law and it is an acknowledged fact even nowadays that our Ulemas know the Muhammadan law much better than the rest of the Muhammadan world. The perusal of the attested copies will enable the Frontier Ulemas, within an hour, to pass the proper verdict on this controversial subject. Someone, I do not know has sent me a booklet in Urdu containing the Fatwas of (1) Maulvi Abdul Hanan of Hoti, a prominent Maulvi well versed in Muhammadan law, (2) Sahib-i-Haq of Rajjar, another Maulvi of undisputed reputation in Muhammadan law on the Frontier, and (3) Mufti Kafaitullah Sahib of Delhi. All of them are unanimous as to the removal of the mutawalli provided he is not performing his duties honestly and faithfully as laid down in the original wakfs. Well, Sir, to convict the mutawalli on a charge of dishonesty or unfaithful discharge of his duties is the office of a Judicial Court and not a layman like myself, but what I want to ask the Honourable the mover of this Bill is to have the mutawalli or his nominee on the committee also as an ex-officio member like the sajjadanashin, for after all it is not fair in the opinion of any impartial person to condemn the mutawalli in this manner without proving his irregularities in a regular Judicial Court. It is, therefore, that I have tabled an amendment with regard to the composition of the committee desired to control the Durgah affairs, providing its membership for the mutawalli or his nominee for the time being. Since the Durgah of the Khwaja Saheb is a sacred place for the Hanafi sect of Mussalmans all over the world, it is further desired that the committee in question should have the representatives of other parts of this country besides Ajmer. With this object in view I propose that it should have three representatives of the Central Legislature, one from the Provincial Assembly of the North-West Frontier Province and Bombay Presidency, one from the Muslim University, Aligarh, and one nominee of His Exalted Highness the Nizam of Hyderabad, thereby increasing its membership to 16 instead of nine members as proposed in the Bill under consideration. I hope this arrangement will satisfy every reasonable person and both the sajjadanashin and the mutawalli, but in case its experience of work is found disagreeable to anybody, of course it is always open to anyone to bring a modifying Bill later on.

As regards my amendments I will move only two of them, i.e., regarding 2 (4) (e) and clause 21. The rest I leave to my Honourable friends Saiyed Mohamed Padshah Sahib Bahadur and Kunwar Haji Ismail Ali Khan.

THE HONOURABLE SAIYED MOHAMED PADSHAH SAHIB BAHADUR (Madras : Muhammadan) : Sir, before I make my observations on the Motion before the House I should like to express my deep sympathy with my Honourable friend, Mr. Mahmood Suhrawardy, for the disappointment which he has suffered for having been deprived of the opportunity of reading the speech which has been prepared for him. Sir, my Honourable friend, in his short and sweet speech that he just made has expressed his deep concern with the matter that is before the House.

THE HONOURABLE THE PRESIDENT : Order, order. We are now dealing with the Bill. You need not deal with what Mr. Suhrawardy said.

THE HONOURABLE MR. MAHMOOD SUHRAWARDY : Your are Madras, I am Bengal!

THE HONOURABLE SAIYED MOHAMED PADSHAH SAHIB BAHADUR : He made an unjustified attack on some of us. This is to explain my position. He vehemently denounced some of us.

THE HONOURABLE THE PRESIDENT : Order, order. There is no necessity to explain the position at all. Will you please proceed?

THE HONOURABLE SAIYED MOHAMED PADSHAH SAHIB BAHADUR : I bow to your ruling, Sir, and leave the matter at that.

Sir, Honourable Members will remember that I opposed this Bill when it was introduced in the last Delhi session. I did so, Sir, not because I was opposed to the object for which the Bill was said to have been introduced but because I felt that the Bill as presented to the House was one which did not completely give us the assurance that the objects which were intended to be achieved by the Bill could be expected to be encompassed by it. It was for this reason that I opposed the Bill on that occasion. However, I am now, as I even then was, in perfect accord with the object of the Bill.

THE HONOURABLE THE PRESIDENT : There is no apology needed for your conversion!

THE HONOURABLE SAIYED MOHAMED PADSHAH SAHIB BAHADUR : I have got to explain my position, Sir. I have got to take quite a different attitude now.

THE HONOURABLE THE PRESIDENT : You can take any attitude you like. No apology is needed.

THE HONOURABLE SAIYED MOHAMED PADSHAH SAHIB BAHADUR : There is no need for any apology but I owe a duty to the public at large because the public knows that I opposed the Bill on the last occasion. They ought to know the reasons which prompted me to oppose this Bill then and the reasons which now induce me not to oppose it and to suggest constructive methods by which the Bill could be improved and passed by this House. Well, Sir, I had to oppose it because the Bill as it is, contains provisions of a very contentious character. From the opinions that have been circulated to us it is apparent that there are very strong and conflicting opinions held about this matter. All those who have expressed opinions are agreed that there is need and scope for improvement in the management of the waqf at Ajmer, but there are differences of opinion as to the specific manner in which the

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improvement is to be effected. Even those who have enthusiastically welcomed this measure have suggested substantial changes in various clauses of this Bill. Therefore, we find there is really need for making modifications in very important respects in this measure. It was in view of this and of the fact that any measures we might take might have a very serious effect upon the administration of the waqf and also might involve various rights and privileges which are claimed by some parties to be enjoyed by them for several generations that I tabled my Motion for the Select Committee, in order that the whole thing might be very carefully and minutely scrutinised. Honourable Members will observe that the Bill contains several provisions which necessitate our adjudicating on matters which ordinarily have to be determined by courts of law, provisions which endeavour to deprive some parties of the rights and privileges which are claimed by them to be hereditary. Also, there are proposals in the Bill which are in conflict with the decisions of courts of competent jurisdiction. My contention is, and all along has been, that even if there is any need for making a drastic change, if we find that in the making of this change the existence of hereditary rights and privileges presents an obstacle in the way of effecting this change, that fact would not justify us in trying to solve the difficulty by adopting a method which was adopted in the ancient days by the hero who cut the Gordian knot. My submission is, that in trying to solve these difficulties we cannot achieve our purpose by ignoring these difficulties; we have got to face them and solve them, and we should not ignore all those rights and privileges which are claimed by some of the parties to be hereditary. It is difficult also for us to come to a decision on this matter. For while one party claims to hold some office as of hereditary right, the other party denies that right on the ground that all the evidence relied upon in support of the right is not credible. Therefore, these are matters which cannot be decided arbitrarily by discussions in this House. As my Honourable friend Sir Mahomed Akbar Khan has said in his very lucid and historic speech, these are matters which can be decided only by a judicial tribunal. It was for this reason I thought there should be a Select Committee, and there were Members of this House who thought that even a Select Committee was not equal to the task and that nothing short of a Commission of inquiry could do all that was necessary in investigating this very important matter which affects the Muslim community all over India. If such a committee had been appointed it would have had to go into evidence, examine witnesses, take expert evidence, scrutinise ancient documents, *farmans*, *sanads*, etc., which have any bearing upon the hereditary nature or otherwise of the various offices connected with this endowment. It was a stupendous inquiry which had to be made, and in view of the fact that this House was shortly to be dissolved we thought there was no possibility of instituting such an inquiry. It was in view of this we thought it would be better that we should come to some sort of understanding between us and try to do the little we can under existing conditions. With this view some of us had discussions with the Honourable mover and we came to the understanding that, instead of trying to come to any arbitrary decisions upon such contentious matters as the rights of the parties concerned, we would rather try to steer clear of any decision upon this

matter and try to effect an improvement without giving any decision upon this question, which ordinarily should be decided by a court of law and which, even if it has to be decided by a Legislature like this, could only be done after a very elaborate and thorough inquiry. We have therefore tabled a number of amendments suggesting various ways in which improvement could be brought about in the management of the waqf without having any adverse effect upon the rights which are enjoyed by any of the parties concerned. In view of this fact I had decided not to move my amendment, and for this very reason I support the Motion before the House.

THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa : Muhammadan) : Mr. President, the Bill before the House is a strange combination of good and evil. The desire of the Honourable mover to reform the management of the Durgah is a laudable one and he has the sympathy of all India in his well-meaning effort to reform the management there and the opinions are based on this principle alone. The only difficulty and the reason why I have called this a measure compounded of evil and good is that it does not safeguard the religious principles as much as it ought to have done; neither does it have regard for equity as much as it should have. While I am a confirmed reformist in matters mundane, I am prepared to admit that in matters religious, I am prepared to take my cue from the religious heads and authorities. I do not wish to show myself off in false colours and say that I am following a certain religion but disregard its commands and its orders. I am neither mean enough to say one thing and do another. The opinions which have been circulated to us are voluminous and it was almost impossible to go through them and in the ordinary course I should have been the first to support a Motion for reference to Select Committee; but placed as we are in the circumstance that the Council is to be dissolved and it is the last non-official day when we can discuss this measure, there is no option left but to look into the Bill and try to improve it as much as possible. Sir, if we had time we would have preferred to take it to a Select Committee and get the opinion of the religious heads on the points brought into the Bill. But as it is not possible, I for one do not find my way either to support the measure or to oppose it. The reason why I say it goes counter to the religious dictates is based on the religious opinions we have received. On page 4 of the opinions you will find that the Amir Shariat of my province has definitely stated that the following proviso should be added :

"Notwithstanding anything contained in the Bill the committee shall not and cannot interfere with all those rights and powers of the diwan, mutawalli and khadims which they have been enjoying on the basis of old customs or provisions in the waqf deeds".

The principle of Islamic law is that a waqf deed is a statute by itself and the rules and regulations entered therein have the force of law, and no power, not even the Qazi, has the power to over-ride these rules and regulations. The utmost that a Qazi or a Muslim potentate could do is to declare that the object of the waqf being illegal or irreligious the waqf does not hold. There

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is complete unanimity in the opinions of Ulemas which have been circulated. Then, again, Sir, they say :

“ That the mutawalli shall exercise all powers conferred upon him by the Islamic Shariat. But the committee shall have full power of supervising the work of the mutawalli and the diwan ”.

Then, Sir, we have the opinion of Maulana Mainuddin on page 55. He says :

“ That all the time-honoured rights and customary privileges of the diwan, mutawalli and the khadims which they have been holding up till now in accordance with the laws of the Shariat Islam and the sanction of the Government as well as the courts of law shall be taken for granted without any exception in the body of this Bill ”.

And the crowning thing is the opinion published at page 102 of Dar-ul-Ifta (the Fatwa-issuing Department) of the Central Jamait-ul-Ulema-i-Hind, Delhi. It is the Central Body of the Muslim Diwans and it deserves extreme respect inasmuch as it is the opinion of the combined body of Ulemas of India. It says :

“ No one, not even the Muslim Qazi can dismiss a mutawalli who has been appointed as such under the rules of the Islamic law and who possesses the ability of performing the duties of a mutawalli and who performs his duties of a mutawalli as these ought to be performed ”.

These three are my dicta. I am not prepared to say that the Ulemas do not know anything. I am not prepared to say that Ulemas are a body of ignorant people who do not deserve support from the Legislature. We have our own field of action, and they have theirs, and where their business is concerned they deserve respect on the principle of division of functions. This is not the end. But when the Muslim divines and the executive both combine, I feel they ought to have even much greater respect. You will agree with me, Sir, that no one is more competent than the Commissioner of the Ajmer Division to express an opinion as to what should and what should not be done in this Bill. In this connection I should like to invite your attention to page 34 of the opinions which have been circulated—the letter from Mr. Griffin, Commissioner, Ajmer-Merwara—in which he says in paragraph 3 :

“ The mutawalli lays claim on the basis of certain pronouncements by the Civil Courts to his post being hereditary. This was not considered to be the case when Notification No. 1811-A., dated the 1st June, 1867, of the then Local Government was made under section 7 of the Religious Endowments Act, XX of 1863, appointing the present committee, and section 3 of the Act was held to apply to the case of the Durgah ”.

This is a statement of fact. Then it goes on :

“ This, however, was a view of the executive, the correctness of which could be questioned in a court of law ”.

This is the dictum of the executive authority most intimately concerned with the management of the Durgah :

“ If, however, the present Bill becomes law it will no longer avail the mutawalli to claim that his office is hereditary ”.

So we go again to what the law demands from us. Further on it says :

“ As a matter of justice ”—mark the word ‘ justice ’—“ however, it would seem desirable for legal opinion to be taken as to the finality and applicability of the pronouncements on which the mutawalli relies ”.

I expected, Sir, that the Government benches would honour the opinion of their own executive head at the place. I for one am not by temperament or by association a communist and therefore I am not prepared to lend my support to a measure of expropriation which this Bill involves. Even if expediency be the guiding principle, we should consider the possibility of legislating for a class of persons, but I humbly submit that it is wrong even for a legislature to bring forward a measure to deprive any one person of any right that he may possess. It would be wrong to bring in a law that all the property belonging to our noble friend the Khan of Hoti should be taken by Government, because of certain mismanagement that people might allege ; but it will be a different thing to bring a law to regulate land tenure in a province. You might legislate for a class of persons. It is wrong to legislate for a particular person or a particular shrine.

Sir, my difficulty and the reason why I do not see eye to eye with the Honourable mover is that some of the opinions that have been circulated to us contain the opinions of people who have absolutely no concern with the matter and whose opinions in fairness ought not to have been allowed to sway the decision of this House. I will not dilate on the point, Sir ; I will simply mention that even the Chief Commissioner of Ajmer was constrained to remark in paragraph 18, page 31 :

“ The gentleman who makes these suggestions is a Shia and it is not clear why his opinion was sought or what *locus standi* he has in this matter ”.

Then, Sir, although you know there is no difference among the Mussulmans of caste or creed, there are different schools of thought just as in the Protestant Church there are included any number of different churches, for instance, the Presbyterians, the Welsh Dissenters and the Church of England. Now, to pass a legislation affecting the Church of England, would you be guided by the opinion of any one belonging to the other Churches ? My Honourable colleague may cite to me an example, that when the Prayer Book controversy was going on in Parliament this anomaly did happen but fortunately it did not go far enough and the matter was settled. But, Sir, the opinions that are circulated to us are sometimes based on wrong premises ; just as many a time it has happened, Sir, that the opinions of the Legislature are based on the facts placed before them. We are so overworked, Sir, that we do not give time to study the case from both sides as both sides do not appear before us. One of the fundamental reasons why we objected to the Criminal Law Amendment Act last year was that it allowed executive action to supersede the judiciary. Here, Sir, we are doing exactly the same. We have a number of pamphlets, a number of papers circulated to us, giving stories of mismanagement and refusing the rights and interests of certain people who claim a right. I do not say that they have a right but at least they lay claim to a right and that right ought to have been adjudicated in a judicial atmosphere and by a judiciary rather than by a Legislature who are more or less in the position of the executive in the present case. I say this because, according to the traditions of British justice, the evidence adduced before us has not been tested by cross-examination or by the other party being allowed to bring their own arguments in support of their case. For these reasons, Sir, if I had my own opinion and if we had time I would have insisted that this matter should not be proceeded with here, because the difficulties are too great.

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Secondly, Sir, the opinion among the Muslim Members of this House has been in favour of acceptance, as the Honourable mover has been very reasonable and has intimated his intention to accept almost all their amendments. That, Sir, will materially improve the Bill. And here, Sir, I would like to remind the House, and with your permission lay on the table the formidable list of amendments* which the Chief Commissioner has forwarded to us in pages 29-33 giving amendments to the Bill which he thinks should properly have been made. The amendments he has suggested come to four pages. We are not able to incorporate all of them in our amendments but I hope, Sir, that when the Bill goes to the Assembly they will have more time at their disposal and will look into the Bill with greater care and make a better job of it.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: Sir, I am very grateful to my Honourable colleagues for giving their unanimous support to this measure. I have no hesitation in admitting, Sir, that in an important administration of this kind there is bound to be a certain difference of opinion. I do know, Sir, that there are certain Honourable Members here who are of the opinion that the Bill should be forwarded to a Select Committee and we should devote more time to it. I respect their opinion and I can assure them that I would have myself willingly accepted their suggestion but for the difficulty that, if the Bill were referred to a Select Committee, it would not be possible for them to submit their report during this session and this being the last session this Bill would lapse.

THE HONOURABLE THE PRESIDENT: But even if this Bill is passed, there is nothing to prevent the other House from delaying the Bill.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: Yes, Sir, certainly they can. And so I am very grateful to my friends that, in view of the fact that the legislation was very important and almost every organisation in every part of the country had expressed its opinion in favour of the Bill, they have agreed to get this Bill through this session this very day.

Now, Sir, I have no intention to reply to the various remarks which have been made during the course of the discussion. But, Sir, there are one or two points which I think it my duty to lay before the House. My Honourable friend, Mr. Padshah and, Sir, I am very, very grateful to him because there are very few amongst us who have the courage to change their opinions when they consider that the rights of the occasion give justification to change the same when he originally opposed my Bill, it then was altogether a different measure. It was in regard to the wishes of some of my Honourable friends that in the Bill which is now before the House certain important changes have been made. In the first instance, the franchise has been lowered. In the second instance, the qualifications of the candidates for the Select Committee have been changed. And thirdly—and this is the most important—the chances of interference by the Government have been reduced to a minimum. Therefore, Sir, considering that I have expressed my willingness to accept any reasonable amendments suggested by my Honourable friends, I think Mr. Padshah had sufficient justification to be converted to my view and support the Bill.

* See appendix, pages 368—371.

As far as my Honourable friend, Mr. Hossain Imam is concerned, I knew from the very beginning that my Honourable friend had certain difficulties in lending his support to the Bill and it is very generous of him that under the circumstances in which he finds himself he has expressed his intention not to oppose the Bill.

Now, Sir, there are one or two points which I believe have been the cause of misunderstanding in some circles and I consider it my duty to remove that misunderstanding. In the first instance, it has been asked why this Ajmer Durgah alone has been picked out for such a measure and why a Bill has not been introduced including all the religious places in India? I may inform my friends that after withdrawing the previous Bill I gave notice of two Bills. One was this Durgah Bill and the other Bill was intended to amend the Act of 1863. But His Excellency the Governor General refused to give his previous sanction to the introduction of the Bill to amend the Religious Endowments Act on the very reasonable ground that this was primarily a provincial matter and legislation should be brought forward in the province. But as Ajmer is a directly administered area, and it is not part of any Provincial Government, therefore legislation regarding it could be brought up in the Central Legislature only.

Another point which seems to be in the minds of certain Honourable Members is that this is religious interference, and that it is a wrong policy to ask the Legislature to pass measures regarding the management of religious places. I have two answers to this criticism. The first is that it is a matter of extreme doubt whether this Bill can be called a religious Bill. As Honourable Members are aware, even such a high legal authority as Sir Lancelot Graham, now His Excellency the Governor of Sind, who was Secretary of the Legislative Department then, wrote a letter to me that this was not a religious Bill and that no sanction of the Governor General was required because the Bill related not to the performance of any religious ceremonies.

THE HONOURABLE THE PRESIDENT: You need not go into all that now.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: This is most vital because I want to remove a misunderstanding in regard to this Bill, namely, that it interferes with religion. I want to say that it is secular—

THE HONOURABLE THE PRESIDENT: I decided by my ruling that the Governor General's sanction was necessary and the sanction was subsequently obtained. You need not go into that now.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: May I most humbly submit, Sir, that you did not give that ruling. On the other hand, your ruling was that you will not stop the mover from proceeding with the debate, but that you would give him advice, and if he considers fit to follow that advice, he can withdraw the Bill.

THE HONOURABLE THE PRESIDENT: Exactly, and you withdrew that Bill in deference to my remarks.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: Yes, Sir, in deference to your advice I withdrew that Bill.

[Raja Ghazanfar Ali Khan.]

As I was saying, this Bill relates merely to the secular side of the Durgah, that is, how to manage the property and to see that the money is not misappropriated. Another reply is that this is not introducing legislation concerning a place where one does not already exist. As Honourable Members are aware, the Act of 1863 is already applied to the Ajmer Durgah. This Bill is just to amend that Act and remove the defects in the law which now exist. My Honourable friend has quoted certain opinion. I think, Sir, he quoted the opinion of the Commissioner, Ajmer-Merwara. I would ask my Honourable colleagues not to be carried away by those quotations because what I am now quoting is the opinion of the same gentleman, Mr. L. C. L. Griffin, I.C.S., Commissioner, Ajmer-Merwara, writes :

"In asking for these I have endeavoured to secure every shade of local Muslim opinion. There can be no doubt that there is widespread dissatisfaction among Muslims in Ajmer with the condition of affairs prevailing in and with respect to the Durgah and a general desire that this should be rectified. The majority of Muslims would, I believe, welcome any measure which would remedy the present state of affairs and conduce to efficient administration and would not be concerned at the effect on the rights, alleged or otherwise, of certain interested parties which would according to some of the opinions received be infringed as the result of the enactment of the provisions of the Bill. It is extremely difficult to form and express an opinion on general opinion in a matter of this kind and it is always possible that even if this opinion is correct at the time when it is given it may be apparently falsified at a later stage owing to the facility with which views on these questions can be guided. As far, however, as I can ascertain, the enactment of a law on the lines of the Bill designed to constitute a more popularly composed committee to control the affairs of the Durgah and to give such a committee the means to exercise effective control will be generally welcome.

"As for my own opinion, I consider that legislation on the lines of the Bill is the most satisfactory, if not the only, method by which an attempt can be made to bring to an end the state of affairs prevailing with respect to the Durgah."

This is the opinion, Sir, of the Commissioner of Ajmer, and the Agent to the Governor General sums up the opinions and says :

"A large number of bodies and individuals are in favour of it, but there is a very strong minority opposed to it".

That is the opinion which the Chief Commissioner gives. As far as other opinions are concerned, I have no doubt that there is no social or religious measure which has received such unanimous and unqualified support. The Western India States Agency says :

"The general opinion is in favour of the Durgah Khwaja Saheb Bill".

Government view :

"The opinions of these two officials appear to me to be sound, and I have no further comments to offer".

Hyderabad Residency :

"The proposed change in the constitution of the Durgah Committee is desirable and the Bill necessary".

Coorg :

"Out of the five Muslim Associations, three are in favour of the Bill and the other two have not replied".

Bihar :

"Amir-i-Shariat, Bihar and Orissa, has accepted the Bill with some amendments".

The Bihar and Orissa Muslim Association, Patna, is of opinion :

"That the Bill must be passed except this that efforts should be made to make it less expensive".

The Anjuman Himayat-i-Islam of Monghyr supports the Bill but considers :

"That the office of the mutawalli should not be hereditary and it should rest with the committee to appoint the best man to the office by election and not by inheritance ; the Anjuman also considers that the several members composing the committee should be those who have got no personal interest in the income and in the affairs of the waqf properties and that the tenure of the life of a member should be reduced from five to three years".

Central India Agency :

"The opinion of the majority is in favour of the Bill, though certain amendments have been suggested. In particular, the Government of Bhopal as well as local Muslim opinion at that place, have expressed unanimous and unqualified approval of the Bill".

Muslim opinion in Central India :

"There is a large consensus of agreement in the aims and objects of the proposed Bill. Alterations and amendments have been proposed".

Sind :

"Local Muslim opinion supports the Bill. The Local Government are in agreement with the principle underlying the Bill".

Central Provinces :

"The Governor in Council supports the Bill as the bulk of Muhammadan opinion in this province is in favour of it".

Gujarat States Agency and Baroda Residency, Agent to the Governor General for the Gujarat States and Resident, Baroda :

"It is generally admitted by these States that some provision is necessary for the better administration of the Durgah and I endorse their opinion".

Bombay :

"The Government of Bombay (Transferred Departments) state that they have no objection to the provisions of the Durgah Khwaja Saheb Bill as it seeks to provide for the efficient management and administration of the Durgah".

THE HONOURABLE THE PRESIDENT : Order, order. I do not think it is right that you should read these extracts in replying to the debate. You quoted some extracts in your opening speech. Now, you are quoting other extracts. It is not fair to other Honourable Members since they have no right of reply.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : May I submit, Sir, that in my opening speech, I refrained from quoting these extracts.

THE HONOURABLE THE PRESIDENT : You did read some extracts.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : I read one extract in my previous speech. I did not then quote from these opinions, but I quoted from the opinions of officers—opinions given about 12 years ago. But, as Honourable Members, particularly my Honourable friend from Bihar, has made extensive quotations from these opinions therefore I thought it my duty to bring on record the opinions in favour of the Bill. I would request you to permit me to do this. I shall be very brief. I am quoting only a few words or sentences from each opinion.

THE HONOURABLE THE PRESIDENT: Every Honourable Member has got a copy of the opinions you are reading from.

THE HONOURABLE MR. HOSSAIN IMAM: On a personal explanation, Sir. I should like to mention that I did not read the opinion of the general public. I only read out the opinions of religious societies and associations. If the Honourable Member wants to contend me, he ought to reply by reading the opinions of religious bodies.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: I may assure you that I have listened with great patience to the opinions quoted against me. My Honourable colleagues will permit me to quote the opinions which are in favour of the Bill. I know that Honourable Members have received copies of these opinions, but those copies do not form part of the official record, and my humble opinion is that the other House will be guided by the speeches which are delivered today in connection with this Bill, and I hope, Sir, you will kindly allow me to quote just a few.

THE HONOURABLE THE PRESIDENT: Have you any religious opinions?

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: Yes, Sir.

THE HONOURABLE THE PRESIDENT: Then quote those. It is no use quoting private individuals.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: In Orissa the local Muslim opinion is in favour of the Durgah Khwaja Saheb Bill. His Excellency the Governor has no special comments to offer on the provisions of the Bill, which appear to him to be likely to make the management of the Trust more efficient. The Muhammadans of Madras support the Bill generally.

Assam:

"Muhammadans in this province while differing on points of detail are generally in favour of the main principle of the Bill".

Baluchistan:

"The Anjuman Islamia, Baluchistan, Quetta, is in entire agreement with the objects of the Bill and supports the Bill as it is".

That is the opinion of a very well known Islamia Association.

Punjab States Agency:

"All the States in the Agency except Khairpur who have given their opinions have supported the Bill. The Durbars of Jind, Nabha, Mandi, Sirmoor, Bilaspur, Malerkotla, Faridkot and Loharu have intimated that the local Muslim communities are in favour of this Bill".

I am not quoting the opinions of the Durbars but of the Muslim subjects in those States.

"The leading Muslims of Patiala have suggested amendments"

but they are in favour of the Bill. In Delhi Province Muslim opinion has supported the Bill. Of course, the Punjab, with the exception of one or two

is whole-heartedly for this Bill. The Gwalior Residency supports the Bill. The North-West Frontier Province has practically unanimously supported the Bill. All the Islamia Anjumans of the province, the members of the Provincial Council, all the leading lawyers and Bar Associations and Maulvis and Sufis and Chistis, they have all unanimously supported this Bill. And that is a province which contains a large number of religious-minded people and men with a knowledge of Islamic history like the Honourable Nawab Sir Mahomed Akbar Khan of Hoti, whom I heartily congratulate on his felicitous speech, and they unanimously support this Bill. Then, Sir, the Bengal Government supports the Bill and Muslims in Bengal approve of the Bill. The United Provinces have given stronger support than any other province, and, similarly, almost every organisation in India and every province has supported the general principles of the Bill.

Now, Sir, in spite of our having certain differences today it is a great day for us. We have shown, that however acute our differences may be, when the welfare of our community is concerned, and when it is a question of making better arrangements for the management of a place which is held sacred by us, irrespective of whether we are Sunnis or Shias or members of other Muslim sects, we can sit down and agree. After all, Sir, if we had had a Select Committee it would have meant half a dozen of us sitting down and trying to improve the Bill. And, actually, we have held unofficial meetings on three or four days consecutively at the residence of one of our friends, and we have thrashed out every single clause and have come to a unanimous decision and agreed upon these amendments which we have discussed today. I can assure my friends that I have no personal grudge against any individual or party, and I will be glad to accede to these valuable suggestions which my Honourable colleagues have made.

THE HONOURABLE THE PRESIDENT: The Question is:

"That the Bill to make better provision for the administration of the Durgah and the Endowment of the Durgah of Khwaja Moin-ud-Din Chisti, generally known as Durgah Khwaja Saheb, Ajmer, be taken into consideration."

The Motion was adopted.

THE HONOURABLE THE PRESIDENT: Clause 2.

THE HONOURABLE LIEUTENANT-COLONEL NAWAB SIR MAHOMED AKBAR KHAN (North-West Frontier Province: Nominated Non-Official): Sir, I move the amendment which stands in my name and runs as follows:

"That for item (e) of sub-clause (4) of clause 2 the following item be substituted, namely:

"(e) All offerings made at the tomb or any place within the premises of the Durgah or its gates and all money orders by whatever names received in Ajmer for application to any purpose or object connected with the Durgah Sharif."

Under the present item of this sub-clause only that income of the Durgah is included which has been held to be such by a civil court. But there are

[Sir Mahomed Akbar Khan.]

other incomes besides this, for instance, that collected at the gates of the Durgah, which is received by money order or in other ways. These receipts are not included in the existing provision of the Bill. It is to remove this irregularity that I want to replace this item by the one I have proposed, so that the income received through these various means should also be properly accounted for. I do not want to make a lengthy speech as we have a lot of business to get through, and I therefore move my amendment.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: It is always unpleasant to differ from our Honourable and respected colleague the Honourable Nawab Sir Mahomed Akbar Khan of Hoti. It is more so today because the Nawab Sahib has made a powerful historical speech in support of this Bill. But I would submit that this amendment will cause not only great hardship to a vast number of khadims who have been getting a small share from this income for several generations past, but it would also go against the decision of the Judicial Courts. Sir, at present the offerings which are made at the shrines are distributed between the diwan, the mutawalli and the khadims. I know the diwan would not mind because he gets a half or a one-third share. But the other half or one-third is distributed between the khadims, whose number is more than 700 and a number of people which includes widows and orphans. In this connection I submit that the khadims are a class of people who trace their descent from people who were associates and servants of the Hazrat Khwaja Saheb. I personally think that it would be unfair that a little share which hardly amounts to more than 8 or 12 annas per head which they are deriving from this shrine for so many generations should be denied to them. Sir, Nawab Sir Mahomed Akbar Khan and myself
12 NOON. and probably some other friends are getting jagirs from the Government because our ancestors fought for the Government at certain critical times. Similarly, if these people have not done anything to deserve all that reward, they are descendants of those people who hold a very high and important position in respect of the Durgah. I would therefore humbly appeal to my Honourable friend not to press this amendment and to let this new committee start work. Then, if they find that any further change is required, any Member can certainly bring in a Bill for amending this provision.

THE HONOURABLE LIEUTENANT-COLONEL NAWAB SIR MAHOMED AKBAR KHAN: Sir,—

THE HONOURABLE THE PRESIDENT: Order, order. You are not entitled to reply. You can say whether you withdraw or not.

THE HONOURABLE LIEUTENANT-COLONEL NAWAB SIR MAHOMED AKBAR KHAN: In view of what has been said by my Honourable friend the mover, I should like to withdraw.

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

Clause 2 was added to the Bill.

Clause 3 was added to the Bill.

THE HONOURABLE THE PRESIDENT: Clause 4.

THE HONOURABLE LIEUTENANT-COLONEL NAWAB SIR MAHOMED AKBAR KHAN: Sir, there is a similar amendment standing in the name of my Honourable friend Saiyed Mohamed Padshah Sahib Bahadur and I would therefore leave this to be moved by him.

THE HONOURABLE SAIYED MOHAMED PADSHAH SAHIB BAHADUR: Sir, I move:

"That in sub-clause (1) of clause 4 for the words 'superintendence, management' the word 'supervision' be substituted".

My object in moving this amendment is to make it clear that this committee which is being appointed under this Bill is one which will have only supervisory powers. The committee appointed in 1868 under the Religious Endowments Act which is now functioning is one which is only of a supervisory character. The administration of the waqf property is in the hands of the mutawalli and the function of the present committee is only to supervise. Inasmuch as we have come to an agreement that there should be no decision by this Honourable House on this occasion about the hereditary nature or otherwise of the offices involved, we thought it advisable not to make any change in the functions of the present committee; and I may also submit that this arrangement is one which is desirable from other points of view also, for if we combine the offices both of supervision and administration in one and the same body it would not conduce to healthy management. If this committee is to be at once the managing and supervising agency it will have nobody else to check or control its actions when it goes wrong. According to the present arrangement the mutawalli is the sole manager, and if he mismanages there is this committee to call him to account and check and control him. According to Islamic law also these functions are kept apart. Islamic law makes provision for the mutawalli to be the sole manager of a waqf property and in order that the mutawalli might discharge his duty properly and work on the right lines, it has provided for the office of the mushraf who has got to exercise the function of supervision and control over the mutawalli. In view of all this, Sir, I hope this Honourable House will accept my amendment.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: As long as the supervision of the mutawalli is in the hands of the committee he should manage properly. This amendment is perfectly reasonable and I gladly accept the same.

THE HONOURABLE THE PRESIDENT: Amendment moved:

"That in sub-clause (1) of clause 4 for the words 'superintendence, management' the word 'supervision' be substituted."

The Question is:

"That this amendment be made."

The Motion was adopted.

Clause 4, as amended, was added to the Bill.

THE HONOURABLE THE PRESIDENT: Clause 5.

THE HONOURABLE LIEUTENANT-COLONEL NAWAB SIR MAHOMED AKBAR KHAN: Sir, amendments similar to the one standing in my name have also been given notice of by my friends Saiyed Mohamed Padshah Sahib Bahadur and Haji Ismail Ali Khan. So I shall leave it to them to move their amendments.

THE HONOURABLE KUNWAR HAJI ISMAIL ALI KHAN: Sir, the amendment that stands in my name on the order paper runs thus:

"That for clause 5 the following clause be substituted, namely:

'5. The committee shall consist of nineteen members of whom—

- (a) one shall be sajjadanashin for the time being *ex-officio* or his nominee;
- (b) one shall be mutawalli for the time being *ex-officio* or his nominee;
- (c) two shall belong to the khadim community and elected by the members of their own community possessing the qualifications mentioned in section 7 of this Act;
- (d) five shall be elected from amongst the Muslim citizens of Ajmer (other than khadims, mutawalli and the sajjadanashin) by persons (other than the khadims) possessing the qualifications mentioned in section 7 of this Act;
- (e) two shall be elected by the Muslim Members of the Federal Legislative Assembly from among themselves;
- (f) one shall be elected by the Muslim Members of the Federal Council of State from among themselves;
- (g) four shall be elected by the Muslim Members of the Indian Legislature from among various Muslim Hanfi Ulemas and Sufis;
- (h) one shall be elected by Muslim Members of the North-West Frontier Province Legislative Assembly;
- (i) one shall be elected by Muslim Members of the Bombay Provincial Legislature;
- (j) one shall be nominated by His Exalted Highness the Nizam of Hyderabad's Government."

Sir, much has been said on this point—

THE HONOURABLE THE PRESIDENT: Order, order. I would like you to alter clauses (e) and (f) slightly. The Federal Assembly and the Federal Council are not in existence now and you cannot make any legislation in anticipation. Therefore, I would like you to add the words "when it comes into existence" to both (e) and (f).

THE HONOURABLE KUNWAR HAJI ISMAIL ALI KHAN: Sir, I accept the correction with pleasure. I know that the business on the order paper is very heavy and I do not want to make a lengthy speech but just to make a few points. Much has been said during the course of the general discussion on this Bill by my friends the Honourable Mr. Hossain Imam and Saiyed Mohamed Padshah Sahib Bahadur. I do not want to repeat those arguments. The chief object in putting forward this amendment is, that at present the committee is some sort of arena for fighting and entering into litigation, which is against the principles of the Durgah so I think it is essential that we

should form a committee of a most representative capacity. If we will go into the details of opinions that are advanced by every school of thought, those are all in favour of my amendment.

Sir, I move.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: As a matter of fact, Sir, the most important part of this Bill is the constitution of the committee and I am sure that Muhammadans of every party will be quite satisfied that the committee which this amendment proposes to give them is the most impartial and a very efficient one. I am sure that with these new members, whom we are importing from outside, the settlement of disputes will be much more expeditious. Therefore I gladly accept this amendment.

THE HONOURABLE THE PRESIDENT: Amendment moved:

"That for clause 5 the following clause be substituted, namely:

'5. The committee shall consist of nineteen members of whom—

- (a) one shall be sajjadanashin for the time being *ex-officio* or his nominee;
- (b) one shall be mutawalli for the time being *ex-officio* or his nominee;
- (c) two shall belong to the khadim community and elected by the members of their own community possessing the qualifications mentioned in section 7 of this Act;
- (d) five shall be elected from amongst the Muslim citizens of Ajmer (other than khadims, mutawalli and the sajjadanashin) by persons (other than the khadims) possessing the qualifications mentioned in section 7 of this Act;
- (e) two shall be elected by the Muslim Members of the Federal Legislative Assembly when it comes into existence from among themselves;
- (f) one shall be elected by the Muslim Members of the Federal Council of State when it comes into existence from among themselves;
- (g) four shall be elected by the Muslim Members of the Indian Legislature from among various Muslim Hanfi Ulemas and Sufis;
- (h) one shall be elected by Muslim Members of the North-West Frontier Province Legislative Assembly;
- (i) one shall be elected by Muslim Members of the Bombay Provincial Legislature;
- (j) one shall be nominated by His Exalted Highness the Nizam of Hyderabad's Government."

The Question is:

"That this amendment be made."

The Motion was adopted.

Clause 5, as amended, was added to the Bill.

Clause 6 was added to the Bill.

THE HONOURABLE THE PRESIDENT : Clause 7.

THE HONOURABLE KUNWAR HAJI ISMAIL ALI KHAN : Sir, I move :

"That item (d) of clause 7 be omitted."

My idea is to provide a franchise on the basis of universal suffrage.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : Sir, I have no objection and I accept it.

The Motion was adopted.

Clause 7, as amended, was added to the Bill.

Clauses 8, 9 and 10 were added to the Bill.

THE HONOURABLE THE PRESIDENT : Clause 11.

THE HONOURABLE KUNWAR HAJI ISMAIL ALI KHAN : Sir, I move :

"That in sub-clause (1) of clause 11, after the word 'members' the following be inserted, namely :

'except those who are elected under items (a), (b) and (c) of clause 5.'

Sir, my idea in moving this amendment is this, that members who are elected or nominated such as the sajjadanashin or the mutawalli or the khadim of the Durgah, all these are interested parties and we must have an impartial president of the committee. If we take him from those persons who are naturally interested they would not be impartial. So I hope the House will agree with me as to electing the most impartial president of the committee. I do not like to spend the valuable time of the House by quoting the opinions which are in favour of this amendment.

Sir, I move.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : Sir, I regret I must oppose this amendment because it will really be fettering the discretion of the committee. In accordance with the provisions of the Bill the committee shall be at liberty to elect their own president—and who does the committee consist of? It consists of such independent and respectable Mussulmans from all over India—one elected by the Bombay Provincial Council, another by the Frontier Council; three from the Assembly and the Council of State, and a nominated member from the Nizam of Hyderabad. So, Sir, you can imagine that such an independent and respectable committee should be left free to elect any one they like to be president and not have their discretion fettered. I would appeal to my Honourable friend to withdraw this amendment, otherwise it will be my painful duty to oppose it.

THE HONOURABLE THE PRESIDENT : Amendment moved :

"That in sub-clause (1) of clause 11, after the word 'members' the following be inserted, namely :

'except those who are elected under items (a), (b), and (c) of clause 5.'

The Question is :

"That this amendment be made."

The Motion was adopted.

Clause 11, as amended, was added to the Bill.

Clauses 12 and 13 were added to the Bill.

THE HONOURABLE THE PRESIDENT : Clause 14.

THE HONOURABLE LIEUTENANT-COLONEL NAWAB SIR MAHOMED AKBAR KHAN : Sir, I move :

"That clause 14 be omitted and the subsequent clauses be renumbered accordingly."

Sir, clause 14 quotes the Act of 1863. That Act has ceased to exist and there is now a new Act, Act XLII of 1923. So, the retention of this clause is absolutely useless and that is why I move that this clause be omitted altogether.

THE HONOURABLE SAIYED MOHAMED PADSHAH SAHIB BAHADUR : Sir, I rise to support the amendment though on a different ground from the one stated by my Honourable friend. The apprehension is, that if this clause is allowed to exist, it might mean some change in the office of the mutawalli. Since there has been an agreement between us that we should not come to any decision and make any change about this office, we have agreed that this clause should be omitted.

THE HONOURABLE LIEUTENANT-COLONEL NAWAB SIR MAHOMED AKBAR KHAN : My reason is a better one.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : It is not necessary that every one who supports this amendment should have the same reasons for doing so. People can support one thing for different reasons. I have no quarrel with them. I agree that this clause is unnecessary and I have no objection to accepting this amendment.

THE HONOURABLE THE PRESIDENT : Amendment moved :

"That clause 14 be omitted and the subsequent clauses be renumbered accordingly."

The Question is :

"That this amendment be made."

The Motion was adopted.

Clause 14 was omitted from the Bill.

Clauses 15 and 16 were added to the Bill.

THE HONOURABLE THE PRESIDENT : Clause 17.

THE HONOURABLE KUNWAR HAJI ISMAIL ALI KHAN : Sir, I move :

"That for item (j) of sub-clause (2) of clause 17 the following be substituted, namely :

'(j) maintenance of peace and order within the Durgah compound'."

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : Sir, I accept the amendment.

The Motion was adopted.

Clause 17, as amended, was added to the Bill.

THE HONOURABLE THE PRESIDENT: Clause 18.

THE HONOURABLE SAIYED MOHAMED PADSHAH SAHIB BAHADUR: Sir, I move:

"That clause 18 be omitted and the subsequent clauses be re-numbered accordingly."

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: Sir, I have no objection to accepting this amendment. Of course, I would have preferred to retain this clause because it is intended to explain certain other provisions of the Bill. Naturally, Sir, when the committee have the power of appointment, they have also the power of dismissal. The intention of this clause was that the committee should not be able to dismiss any hereditary servant except on any of the five grounds mentioned in the clause. If they dismiss a hereditary servant on any of these five grounds, still the servant will have the right to move a civil court to set aside their order. As a matter of fact, this clause was intended to give protection to the mutawalli or other hereditary servant. Of course, we do not admit the mutawalli to be a hereditary servant. But for those who are hereditary servants we suggested this protection. If my Honourable friends think that this should be eliminated, I have not the slightest hesitation to do so, but I would prefer to retain it.

THE HONOURABLE THE PRESIDENT: Will you please be decisive whether you accept the amendment or not?

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: I accept the amendment.

THE HONOURABLE THE PRESIDENT: Amendment moved:

"That clause 18 be omitted and the subsequent clauses be re-numbered accordingly."

The Question is:

"That this amendment be made."

The Motion was adopted.

Clause 18 was omitted from the Bill.

THE HONOURABLE THE PRESIDENT: Clause 19. There are two amendments for adding new clauses.

THE HONOURABLE LIEUTENANT-COLONEL NAWAB SIR MAHOMED AKBAR KHAN: Sir, I move:

"That the following two new clauses be added at the end of the Bill, namely:

'20. The Durgah Committee shall not be empowered to use the property, moveable and immoveable, for the Durgah Endowments for any purpose other than those intended by the founders of the waqf.

'21. The Committee shall in the expenditure of the income of the Durgah Endowments abide by the directions contained in the waqf deed and shall allot not less than 20 per cent. of the income from Durgah Endowment and one-third of the income derived from the offerings to the fulfilment of the mission of Khwaja Saheb himself'."

I need not, Sir, make a lengthy speech. The first amendment by itself shows that whatever property there exists for the Durgah, it should not be taken away but should remain where it is. I hope the Muhammadan Members will agree with me that that should be the case. Because, after all, what is endowed to the Durgah is a sacred thing and these things should not be utilised by any private person or removed from the Durgah for private use. I hope the Raja Sahib will agree with me that nothing should be removed from the Durgah and that these things should remain sacred and should not be utilised by any private persons.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: Sir, I very gladly accept these two amendments.

The Motion was adopted.

THE HONOURABLE THE PRESIDENT (to the Honourable Kunwar Haji Ismail Ali Khan): The first part of your amendment the Council have agreed to just now. If you wish, you will only move the second part.

THE HONOURABLE KUNWAR HAJI ISMAIL ALI KHAN: Sir, I beg to move that the following new clause be added at the end of the Bill, namely:

"The provisions of Act 42 of 1923 shall be applicable to the Durgah and the committee shall also publish once every year a report on the administration of the Durgah with a copy of the accounts duly audited and certified by a chartered accountant or an auditor holding a certificate from the Government."

Sir, I move, without making any speech.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: I accept the amendment, Sir.

The Motion was adopted.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: Sir, I rise to move:

"That the Bill as amended, be passed."

At this stage, Sir, I would not like to make a long speech but I would congratulate my Honourable friends, particularly my Muslim friends, on the passing of this Bill which will lay the foundation stone of a very big all-India movement. We are all aware that the income derived from these religious places of worship which are now under the control of private individuals or of vested interests amounts to several crores of rupees. Though figures have not been collected, to the best of my information the income from Muslim wakfs in India is not less than Rs. 5 to Rs. 6 crores a year, and so if a poor backward community like the Muslims can rise to the occasion and bring in legislation which will place the control of these places—whether they be Sunni or Shiah endowments—in the hands of properly constituted committees, I am sure it will help the Muslims very much. Sir, I am sure that with this precedent dealing with the most sacred shrine in India, the members of various local Legislatures will now take the initiative and bring forward Bills more or less on the same lines. Sir, we are aware that our friends, the Sikhs in the Punjab, merely

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by getting the Gurdwara Bill passed, have added to the wealth, happiness and progress of their community. I hope the Muslims will not have to pass through that stage of strife, bloodshed and struggle to get back their religious endowments but on the other hand they will do it by peaceful and legitimate means. They will not rest till all the religious endowments have been placed in the charge of such proper committees.

I am also indebted to my non-Muslim colleagues in this House who have all along shown a good spirit of friendship and co-operation. I can assure them that whenever any one of them brings forward any measure with the intention of improving their religious endowments, we, the Muhammadan Members, will always welcome such an attempt and will lend our whole-hearted support.

Sir, before I conclude there is one more thing I want to say. There is no doubt that in Ajmer at present there is a good deal of strife and struggle between the different interests. I would appeal to the members who will be elected to this committee not to take a partisan view, and in case of those people who have held offices over several generations, whether those offices legally speaking are hereditary or non-hereditary, preference should be given to them, and instead of turning them out, should only try to improve the wakf. I hope the passing of this Bill will bring peace and goodwill to the people of Ajmer.

Sir, I once again thank you for providing facilities. As I mentioned at the beginning, this is perhaps the last occasion when a non-official Bill will be placed before this House during the lifetime of the present Council and I would be failing in my duty if I did not express my sincerest gratitude to you for the concern you have always shown in seeing that non-official business in this Council is facilitated. You have even gone out of your way to sit late. You have also tried to persuade the Honourable Leader of the House to get extra days from His Excellency the Governor General. But your chief concern has been to see that non-official business in this House gets the fullest opportunity. (Applause.)

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan) : Sir, I want to express my pleasure at the reform in the right direction which the Honourable mover and my colleagues have sought to make in passing this Bill. I did not like to speak on this Motion before because I held that I should follow the wishes of the majority of my Muslim colleagues in such a measure. Sir, in the Punjab and in other provinces generally religious shrines and endowments are not very well managed, barring a few exceptions, so it is necessary that reforms should take place in their management. I congratulate the mover of the House on passing this measure which I hope will bear good fruit.

THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa : Muhammadan) : Mr. President, I am not so much concerned at this stage with the Bill itself as with the original Act No. 20 of 1863, which has been replaced by this Bill. I should like specially to draw the attention of the Leader of the House to the fact that all those committees formed under Act XX of 1863 are lamentably lacking in any reformist spirit. There is ground for apprehension that they are all being mismanaged. In addition to that there is a general misconception in the minds of the public as well as of officials that the 1863

committees are not perpetual. I should like to quote the opinion on page 14 of Mr. M. S. Jayakar, M.A., C.I.E., Collector of Bombay, in which he has suggested that instead of bringing forward a legislative measure the Honourable mover and his friends should have gone to a civil court under section 92. That was my own misconception too. On page 61 of the opinions we find that in a memorandum from the Commissioner of Ajmer-Merwara to the Secretary of the Anjuman Nazir-i-Auqaf mention is made of the committee being replaced by having recourse to section 92. It was only recently that people woke up to the realisation, as mentioned on page 62, that a court could not frame a scheme when one is already in force. This letter is dated the 25th February, 1926. I therefore think that it is the duty of the Government in the interests of the better management of all the religious trusts that exist at the present moment that a Bill should be brought in by the Government in order to make section 92 applicable to the religious endowments which have been established under Act XX of 1863.

Now, Sir, as regards this Bill, we are passing the measure in a hurry and therefore there might be some mistakes which we have not looked into; therefore, Sir, I think it is the duty of the Assembly to give the Bill detailed consideration.

THE HONOURABLE THE PRESIDENT : Order, order. We are not supposed to teach the Assembly!

THE HONOURABLE MR. HOSSAIN IMAM : Due to this hurry, we have not looked carefully into the Bill.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : We are wiser men than the Assembly!

THE HONOURABLE MR. HOSSAIN IMAM : Sir, I do not like to indulge in self-praise myself, but we should be guided by the opinion of the world which will show in what respect they hold us. The measure is going to be passed in this House under the impression that it has received universal support. As I said, the opinion of religious authority should be universally respected. But my Honourable colleague with all his endeavour could not quote to me the opinion of a single religious institution. The name "Anjuman-i-Islamia" does not make it a religious authority, just as Mahasabha is not so authoritative as Sankaracharya who can give a fiat. In a similar manner the Muslim Association has given the support on the distinct understanding that it is a measure of reform and as a measure of reform it is bound to receive universal support, but we do not know whether religious points have been safeguarded or not. On this I venture to suggest that the opinions we have received have a weighty contribution to make. Therefore, while this measure is being passed through this House we should take care that in future the endeavour is made in a better way and with the concurrence of judicial, legal and religious opinion.

THE HONOURABLE THE PRESIDENT : Motion made :

"That the Bill to make better provision for the administration of the Durgah and the Endowment of the Durgah of Khwaja Moin-ud-din Chisti, generally known as Durgah Khwaja Saheb, Ajmer, as amended, be passed."

The Question is :

"That this Motion be adopted."

The Motion was adopted.

RESOLUTION RE APPLICATION TO INDIA OF THE POISON RULES OF GREAT BRITAIN.

THE HONOURABLE KHAN BAHADUR DR. SIR NASARVANJI CHOKSY (Bombay : Nominated Non-Official) : Sir, the Resolution that I have the honour to move reads thus :

"This Council recommends to the Governor General in Council that in the interests of public health he be pleased to apply with such modifications as may be found necessary, the New Poison Rules, sanctioned by Parliament and made effective in Great Britain and Northern Ireland from May 1st, 1936."

This Resolution bears upon another aspect of the drugs question on which this House passed my Resolution last year. It had been felt for a considerable period in Great Britain that in spite of the then existing Act to regularise the sale and dispensing of poisonous drugs, there were loopholes that enabled dealers and the medical profession to circumvent the safeguards provided and thus evade the law. The most recent instance that came up before the last session of the General Medical Council was that of a registered doctor who had been prescribing twelve and a half grains of morphia to a patient. The case was proved and his name erased from the medical register.

Parliament passed a new Act—The Pharmacy and Poisons Act of 1933. A special Committee of the House of Commons was appointed to frame a code of rules that was approved and brought into force from 1st May, 1936. They affect (a) retail chemists ; (b) retail dealers who are not chemists ; (c) educational institutions and laboratories ; (d) manufacturers and wholesalers ; (e) medical practitioners, dentists and veterinary surgeons ; and (f) hospital authorities. This comprehensive list includes all persons who have directly or indirectly to deal with poisonous drugs. The immediate results, Sir, of the operation of the code were indeed striking, so much so that such drugs as were openly sold on the 30th April, 1936 with the same freedom as milk and eggs became on the following day circumscribed as the deadliest poisons known to mankind. One instance will suffice to illustrate this. A proprietary article called *amidopyrin* was advertised in the press as vitalising forces which make the old young, grey hair black and pale cheeks red. The searcher of eternal youth will have now to see a doctor about it as he will not be able to obtain it otherwise !

The new rules are calculated to exert a salutary influence both upon the doctor and his patient and would prevent the latter from becoming an addict to any particular poisonous drug. Opium, morphia, heroin, cocaine, etc., have been hitherto used by such addicts. The list is however being added to. At the last opium session of the League of Nations the American delegate said that a new drug had been introduced, which was the world's deadliest poison more terrible than even heroin. Every doctor requiring a poison has to sign a form giving details of his purchase and should it be required immediately by 'phone, he has to do the needful the following day. Proper storage and labelling has to be attended to by him as well. Further poisonous drugs included in the schedules of the code can only be sold retail to *registered medical practitioners, dentists or veterinary surgeons*. They have to sign prescriptions which should state their addresses, the dates and the patients' names and

addresses. Also the total amount of the drug prescribed and the dose have to be mentioned. Such prescriptions can be dispensed *once only*, unless specific directions are laid down under the doctor's signature as to how often and at what intervals they should be repeated. If we contrast these regulations with what obtains in India we find that any medical man, registered or unregistered, any quack or any one who styles himself a doctor or any other person who poses himself as one connected with some arts or other can obtain a poisonous drug. Again none of the prescriptions containing such drugs have any instructions about the frequency of repetitions, nor the total amount of drugs, etc. It thus shows how far we lag behind in ensuring the safety of the people. One instance of the facility with which poisons can be had came within my personal observation, when I used to work for the Surgeon to the Coroner of Bombay. Five persons in a family met their death from poisoning by strychnine obtained surreptitiously from a dealer as also another person in the same family six months previously, strychnine was detected after *post mortem*. This case illustrates the laxity of poison rules. The Excise Department of the Government concerns itself with the sale of alcohol, opium, morphia, and cocaine but no department appears to know anything about the poisonous synthetic preparations that are now being used extensively, under trade names, their composition being kept secret. Four comprehensive schedules are attached to the code.

Sir, the blame for the enormous number of new poisonous drugs rests upon the synthetic chemist who day after day discovers new compounds and floods the medical profession with his samples, literature, etc., advertising those as innocuous even if taken for long periods. Such preparations are responsible for casualties and many physical and mental wrecks.

One class of persons who apply externally some poisonous drugs that are by no means harmless are those conducting slimming establishments, beauty parlours and hair dressing saloons who I understand have escaped notice in the Act. Several disastrous accidents and even deaths have occurred through ignorance and persons who know not what poison they use under the guise of a trade name. Advertisements that blatantly proclaim rapid reduction of weight and a streamline body even with full or extra full diet are not unknown. Only recently a well-known and widely read American journal related eight fatalities from preparations for slimming. They also cause blindness from cataract and other grave constitutional disturbances. And, finally, Sir, the haggard painted appearance of some of the patrons of beauty parlours are, to say the least, simply shocking, while others look like painted dolls or circus clowns.

The Hairdressers (Registration) Bill, introduced by Mr. Compton in the House of Commons and read first time on July 29th, includes, in clause 2 a definition that :

"The expression 'hairdressing' means the performance of any treatment of the hair and scalp, face, hands or arms of any person for the cleanliness, comfort, or better appearance thereof, and includes the diagnosis and treatment of any disease of the hair and scalp, face, hands or arms, providing the treatment is not of a nature requiring medical attention and does not include the performance of any operation for which an anaesthetic is required".

[Sir Nasarvanji Choksy.]

This country thus requires to be protected against all and every insidious poison used both internally and externally. That, Sir, is my sole object in inviting the attention of Government to their baneful effects upon the rising generation of both men and women of all classes.

Sir, I move.

THE HONOURABLE MR. R. M. MAXWELL (Home Secretary): Sir, it may be useful first of all to explain what the present position of the Government of India is with regard to these poison rules. Under the Poisons Act of 1919, it is left to the Local Governments to frame rules subject to the control of the Governor General in Council. Before the present Act of 1919 was passed, the Government of India had sent to provinces a set of model rules in 1917 under the 1904 Act. They are a very simple set of rules with a schedule of only five poisons and I believe all the provinces have now framed rules more or less on these lines, using their discretion as to the number of poisons which should be scheduled and adapting the rules generally to their conditions. So the position now is that the initiative in making these rules or amending them rests with the Local Governments and all that the Governor General can do is to bring suggestions to the notice of the Local Governments for such action as they may find possible.

Now, the scope of the existing Poisons Act and Rules is very simple. They merely provide for licensing, maintaining registers of sales, and for storage, and there are a few restrictions as to the class of persons to whom they may be sold in the Act itself or the rules framed under it. When we compare that with the Poisons Rules of 1935, which the Honourable mover wishes to be adopted generally with such modifications as may be found necessary, we find an exceedingly elaborate set of rules based on the Pharmacy and Poisons Act of 1933. Most of these have reference to the provisions of the Act itself. I am sorry to say I have not been able to see the Act but various provisions in the rules refer to one part or other of the Act. There are also a number of elaborate schedules which also have reference to various specific provisions of the Act. It is quite clear that a set of rules of this character could not possibly be read with the Poisons Act as in force in India. This being so, it is really for the Honourable mover of this Resolution to show exactly in what respects use could be made of the Poisons Rules of 1935 which are in force in Great Britain, and I was hoping that he would come here with a learned exposition showing the exact effect of these various rules and how the adoption of one or other of them would assist in the control of the sale of poisons in India. However, he has rather left us guessing on that subject. He has spoken in quite general terms and his arguments have been based very largely on the condition of things existing in the United Kingdom for which these rules were devised. For instance, if his intention is that attempts should be made to close down the slimming establishments and beauty parlours in the rural villages, I am afraid he would find there would be a very poor response.

I have tried to see what was in the mind of the Honourable mover in bringing this Resolution forward. I see he speaks as if opium, morphia, heroin, cocaine and such drugs require further control in the matter of sales. I

presume he is aware that under the Dangerous Drugs Act rules have been framed for the control of the sale of all the dangerous drugs falling into that group and that the method by which the sales are regulated and the kind of control is very largely comparable to that applied by the Poisons Rules in Great Britain for all kinds of poisons. That is to say, there is a very close control over the sale of opium, morphia, heroin, cocaine and other manufactured preparations developed from these substances, and I take it that what the Honourable mover really means is that regulations similar to those applied to these drugs by the Dangerous Drugs Rules should be applied to all other kinds of poisons, such as strychnine and so on, and that these should be included in the lists of poisons under the Poisons Act. Actually in the model rules which the Government of India suggested to Local Governments in 1917 only five poisons were listed whereas in the list of poisons appended to the Poisons Rules of 1935 in force in Great Britain, as the Honourable Member has pointed out, the number of poisons scheduled covers something like 10 pages of the rules—a very much larger list. If, however, it is desired to enlarge the list of scheduled poisons and to regulate their sale more closely, it would seem more reasonable to do what has been done in the case of the Dangerous Drugs Rules, that is to say, to frame rules applicable firstly to the existing Act in force in India and also adapted to local conditions, and possibly to the machinery for supervision, instead of taking over wholesale a body of rules framed with reference to an entirely different Act and for the requirements of an entirely different country. All I can therefore say on this Resolution is that we cannot accept it as it stands but it is possible that the sale of poisons does need some slightly more elaborate control under present-day conditions. Government will therefore consider the result of this debate and if they find that any elaboration of the rules is possible and necessary they will bring the suggestions to the notice of the Local Governments; and I hope that on this assurance the Honourable mover will withdraw his Resolution.

THE HONOURABLE THE PRESIDENT (to the Honourable Khan Bahadur Dr. Sir Nasarvanji Choksy): Do you agree to withdraw your Resolution?

THE HONOURABLE KHAN BAHADUR DR. SIR NASARVANJI CHOKSY: Yes, Sir, I am agreeable to withdraw the Resolution.

THE HONOURABLE THE PRESIDENT: Honourable Members, is it your pleasure that leave be given to the Honourable Member to withdraw his Resolution?

(When this question was put, the Honourable Rai Bahadur Lala Mathura Prasad Mehrotra said "No.")

THE HONOURABLE THE PRESIDENT: The practice is that when the President asks the mover if he wishes to withdraw his Resolution and if he says that he agrees to withdraw it and when permission is asked of the Council even if there is a single Member who objects to the withdrawal, the President is bound to put the original Motion to the House. (To the Honourable Rai Bahadur Lala Mathura Prasad Mehrotra): Do you wish to say anything?

[7TH OCT. 1936.]

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA (United Provinces Central: Non-Muhammadan): No, Sir, I do not wish to speak.

THE HONOURABLE THE PRESIDENT: Then I have to put the original Motion to the House. Resolution moved:

"This Council recommends to the Governor General in Council that in the interests of public health he be pleased to apply with such modifications as may be found necessary the New Poison Rules, sanctioned by Parliament and made effective in Great Britain and Northern Ireland from May 1st, 1936."

The Question is:

"That this Resolution be adopted."

The Motion was negatived.

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.

RESOLUTION *RE* RECOMMENDATIONS OF THE TARIFF BOARD ON THE COTTON INDUSTRY.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA (United Provinces Central: Non-Muhammadan): Sir, I beg to move:

"That this Council recommends to the Governor General in Council not to give effect to the recommendations of the Tariff Board on the Cotton Industry till a suitable agreement has been arrived at between India and Great Britain."

The Honourable Members of this House know that a special Tariff Board on the cotton industry was appointed by the Government of India in their Resolution, dated the 10th September, 1935. I may just read the terms of reference to this Tariff Board, which are contained in Appendix I to the Report, and the paragraph runs as follows:

"To recommend on a review of present conditions and in the light of experience of the effectiveness of the existing duties the level of duties necessary to afford adequate protection to the Indian cotton textile industry against imports from the United Kingdom, of (a) cotton piecegoods, (b) cotton yarn, (c) fabrics of artificial silk and (d) mixtures, fabrics of cotton and artificial silk."

"By adequate protection is meant that which will bring the price of imported goods to the fair selling price of similar goods produced in India."

Sir, I would like to draw the attention of this House to the words "to afford adequate protection to the Indian cotton industry". I do not know why they thought it proper to define "adequate protection" by adding the words in the last sentence. However, Sir, I will leave the question to be dealt with later on, and will come to the recommendation in the Board's report, which was submitted on the 26th March. The report was in the hands of Government when the Assembly threw out the Ottawa Pact and the question of giving notice to the British Government was under consideration as well as of making a

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new agreement with the British Government. In the circumstances it was not necessary for the Government to hurry up in giving effect to the recommendation of this Tariff Board by an executive order. The Government ought to have given full opportunity for the discussion of the report by the industry concerned as well as by the Legislature, and they could have taken advantage of the impending new agreement to make favourable terms. There are moments when agreements can be made with greater advantage than at other times. But this was not done. The Government in a hurry gave effect to the recommendation of the Tariff Board by executive order. Sir, we all know that this Tariff Board was appointed in consequence of the Resolution of the Government of India on the Tariff Board of 1932. Perhaps the Government was not satisfied with the recommendation of the Tariff Board of 1932. They recommended a much higher duty but Government evolved its own scheme and accepted a lower duty so far as the United Kingdom was concerned; and they also did not accept the period recommended by the Tariff Board for protection. Instead they promised that another Tariff Board would be appointed after two years, and the present Tariff Board was appointed in pursuance of that undertaking. Sir, I do not know what the object was in lowering the duty in the teeth of the opposition by the industry concerned. The Tariff Board in its report has lowered the duties from 25 to 20 per cent. They say on page 113:

"On this basis the Board recommends that on cloths of bordered grey, that is, chaddars, dhoties, saris, piecegoods and coloured goods, the duty necessary to afford adequate protection to the Indian cotton textile industry against imports from the United Kingdom should be 20 per cent. *ad valorem*."

"The Board recommends that on plain grey goods the duty necessary to afford adequate protection to the Indian cotton textile industry against imports from the United Kingdom should be 20 per cent. *ad valorem* or 3½ annas per lb. whichever is higher."

As for artificial silk and mixtures of cotton and artificial silk, the Tariff Board could not make up its mind and they leave it where it was. They say:

"The Board is unable to make an accurate estimation either of the protection afforded by the present tariff or of the level of duties necessary to afford adequate protection against imports from the United Kingdom of fabrics of artificial silk and mixture fabrics of cotton and artificial silk."

These were the recommendations of the Tariff Board.

Sir, if the Government had the idea of increasing its customs revenue, the one and most important factor was the increase in imports and I understand from the representation made by the Federation of Indian Chambers of Commerce and Industry to the Government of India that the imports of British goods in 1930-31 were 521 millions of yards, in 1931-32 they were 377 million yards, in 1932-33 they were 586 million yards, in 1933-34, 414 million yards; in 1934-35 they were 553 million yards, giving an average of 490 million yards. So the import duty which the Government derives from this industry would be equal to the reduced duty if import of about 150 million yards is increased, which I doubt very much. Supposing it is increased to that extent and the import duty is equalised, the Government ought to pay attention to the other aspects of the indigenous industry. It will be done not only at the loss

[Rai Bahadur Lala Mathura Prasad Mehrotra.]

of the industry, but at the loss of the poor agriculturists, the producers of cotton. We all know, Sir, that since 1931 the consumption of Indian cotton by the Indian mills has increased by 409,000 bales of cotton, that is 18 per cent. So, Sir, if these mills are consuming more of Indian cotton, it is an advantage to the agriculturist who produces cotton. This aspect ought to have been very much considered by the Government in a country like India which lives on agriculture.

Sir, I would now like to refer to the constitution of this Special Tariff Board. We all know that when this Board was constituted there was wide criticism from the press and platform that it is not expected from a Board presided over by a British businessman that the Indian case would be fairly considered. Sir, I will just refer to the remarks of the Fiscal Commission on the basis of which these Boards are appointed. The majority of the Fiscal Commission recommended that the constitution of the Tariff Board should be such as will command the confidence of the country and must be above suspicion of any subservience to any particular interests. This was the recommendation of the majority of the Fiscal Commission members. What does the Minority of that Commission say? The Minority which also consisted of the Chairman of the Commission said that the Chairman of the Board should be

“a trained lawyer occupying the status of a High Court Judge”.

May I know, Sir, why such a man was not appointed to preside over such an important Tariff Board dealing with one of the most important industries of the country. Therefore the recommendation of the Board for lowering the duty is not unexpected. Now, Sir, I want to tell the House very plainly that we have no ill-will against Lancashire. We sympathise with her in her difficulties, but so far as the Indian mill industry is concerned, certainly we claim, and rightly claim, that when there is conflict between the interests of Lancashire and those of India the latter should prevail. We maintain the principle of paramountcy of indigenous interests, which has always been upheld by the British Government itself. Sir, I would, with your permission, quote one or two sentences from the representation of Indian Chambers as they are very pertinent. They say about the policy of the Government of India in this matter:

“Their policy leads to the conclusion that the grant of protection to this industry has always been influenced by a desire to safeguard British textile interests even at the cost of Indian ones”.

Sir, at the end of their representation, the Committee say:

“The Committee, therefore, feel it their duty to submit that particularly when the whole question of bilateral treaties with the United Kingdom and other countries is soon to engage the attention of the Government in the near future, the Government would have deferred their decision with greater advantage to India. The Committee expected the Government to rise above their traditional old methods of serving British interests at the cost of Indian ones, thus dispelling all doubts about their policy from the mind of the public”.

So, Sir, these are the views of the most representative Chamber of the country when they made representation about this Board to the Government of India.

Sir, the whole object of my Resolution is that the Government should stop the lowering of this duty till an agreement, a suitable agreement, has been arrived at between this country and Great Britain and every advantage of giving preferential treatment to the United Kingdom should be derived by it.

With these words, Sir, I move.

THE HONOURABLE MR. H. DOW (Commerce Secretary): Sir, I invite the attention of the House first of all to the actual wording of this Resolution; it recommends to the Governor General in Council not to give effect to the recommendations of the Tariff Board. I

3-5 P. M. think the whole House is aware that Government have already given effect to those recommendations and that nothing further remains to be done; so that, on the face of it, it asks Government to put the clock back in a way that Government cannot possibly do. They cannot refrain from taking action which they have already taken. It would sometimes no doubt be very useful if Government had the power not to do things which they had already done; they could then re-model things nearer to the heart's desire.

But I do not wish to take my stand on any narrow interpretation of the literal meaning of the Resolution. The speech that was made by the Honourable Member was more or less devoted to a censure of the Government for what they had done, though at the end of the speech he indicated that that also was not his real object, but that his real object was to get Government to take off the duties which they had put on. Sir, I would remind the House that it is an integral part of the policy of discriminating protection, which is Government's policy, that protection should not be more nor less than is necessary for the purpose. That policy was very recently re-affirmed and embodied in the Tariff Act of 1934. Section 4 of that Act empowers Government either to increase duties if they find that existing duties are not adequate to give protection, and to decrease them if they find that they are more than adequate. I should like to remind the House that, when that Bill was under discussion, Sir Abdur Rahim, who is now President of the Assembly, brought forward an amendment that Government, if it took such action, should afterwards bring it up to the Legislative Assembly, and it should only continue to be of effect if it was approved by the Assembly. The House very decisively rejected that amendment, and I think it will be agreed that it follows from that, that if the Assembly did not think it desirable that they should be consulted even after Government had taken action, we may assume *a fortiori* that they did not desire or think it proper that Government should only take action after consulting the Assembly. So, even looking at it from the purely general point of view Government has a duty imposed upon it by the Legislature to see that protection is neither more nor less than is necessary. In this particular case, in addition to this general duty laid upon Government, there was a special obligation to take action at once. That special obligation arises out of the Clair Lees-Mody agreement. I think that the general terms of that pact are sufficiently familiar to Members of this House to make it unnecessary for me to quote from it. That pact, I would remind the House, was not anything imposed on the industry by Government. It was negotiated freely by people in the trade in India and

[Mr. H. Dow.]

England. It afterwards more or less received the blessing of Government and Sir Joseph Bore in his speech on the Textile Protection Bill of 1934 specifically repeated the undertaking that it was incumbent on Government to take action, when it was found to be necessary, and that again, as late as January, 1935, was repeated by Sir Bhupendranath Mitra in the note attached to the supplementary trade agreement between His Majesty's Government and the Government of India. Government were then bound to take action as soon as possible, both in accordance with their general policy, and in pursuance of a specific agreement and undertaking. I think I have sufficiently dealt with the suggestion that it was necessary for Government to bring this matter up to the Legislature before taking action.

The Honourable mover of this Resolution has spoken of Government lowering the duty in the teeth of opposition from all the interests concerned. Now, Sir, there was a full dress debate only a week ago on this subject in another place when the matter was the subject of an Adjournment Motion. It is a very notable thing, I think, that in the course of that debate not one Member connected with the cotton trade spoke against the agreement.

THE HONOURABLE THE PRESIDENT: I would ask you not to refer to a debate that took place during this session.

THE HONOURABLE MR. H. DOW: Well, I will not make that point. If the action taken by Government had been ruinous to the cotton trade or very much against their interests, one would have expected some reaction on the stock exchange as soon as Government's action was known. Well, Sir, there was such a reaction, and what happened was that the shares of almost every mill company that was quoted went up when the action taken by Government was known.

There are other reasons why Government had to take action at once. There is the well-known effect on trade of a state of uncertainty. It was known that this Tariff Report was in the hands of Government, and very naturally forward trade was more or less at a standstill until the action to be taken was known. Such a state of uncertainty reacts very adversely on Government's revenue. If you take the months of April to June for the last three years, the figures of customs revenue under the heads affected were Rs. 74,15,000 in 1934, Rs. 68,71,000 in 1935, and in 1936 they had gone down to Rs. 52,52,000. That is another indication that it was necessary for Government to take action at once.

Lastly, there is the suggestion that, having imposed these duties, we should now take them off again, and that in some obscure way that would help pending negotiations between India and the United Kingdom, I really fail to see how it would help us in those negotiations. Having first of all broken one solemn undertaking before we go into new negotiations is in some way supposed to be going to assist us. I cannot follow that argument at all. It is quite obvious that, if we were to take off these duties, we should have great dislocation in trade and it would not possibly benefit us in any way in the negotiations that are about to take place.

I therefore appeal to the Honourable Member to withdraw his Resolution. On the face of it, it asks a thing which we cannot possibly do, because we are

asked not to do something which has already been done, and nothing more remains to be done. I have done my best to answer the arguments which he has adduced. With one simple emendation of his Resolution I should be very pleased to accept it. Where he says, "This Council recommends to the Governor General in Council not to give effect" if he will accept the insertion of the word "further" before the word "effect" that would at once make sense of his Resolution and enable Government to accept it. If the Honourable Member is prepared to accept the addition of the word "further" in front of the word "effect" it will make the Resolution at least intelligible and it will make it one the Government can accept.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: Sir, my Honourable friend, in replying to my Resolution, laid stress on three points. The first is, that Government have already taken action. We all know it, Sir. The action was taken at a time when the Legislature was not in session, and the Resolution has been brought when we are in session now. Then, Sir, he said that the principle of Government is that protection should be neither more nor less. This point the Federation of Indian Chambers of Commerce has dealt with very fully and they say that the real question in judging to the prices of the goods manufactured in the United Kingdom and India was not considered. They say:

"The Committee, after carefully going through the Report of the Tariff Board, find that the industry established a case for an increase in the rate of duties on imports of cotton piecegoods from the United Kingdom. Various efficient mills in India calculated that fair selling prices for the same goods if manufactured in Indian mills as are imported from Lancashire. This was certainly the correct basis on which an estimate could be made as to the amount of protection needed by the local industry. The Committee are aghast to find that the Tariff Board brushed aside this equitable method for no other reason than that it disclosed the necessity of a higher import duty. With what seems to be a predetermined idea of reducing the present duty on the British imports, the Tariff Board adopted the queer and unfair method of comparing the fair selling prices of inferior Indian goods with the c. i. f. prices of superior Lancashire goods".

So, Sir, they have fully discussed this case and said that the basis was incorrect.

The third point on which my Honourable friend laid stress was that Government was free to take action before consulting the Legislature. My Honourable friend may think whatever he likes from his point of view but we, on this side of the House, are very keen that the Executive should follow the decisions of the Legislature. The Legislatures are higher than the Executive and the Government ought to have considered it their duty not to give effect to the recommendations of the Board without the consent of the Legislature, because of its plain verdict on the Ottawa Pact which dealt with differential treatment.

These were the points raised by my Honourable friend, and he has now come forward with an amendment—

THE HONOURABLE THE PRESIDENT: There is no amendment whatsoever. He has only suggested if you would care to have the word "further" before the word "effect" inserted in your Resolution.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : If Government are willing to accept my Resolution with this addition, I am prepared to agree to it.

THE HONOURABLE THE PRESIDENT : Resolution moved :

"This Council recommends to the Governor General in Council not to give further effect to the recommendations of the Tariff Board on the Cotton Industry till a suitable agreement has been arrived at between India and Great Britain."

The Question is :

"That this Resolution be adopted."

The Motion was adopted.

RESOLUTION *RE* ADVANCE OF LONG-TERM CREDIT TO ZEMINDARS.

THE HONOURABLE MR. HOSSAIN IMAM : Sir, I rise to move :

"That this Council recommends to the Governor General in Council to advance long-term credit to zemindars on low rates of interest through the Provincial Governments for repayment of loans and for improvement of land, specially in the provinces where land mortgage banks do not exist."

This Resolution, Sir, has found two more echoes on the agenda. This would show to the Government how difficult is the situation of the zemindars and how keen we are that some sort of help is given by the Government. Seemingly, Sir, this Resolution of mine is aimed at helping the zemindars alone, but in reality, considering the fact that India is an agricultural country—80 per cent. of its population are dependent for their daily bread on agriculture.

THE HONOURABLE THE PRESIDENT : Will you confine yourself to your own Resolution ? The other Resolution, which applies to poor agriculturists, will be moved by the Honourable Rai Bahadur Lala Ram Saran Das.

THE HONOURABLE MR. HOSSAIN IMAM : I was simply saying that through the prosperity of the land-holding classes you get the prosperity of entire India and of the Government of India too. Our difficulty is that we are relying on our own produce and everywhere the door is closed against us. The Congress have not a good word for us. The Provincial Governments also follow suit. I will just give two instances. When Pandit Jawaharlal Nehru made his no-rent campaign in the United Provinces, the Government of the United Provinces, of which the Honourable the Leader of the House was then a distinguished member, accepted the Pandit's dictum in effect by reducing the rental of the tenant. I am not here questioning the propriety of the order, or whether it was good, bad or indifferent. But it was the zemindars who had to foot the bill. Government came to the succour of the tenantry, but without incurring the cost itself. They did reduce the land revenue by a small instalment—

THE HONOURABLE MR. J. C. NIXON : Over a crore.

THE HONOURABLE MR. HOSSAIN IMAM : What was the reduction in the rental ? Four and a half crores, I am told. That shows the difference between the treatment which is meted out to the industrialists and to the agriculturists. In the case of industries, it is the consumer who is made to pay and the industrialists are there to enjoy the benefits, whereas in our case, it is we who pay through our noses and the credit goes not to the zemindar but to the Government and to the Congress. Perhaps the Government thought that their action in reducing the rental of the tenantry will have some good effect on the election results. We will wait and see whom the tenantry regard as their real benefactor, the Congress or the Government which has simply followed in the footsteps of the Congress. In my own province the Government is trying to placate the Kisan Sabha in our parts by using indirect influence on zemindars to reduce their demands from the tenantry. There too the underlying idea is to win over the sympathy of these people who are going to form the main electorate under the new constitution. But there too I am sure the Government will be disappointed. Our case is that when we go to the Governments of our own provinces we are told that the resources available to the provinces are very meagre, that the iniquitous financial settlement made by the Government of India in 1919 has allowed them no expanding sources of revenue. So the provinces refuse to come to our help and when we come to the Government of India we are told that things are in the hands of the provinces. Thus we go begging from door to door and are shown no sympathy. Now, Sir, may I point out that the plight of the Indian agriculturist is really very bad. New competitors have come into the world markets which are trying to oust us from what we regard as our monopolies. They have marketed a substitute for jute, and for other commodities Russia is coming into the field. In addition, the depreciated currency of Australia has been responsible mainly for the stoppage of our wheat export. All these factors make it incumbent on India, if it wants to maintain its present scale of living, that some steps should be taken to maintain our footing in the international trade markets. If our export trade is jeopardised, what will be the result ? The result will be that imports will have to be reduced, and the reduction of imports means the crippling of the Government of India finances, because those finances are mainly dependent on the income from customs. The Government of India should take a long view and not remain as complacent as they are at present in the hope that everything will turn out for the best. Sir, there are two methods of improving the agricultural situation. One is very much near our hearts.

THE HONOURABLE THE PRESIDENT : The main theme of your Resolution is to advance money to zemindars for their needs and you are referring to the position of agriculturists, which is covered by the Honourable Rai Bahadur Lala Ram Saran Das' Resolution. You have now spoken for ten minutes and not said a word about loans to zemindars.

THE HONOURABLE MR. HOSSAIN IMAM : I am referring to the improvement of land, Sir. There are two ways open to us. One is devaluation, by which we could sell in outside markets at competitive rates. But that door being bolted and barred according to Sir James Grigg in the other

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House, the only other method is to go in for land improvement, improvement of implements, irrigation facilities, etc. But these things require money. Now a zemindar can only get money from three sources. One is the village *mahajan* or *bania*, but his rates of interest are so ruinous that I am sure the Honourable Finance Secretary will himself agree that he is not a person to whom any one can go for money even for land improvement. As a matter of fact the activities of the *mahajan* are mostly confined to advancing money for non-productive purposes. There remain two other sources, one is the Bank and the other the Government. I think the Honourable Finance Secretary will agree with me that it is impossible for commercial banks to advance money to zemindars whose credit is so shaky and who require money for long periods which banks are not prepared to give as they want quick returns. Therefore the only source left to us is the Government. Another alternative which might suggest itself to some Members would be to look to the Reserve Bank to come to our rescue. But, as the House will remember, the Reserve Bank has been debarred from having any business with private individuals except in very exceptional circumstances. And so the Reserve Bank can only come to our rescue if there is a land mortgage bank to which they can advance money. But land mortgage banks have not been formed in most of the provinces, and therefore we have no other source than the Government. Now, the question arises whether we should ask for aid from the Provincial Governments or whether the Centre should come to our rescue? The Provincial Governments, as I have said, have very meagre resources and also they do not look at things with that broad view which the Government of India does. The Government of India have ample resources; their dealings are not in crores but in hundreds of crores, whereas we in the provinces think in lakhs. Knowing, Sir, the magnitude of the indebtedness of the zemindars it would seem that the only authority which can effectively come to their rescue is the Central Government and not the Provincial Governments.

Now, Sir, it may be said that the agriculturists of India are very backward and therefore their difficulties are of their own creation. That is not correct. Everywhere in the world where agriculture forms the subsistence of a substantial part of the population the difficulties are the same. The most advanced country in the world, the United States of America has its share of troubles in regard to the agriculturists. But the difference between America and India is that they have been doing things while we have been sitting idle. As far back as 1916, the American Congress passed the Federal Farm Loans Act and under that they formed 12 Federal Land Mortgage Banks, and they also authorised the formation of Joint Stock Banks under the Federal Farm Board to give long-term credit to the agriculturist. In 1929 these 12 Federal Banks and the Joint Stock Banks had advanced to the agriculturists the enormous sum of 1,200 million dollars on land mortgages. Americans were not satisfied even with this. They went a step further. In 1923 they gave intermediate credit facilities by an Act of the Congress whereunder 12 further Federal Intermediate Credit Banks for intermediate credit were formed in different cities. These intermediate credit banks were able

to advance money at a very cheap rate of interest on securities other than real estate, like livestock, grains, and other things, which the agriculturists possessed. They were so helpful that they were able to lend money at a rate much below the rate the Government of India itself was borrowing. They were able as far back as 1934 to advance money to agriculturists for intermediate credit at the low rate of $2\frac{1}{2}$ per cent. This is what America has been doing. That is not all. These steps were taken in ordinary times, but when extraordinary times came in the days of depression, subsequent to 1929 the Government of the United States of America through its Reconstruction Finance Corporation has been doing things which would simply astound the present Government. They paid something like 270 million dollars in order to increase the price through the Grain Stabilization Corporation. I have cited the instance of America, because England itself not being an agricultural country has no problems like America and America is the only country which I could cite as mainly dependent on the prosperity of the agricultural population. Our demand is not that Government should by a magic wand remove all the difficulties of agriculturists. We have in spite of the phenomenal and disastrous fall in prices carried on our work, but now we find that whatever vital force we had has been exhausted and unless the Government comes to our rescue and gives some loan, it would be impossible for the zemindar to continue.

May I say one word, Sir, that no province is satisfied with the award of Sir Otto Niemeyer. All of them consider that they have been given step-motherly treatment by the Government of India. With the small resources available to Provincial Governments after the advent of provincial autonomy, they would not be able to do much to alleviate the condition of agriculturists unless the Government of India make a generous offer. I do not want them to give something for nothing, but simply ask them to make a friendly gesture that they would be prepared to advance money to the provinces for this purpose if they should want that help. My Resolution would not bind the Government to anything definite. The Government of India will consider the application of the Provincial Governments on their merits and if it finds that the proposals given by the provinces are financially sound, then only will they accept them. What I want them to do just now is to give the hand of friendship, tell them that they are prepared to come to the rescue of Provincial Governments and thereby assure the land-holding classes and the agriculturists in general—

THE HONOURABLE THE PRESIDENT: You do not think that would commit the Government of India?

THE HONOURABLE MR. HOSSAIN IMAM: The Government of India would be committed to a certain line of action, but the acceptance of any proposal will depend on the financial condition. The reason why I have added a rider to my Resolution, "specially in the provinces where land mortgage banks do not exist" is that it would make the task easier, because in the provinces in which there are already land mortgage banks they would not be bound to make advances. It will only be a question of the Eastern Provinces like the United Provinces, Bengal, Bihar and Assam which are hard hit at the present moment; because the Punjab with all her troubles has a sheltered market for wheat, which we have not. I wish the Finance Department would

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give us some sheltered market for rice as they have given for wheat; then perhaps we would not be in such a difficult position. The long and short of my Resolution is that we want the Government of India to share the responsibilities of the provinces and their help to inaugurate provincial autonomy with good wishes and goodwill.

Sir, I move.

THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE (East Bengal: Non-Muhammadan): Sir, I am in entire agreement with the main underlying principle of the Resolution moved by my Honourable friend. But yet, Sir, I cannot subscribe fully to the idea of unrestricted long-term loans to be given to the zemindars. Loans are always arranged, whether by a state or by an individual, to meet certain exigencies and extraneous demands. Therefore, I would like to amend the Resolution in the following terms. My amendment which I move reads as follows:

'That for the original Resolution the following be substituted, namely:

"This Council recommends to the Governor General in Council to arrange to provide in the annual budget a fixed substantial amount for advancing long-term loans at a nominal rate of interest to zemindars and landlords, to be recovered from them in ten equal annual instalments beginning from the sixth year after the advance, on the distinct understanding that such advances will be utilised by the zemindars and landlords chiefly for the purpose of improving the water supply, sanitation, drainage, education, fertility of lands in the rural areas and for introducing the modern improved methods of cultivation with a view to increase substantially the produce per acre."

Sir, the amended Resolution is self-explanatory. It does not require much explanation. The long-term loans which we are recommending Government to give us, must be for a certain definite period as well as for certain definite purposes. The period of repayment suggested by me is 15 years which, to my mind, is reasonable. Then, Sir, my amendment suggests the repayment of such loan from the sixth year from the date of the borrowings. It means that during the first five years of the loan the money may be utilised by the zemindars and landlords to improve their estates, and to improve the condition of their tenants living in rural areas. Sir, there are no less than 80,000 villages in British India. The reconstruction of these villages is a gigantic task, which no individual Government or individual organisation, like that of the Congress can successfully carry out. If the Government and the people are agreed, that village reconstruction is to be achieved then, Sir, I think the 15 years planning suggested in my amendment is the only way by which that object can be attained. There is no denying the fact that landlords are now impoverished, together with their tenants. Owing to trade depression for the last few years, and due to the recurring floods and famines in India, and also due to the currency policy of the Government, the condition of the peasantry is pitiable and is going from bad to worse. They are unable to pay their dues to the landlords. But the landlords on the other hand are to deposit their Government revenue in time, whether they get their dues from the tenants or not. The result is, that the landlords have exhausted all their accumulated funds in paying Government revenue, and in most cases have run into heavy debt, at high rates of interest. Hundreds of estates are

being sold every year owing to non-payment of Government revenue on the due date, under the Sunset law. As it is, all the landed properties are heavily involved and there are no means left to the landlords to extricate themselves from such debts unless Government come forward with long-term loans at cheaper rates of interest. If once they are relieved from the draining of their resources by way of interest, they may devote their energies to rural uplift and village reconstruction. Sir, this village reconstruction on the basis of a 15-year economic planning can only help the agriculturists in getting better road communication, better sanitation, better facilities of education for their children, and better facilities to adopt the improved methods of agriculture. Is there any denying the fact that village after village is being depopulated, owing to the migration of village labourers to towns, for employment in mills and factories and in various other salaried offices? Educated youths from villages also are migrating to towns for employment in Government and other offices.

Now, let us see why the labour population and the educated population are keen to live in towns.

THE HONOURABLE THE PRESIDENT: You want to give the go-by entirely to provincial autonomy.

THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE: Provincial autonomy will soon come in the provinces. It is solely due to the better comforts of living available in towns. As a result of such a huge influx into the towns that unemployment has become acute both amongst the labourers as well as amongst the educated classes. I think if metalled roads are constructed inter-connecting the villages, the communication between the villages and towns will be easy in these days of motor transport. If sanitation is improved and a real and earnest effort is made for driving out the malaria scourge, especially from the Bengal villages, half the unemployment problem will be solved, as, in that case, educated families would like to live in villages which would mean more intensive cultivation. Once the educated section take the idea of living in villages the other items of village reconstruction will automatically follow, such as facilities for water supply, facilities for education, and facilities for improved methods of cultivation. The difficulties in the approach to, and exit from, villages to towns is one of the main causes, which is helping the migration from villages to towns and causing the devastation of rural areas. I say further that if money is made available to the landlords for the construction of good motor roads connecting all villages with towns, railway stations and steamer stations, the villagers will also be able to get better prices for their produce, which in turn will help the landlords in the repayment of the advances proposed in the Resolution. Sir, the question of easy communications and the question of village sanitation are the two main problems which must be tackled immediately if the rural area is to be saved from utter ruin and further devastation. The present system of the free supply of quinine in malaria-stricken villages during the malaria season is nothing but tinkering with such a huge and important problem. If the African colonial empires of the western countries could be saved from malaria, and if the scourge of malaria could be driven from even the Federated Malay States within a few years, I do not see any reason

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why it cannot be driven from the villages in India? The whole village reconstruction scheme and the rural uplift scheme can only be made a complete success in this country within the shortest possible time if both the Provincial and the Central Governments allocate a fixed annual sum in their budgets for advancing long-term loans to landlords at cheaper rates of interest for being spent solely for the purpose of improving communication, sanitation, water supply, lighting arrangements, the drainage system, etc., in rural areas. Other things like the solution of the unemployment problem and facilities for education are bound to follow automatically as soon as the educated section is attracted to villages. I therefore hope the House will accept the Resolution and thereby pave the way for making India once again a prosperous country with a contented people, well-fed, well-housed and well-built, like the people of India about 200 years ago.

THE HONOURABLE THE PRESIDENT: The debate will now proceed both on the original Resolution and the substitute Resolution.

THE HONOURABLE SARDAR BUTA SINGH (Punjab: Sikh): Sir, I wish to give my whole-hearted support to this Resolution. It is not only that the small agriculturists are concerned, but members of old families who, on account of the depression, have no credit whatsoever. So far as the Co-operative Department is concerned, it does not make any advances to large landlords and the banks have closed their doors to them. Therefore, there remains no option for the large landlords but to sell their estates and pay off their debts or place them under the Court of Wards. The Court of Wards, though always ready to help, is not in a position to take up all the indebted estates. Therefore, there is great need for providing credit for members of old families. If I may, I wish to make the suggestion that Government should fix an instalment value on these large estates just as the Government of the United Provinces has fixed an instalment value on landed estates under the Encumbered Estates Act and on landlords giving an undertaking that instalments may be collected as land revenue. Government may either advance loans or issue bonds just as is being done in the United Provinces against the security of land. This would set money in circulation and help people who at present see no way out of their difficulties.

The other day a Resolution was moved in the Assembly and the Official benches brought experts like Mr. Darling from the Punjab and another from Bengal, to oppose the Resolution. All that these experts could say was—

THE HONOURABLE THE PRESIDENT: Please do not refer to the Assembly debates here.

THE HONOURABLE SARDAR BUTA SINGH: I am not quoting what they actually said. I am only giving the purport of what was said. All that these experts could say was that the co-operative movement in the Punjab was providing finance to the extent of Rs. 12 crores and in Bengal debts of about Rs. 11 lakhs were settled. Now, if we turn to the Banking Inquiry Committee Report, the two Provinces, the Punjab and Bengal, were indebted when this inquiry was held to the extent of about Rs. 150 crores each. Does not the official plea that the Co-operative Department is meeting the needs of the

agriculturist in the Punjab, or settlements in Bengal are affording substantial relief, seem ridiculous? It would be interesting to know the number of credit societies that are doing business and the number of societies that have been placed in class "D" in the Punjab. Is it not a fact that almost every day the landed gentry haunt Provincial Secretariats requesting that their estates may be taken under the Court of Wards, because the debt legislation has closed all sluices of credit and they cannot pay their debts? The reaction of the breakdown of the credit system is reflected in depression of trade, in shrinking earnings from railways and growing unemployment? Debt legislation varies from province to province and needs codifying. The Government of India promised to constitute a Rural Credit Department of the Reserve Bank, but it has taken no steps to implement its promise. It is true the Reserve Bank cannot lend money directly, but it can revive and organise rural credit in the provinces.

Sir, I support the Resolution.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN (West Punjab: Muhammadan): Sir, I rise to support the Resolution moved by my Honourable friend, Mr. Hossain Imam. There is no doubt that the agriculturists at present stand badly in need of some assistance, not only for the improvement of their lands but also for clearing their debts. In the last session of the Council of State a Resolution was moved regarding the assistance which should be given by the Reserve Bank to the agriculturists for paying off their debts. The Government replied that the Reserve Bank authorities were collecting figures and facts and they will be able to announce at a later stage what the Reserve Bank can do in the matter. A period of six months has passed and I would be very much interested to hear from the Government whether any progress has been made in that direction? If the Reserve Bank have really made some progress and there is a prospect of their putting into practice those proposals, then I would request my Honourable friend to withdraw this Resolution. But if we find that the Reserve Bank have made no progress in the matter and have paid no attention to this question then I would certainly like him to press this Resolution. I know, Sir, that in the Provincial Councils certain Acts have been passed, called by different names. The Punjab Council also passed an Act which they called the Indebtedness Act. But I am afraid those Acts are not enough to remove the grievances and hardships of the zemindars. On the other hand, there is a greater chance of there growing a racial hatred and class war than giving substantial assistance. I am one of those who strongly support those Bills which have been passed. But, Sir, the result is that the money-lenders in the villages have altogether stopped lending money even to most respectable zemindars, while on certain occasions there is a genuine necessity for taking loans, not for wasting but for improving their estate and property. Government by passing those measures have discouraged the money-lenders and they have not devised any other means of making up the deficiency and any other way in which the zemindars could obtain loans at reasonable rates of interest. Therefore, this is not a problem which could be shelved or disposed of merely by saying that it is the concern of the Provincial Governments. The Government of India must make a move in the matter and should take the initiative.

I support the Resolution, Sir.

THE HONOURABLE MR. J. C. NIXON (Finance Secretary): Sir, with your permission, I propose to apply myself to the wording of the Resolutions themselves and thus save myself from having to go into explanations of various somewhat irrelevant matters.

THE HONOURABLE THE PRESIDENT: Quite right.

THE HONOURABLE MR. J. C. NIXON: The Honourable mover of the original Resolution has no doubt observed that in the matter of granting loans to zemindars for the purpose of improvements, it will be necessary for some agency to approve the particular improvements proposed. Presumably, the agency will have to see also that these improvements are actually carried out, and possibly, the agency will have to assure itself that the money that has been lent has actually been spent on those objects. The Honourable mover knows as well as I do that the only agency which could carry out these functions is the district officer in the provinces under the Provincial Governments, and therefore, unlike my Honourable friend Mr. Banerjee, the Honourable mover of the original Resolution does realise that the Provincial Governments enter very prominently into this picture, when he proposed that the Government of India shall make the loans to provinces. I would like to paraphrase some portions of his Resolution. He proposes that the Governor General in Council shall advance long-term credit. There are times when the market will grant long-term credit to the Government of India and there are times when the market will not do so. But irrespective of whether the Government of India can get from the market long-term credits or not, the Honourable mover suggests that the Government of India should loan to provinces on long terms. He will know, and the House will know, as well as I do, that this involves some risk to somebody. He wants that that risk should be carried, not by the provinces, not by the zemindars, but by the Central Government. Further, he suggests that the money should be lent to provinces at low rates of interest. The Government of India are not in a position to dictate the rate of interest that the market will charge on the money lent by it.

THE HONOURABLE THE PRESIDENT: The amendment says "not low rates but nominal rates".

THE HONOURABLE MR. J. C. NIXON: I saw that, Sir. I intend to mention that later on. The market at some times will lend money to the Government of India at low rates, but at other times it will not lend money at low rates. But the Honourable Member's Resolution is, that whatever rate the market is prepared to lend at to the Government of India, the Government of India should advance money to the provinces at low rates of interest. I suggest that somebody then will have to hold this baby also and in the Honourable Member's mind, the body to bear this burden is the Central Government.

THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE: What is the usual rate?

THE HONOURABLE MR. J. C. NIXON: There is no usual rate. The Government of India have borrowed money from the market in recent years

at between 2½ per cent. and 6½ per cent. Sir, if some additional cost is involved in all this, the Honourable mover says that it has to be borne by Government of India revenues. His proposition is really that this shall be an additional concession made to Provincial Governments over and above those which come out of Sir Otto Niemeyer's recommendations.

The Government of India in publishing the correspondence on the subject made no secret of the fact that in order to bear the burden imposed on them by Sir Otto Niemeyer's recommendations, together with others, such as the separation of Burma, the finances of the Centre would for the next few years be very seriously strained, and nothing that has happened in the meantime has gone to alter that position. So far as the Government of India are able to see the matter at the moment, there are no more surpluses coming out. But suppose out of the revenue position of the Government of India surpluses were emerging, I wonder if this House would be unanimous in recommending that those surpluses should be made over to Provincial Governments or whether there would not be at any rate a few Members who would press for some reduction in central taxation.

But, Sir, I may be doing the Honourable Member an injustice. It may be that he really intends that the Government of India shall give to the provinces only the benefit of their higher credit. He obviously does not mean that we should lend to provinces, as in fact we have done in the past, in any circumstances in which the provinces care to ask for money. The Honourable Member coming from Bihar will, I am sure, agree with me that we should no longer go on lending money to provinces which care to outrun the revenue constable merely on the certainty of their being able to draw the difference from the Government of India. I feel certain he will be on my side when I make that statement. I may say that the present policy of the Government of India in regard to the borrowing requirements of the Provincial Governments of the future is that in general they should seek those requirements from the investing market with the help and the advice of the Reserve Bank. The Government of India believe that the market will be a better test of the soundness of provincial finance and of the credit of provinces than a Government Department situated either in Simla or Delhi. And if a Provincial Government of the future desires to raise loans for the purpose of its zemindars or for any other legitimate provincial purpose, it is unlikely that the Government of India will do anything to prevent its doing so so long as the Reserve Bank advises that the investment is a sound one and that the market will be prepared to subscribe to it. As the United Provinces Government has recently been able to raise a loan at 3 per cent. for 30 years, there is no reason for believing that provinces with prudently managed finances should not be able to raise the money for such a policy as is advocated by the Honourable Member if that Government concludes that this is a legitimate and advisable course for it to pursue. I also believe that the province from which the Honourable Member himself comes will be able to go into the market and obtain money on reasonable terms after it has been relieved of the whole of its pre-autonomy debt according to Sir Otto Niemeyer's recommendation and has been given the additional resources which he has recommended. With

[Mr. J. C. Nixon.]

its excellent reputation of the last 15 years behind it for the prudent management of its finances, I feel certain that the future credit of the Bihar Government will be high.

Now, Sir, I turn for a few moments to what is not called an amendment to the original Resolution but what is called, I think rightly, a substitute Resolution. I notice that my Honourable friend Mr. Banerjee omits to make provision for granting money to zemindars for the purpose of repaying previously incurred debts. In that respect I think his Resolution is an improvement on that of my friend the Honourable Mr. Hossain Imam. There are various difficulties obviously involved in granting loans for repaying debts. The original mover did not suggest that these debts should be limited to those which had been incurred in agricultural pursuits. Some of them might have been incurred in unfortunate share transactions or even on a race-course. However, in other respects the substitute Resolution of Mr. Banerjee has what I might perhaps be allowed to describe as objectionable features. But when I use that word I do not want it to be understood in an objectionable sense. His Resolution differs in three important regards from Mr. Hossain Imam's Resolution. In the first place, Mr. Banerjee omits any mention of Provincial Governments. He presumes, I take it, that it shall be the Government of India itself which shall examine the various proposals put up by zemindars for improving their land. The Government of India shall itself have an agency of its own to see that those improvements are properly carried out and that the money has been spent on them. I can say quite frankly we have not got the agency for that purpose. The only agency which exists in India for carrying that out would be the Provincial Governments. Secondly, another important point in which his substitute Resolution differs from the original is that he suggests that the money supplied by the Central Government and loaned direct to zemindars shall be at a merely *nominal* rate of interest. He does not suggest that we should go to the market and borrow the money at a *nominal* rate, because he realises that the market would not necessarily lend it. Also his Resolution speaks of a fixed substantial amount, presumably in the Government of India revenue budget, every year. So that his Resolution is really the first alternative of those which I suggested might be the real meaning behind the mover of the original Resolution. It is not merely placing the credit of the Government of India at the disposal either of the provinces or of the zemindar classes. This is definitely a matter of giving them money. This is definitely giving them concessions which are going to cost the Central Indian taxpayer money. That is to say, his recommendation is blatantly an attempt to supplement the provisions of the Otto Niemeyer award, and presumably, since he is referring to concessions to zemindars, concessions additional to those recommended by Sir Otto Niemeyer only in those provinces where zemindars on any large scale exist. In regard to any supplementing of Sir Otto Niemeyer's recommendations I can only refer back to what I have said previously. The Government of India will not be in a position to be financially more generous to the provinces than Sir Otto was. My own Department has no Fortunatus's purse out of which it can conjure funds, and I do not believe that the taxpayer who pays money to the Central

Government is any more philanthropically inclined than the taxpayer who pays to the Provincial Government.

I must definitely oppose the substitute Resolution of my friend Mr. Banerjee. I have also to oppose the original Resolution of my friend Mr. Hossain Imam. But, at the same time, while I oppose it, I do not want him to think that we have not a considerable amount of sympathy in regard to the purpose which moves him. I only suggest to him and to this House that his Resolution would be more properly moved in one of the Provincial Legislatures.

THE HONOURABLE MR. HOSSAIN IMAM: Sir, the Honourable Finance Secretary has shown his sympathy for the class to which I belong by his concluding remarks, but he is not prepared to translate his sympathy into action as I desired. Unfortunately lip sympathy does not serve my purpose. I want something material in addition to sympathy and good wishes. I am grateful to the House that so far there has been no opposition.

Now, the Honourable Finance Secretary brought forward some difficulties which he thought were insurmountable. In the first place he mentioned the fact that it is not possible for the Government of India to get long-term accommodation always. May I remind him that since 1921, upto the present time, barring the first four years of the depression when he was unable to get long-term credit; for the rest of the period he has been getting long-term credit for whatever period he asked. Even at the present moment, he was able to float a 1960 loan only two years ago and at the present moment his credit is so high that he can with advantage convert even his non-terminable loans if he so desires. Then there are other sources of loans available to the Government which are in effect long-term but which are not called long-term credit. I refer to the Provident Fund, to which every year more is added than is taken out, with the result that we are increasing the Provident Fund at the rate of about Rs. 8 to Rs. 12 crores per annum. That is a solid source of income on which he could have drawn for provincial accommodation if he had so desired.

THE HONOURABLE MR. J. C. NIXON: May I point out, in order to clear that up, that the assets that come in of the nature of provident fund deposits will in future accrue to Provincial Governments?

THE HONOURABLE MR. HOSSAIN IMAM: That is as far as the Provincial services are concerned, but the bulk of the arrangements will remain under the purview of the Central Government. The major part of the Provident Fund will still remain with the Centre and not with the provinces; the Army and the Railways will still remain Central subjects.

Then, Sir, he said that I wanted low rates of interest irrespective of the market condition and the rate at which Government may get its own loan. Low rates do not mean any definite rate. It is a comparative term. At the present moment a low rate means 2½ per cent. Before the depression it was 4 and 5 per cent. He said, Sir, that he had to pay for discounting Treasury Bills at the enormous rate of 6½ per cent., but that was for a very short time. I do not think it lasted even for six or seven months. For a fairly long period, the Government rate of interest for funded loans has been round about 5 per cent. Even that to us is fairly low. The zemindars do not get loans at

[Mr. Hossain Imam.]

anything less than 9 per cent. The most fortunate among us get it at 9 per cent. Barring a few big land-holders who can afford to go to certain quarters and get loans at 6 per cent., the rest of us have to consider ourselves fortunate if we get loans at 9 per cent.

THE HONOURABLE SIR DAVID DEVADOSS (Nominated: Indian Christians): What are those quarters?

THE HONOURABLE MR. HOSSAIN IMAM: The Honourable Maharajadhiraja of Darbhanga is one quarter from which some borrow. He does not give less than Rs. 5 lakhs.

Then, Sir, he referred to a very material fact, the higher Government credit means that our finances are sound. However prudently the provinces may manage its revenues they cannot attain the same degree of credit which the Government of India enjoys in the money market. As against that, I may mention a matter which occurred only a few days ago. I refer to the loan floated by the Calcutta Corporation at 3 per cent. The full amount could not be subscribed. They asked for tenders and they were not able to get much. They took a small loan of Rs. 12 lakhs at Rs. 99-8-0. The credit of the Calcutta Corporation is better than that of, say, Assam. The income of the Calcutta Corporation is more than that of Assam; it is a little short of our own income. Another advantage which we could have in dealing with the Government of India would be some sort of cash credit account. If you had a cash credit account, you could repay whatever money you had got; and if we take a long-term credit from the market, we will not have that facility. We will have to resort to a sinking fund arrangement. If our credit is good we will have to pay more than we would have to pay when our credit was bad. It would be in the interest of the provinces to have their credit worsened so that they can buy their loans in the falling market. It was for this reason that I asked the help of the Government of India. Besides this, the Government of India can tide over temporary difficulties through the savings bank and cash certificates. These are sources of income which give the Government accommodation at very low rates of interest. All these advantages are denied to Provincial Governments if they embark on loans on their own account. I do not see how it would be possible for our Provincial Governments to have the same amount of facility which the Government of India enjoys. These are the difficulties with which we are faced and I do not see that the Honourable Finance Secretary has made out a case. Our difficulties are not imaginary; they are real and they deter us from withdrawing my Resolution.

THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE: I want to ask a question, Sir.

THE HONOURABLE THE PRESIDENT: You cannot ask a question at this stage. (To the Honourable Mr. J. C. Nixon): Do you wish to say anything further?

THE HONOURABLE MR. J. C. NIXON: No, Sir.

THE HONOURABLE THE PRESIDENT: I will first take the sense of the Council on the original Resolution of the Honourable Mr. Hossain Imam.

Resolution moved:

"This Council recommends to the Governor General in Council to advance long-term credit to zemindars on low rates of interest through the Provincial Governments for repayments of loans and for improvement of land, specially in the provinces where land mortgage banks do not exist."

The Question is:

"That this Resolution be adopted."

The Council divided:

AYES—8.

Banerjee, The Honourable Mr. Jagadish Chandra.	Mehrotra, The Honourable Rai Bahadur Lala Mathura Prasad.
Ghazanfar Ali Khan, The Honourable Raja.	Padshah Sahib Bahadur, The Honourable Saiyed Mohamed.
Hossain Imam, The Honourable Mr.	
Kalika, The Honourable Mr. V. V.	Ram Saran Das, The Honourable Rai Bahadur Lala.
Kameshwar Singh of Darbhanga, The Honourable Maharajadhiraja Sir.	

NOES—25.

Akbar Khan, The Honourable Lieutenant-Colonel Nawab Sir Mahomed.	Ismail Ali Khan, The Honourable Kunwar Haji.
Akram Husain Bahadur, The Honourable Prince Afsar-ul-Mulk Mirza Muhammad.	Jagdish Prasad, The Honourable Kunwar Sir.
Arthur, The Honourable Mr. C. G.	Johnson, The Honourable Mr. J. N. G.
Ayyangar, The Honourable Diwan Bahadur Narasimha Ayyangar Gopalaswami.	Lal, The Honourable Mr. Shavax A.
Charanjit Singh, The Honourable Raja.	Maxwell, The Honourable Mr. R. M.
Choksy, The Honourable Khan Bahadur Dr. Sir Nasarvanji.	Menon, The Honourable Diwan Bahadur Sir Ramunni.
Clow, The Honourable Mr. A. G.	Nixon, The Honourable Mr. J. C.
Commander-in-Chief, His Excellency the.	Noon, The Honourable Nawab Malik Sir Mohammad Hayat Khan.
Devadoss, The Honourable Sir David.	Pandit, The Honourable Sardar Shri Jagannath Maharaj.
Dow, The Honourable Mr. H.	Parker, The Honourable Mr. R. H.
Ghosal, The Honourable Sir Josna.	Ray of Dinajpur, The Honourable Maharaja Jagadish Nath.
Glancy, The Honourable Sir Bertrand.	Russell, The Honourable Sir Guthrie.
Haidar, The Honourable Khan Bahadur Shams-ud-Din.	

The Motion was negatived.

THE HONOURABLE THE PRESIDENT: As the original Resolution is rejected by the Council, it is not necessary to put the substitute Resolution.

RESOLUTION *RE* FURTHER CONTRIBUTION FROM THE BRITISH EXCHEQUER TO DEFENCE EXPENDITURE IN INDIA.

THE HONOURABLE MR. V. V. KALIKAR (Central Provinces: General): Sir, the Resolution that stands in my name runs thus:

"This Council recommends to the Governor General in Council to make further efforts for securing contribution, as proposed by the India Office to the Capitation Tribunal from the British Exchequer to the defence expenditure of India."

[Mr. V. V. Kalikar.]

Sir, in moving this Resolution, I think I am in very good company because I think, Sir, that this Resolution is such an innocent proposition and it will bring such a lot of money into the pockets of my Honourable friend, the Finance Secretary, and of the Government of India that I am sure they also will not oppose this Resolution of mine. This Resolution, Sir, does not ask the Government of India to go against any policy of theirs. This Resolution, Sir, does not burden the finances of the Government of India with any charges. This Resolution of mine only asks for efforts to be made to secure for India her just right and to get justice from the British Government.

Sir, when I sent this Resolution I thought this was a proper time to move it because Sir Otto Niemeyer's Report was before me and I thought it advisable that the Central Government must get something for their just demand from the British Government because their finances are likely to be reduced when provincial autonomy is introduced in the provinces as under the Niemeyer Report the Central Government will have to make subventions to certain provinces and will have to reduce their debts which various provinces owe to them and after five years they will have to give a share of their income-tax to certain other provinces. I, Sir, do not propose to discuss the Report of the Capitation Tribunal here today because that was already discussed in 1935 on the Resolution of the Leader of the Opposition. But, Sir, I am encouraged in bringing this Resolution forward again this year on account of certain remarks made by Sir Philip Chetwode, the then Commander-in-Chief, when he replied to a similar Resolution, though not exactly the same, of my Honourable friend Mr. Hossain Imam. Sir Philip Chetwode then said :

"Sir, I hope the Honourable mover and the House will not think if I formally oppose this Resolution that I do so because I think in the least that the Honourable mover is wrong in bringing it forward. On the contrary, I think, it is a very good thing that this very important matter should be aired occasionally and the House will recollect that so far from the Government of India or myself opposing this contribution from England at any time during the time it has been mooted we, on the contrary, not only supported it but we did our best by briefing counsel to appear before the Garran Tribunal and put forward every possible argument that we hoped might influence that Tribunal and we actually did our best to get more".

So, Sir, the position is this, that the Government of India through Sir Philip Chetwode accepted that the demand of India in this connection is just and fair. Further on, he says, Sir, that the Rs. 2 crores which we got from the British Exchequer was not quite sufficient. It was bare justice done to India. I do not want to enter into the controversial question—though according to me it is not controversial—whether the Army in India is used for imperial purposes. I do not agree with those who hold the view that the Army in India is not used for imperial purposes. I submit with all the emphasis at my command that it is maintained and used for imperial purposes. The argument is very often advanced that it is not only used for imperial purposes but also for Indian purposes. If the Army in India is used even to some extent for imperial purposes, then other colonies and dominions get the benefit of the troops stationed in India without paying a share of the cost. So, India has got a just right to demand a share of the expenditure from the British Exchequer. The demand of the India Office before the Garran Tribunal was this :

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"The India Office has tentatively suggested several alternative formulae on which a contribution might be based. A fixed percentage of India's total expenditure on Defence, say a half, about £18,000,000 per annum or alternatively some lower percentage ; the extra cost of maintaining the British troops in India over the cost of maintaining a corresponding number of Indian troops, estimated at £10,000,000 ; the existing defence expenditure of India relating to the cost of British troops, say, £16,000,000, or alternatively a percentage of this. And the last is, the excess of India's defence expenditure over a certain percentage of India's total revenue".

It is very unfortunate that the Garran Tribunal did not come to any decision on these demands, and expressed the view that none of the formulae appeared to them to have any satisfactory foundation in principle. I do not, Sir, want to criticise the judgment of the Garran Tribunal here. But I am really surprised to find that when the India Office and the Government of India through their Counsel made these demands, the Tribunal did not come to any decision on these points. The Army in India is maintained also for the benefit of the dominions and colonies, like Australia and South Africa. My straight question, not to the Government of India because the Government of India demanded that amount from the British Government, but to the British Government is "Why should the not the Dominions be made to pay a certain portion of the expenditure of the Army in India, which is at times used for their purposes ? Why should there be such step-motherly treatment towards India" ? If Colonies are treated in a fair and generous way that they must pay only for troops maintained for their internal requirements, then, Sir, India must be treated in the same manner. In colonies, the expenditure, I understand, is controlled by a certain rule fixed by the British Government. I think that the colonies or the dominions spend 20 per cent. of their revenue for expenditure on their army. But in India it is nearly 37 per cent. of her revenues. On several occasions the authorities were able to send troops from British India to some of the distant parts of the world. There are other and more important members of the British Commonwealth, but when the emergency arose in the past and the War Office had to send reinforcements abroad, it was India and not the other parts of the British Commonwealth which was asked to send the necessary forces, because those countries maintain forces only just enough to supply their own needs and not the needs of the War Office. If today a large portion of Indian revenues is absorbed in the expenditure over the Defence Department, I submit that the reason is that the Army in India is treated as an army of charity from the British Government and fair. We do not want it as a sort of charity from the British Government that we must be paid more. We have got a just right and a claim to get more money from the British Exchequer in respect of the expenditure on the British Army in India. Sir, I understand that a remark was made in this session in the other House that what India got was quite sufficient and that India could not demand more. If that remark is correct—

THE HONOURABLE THE PRESIDENT : You are not entitled to refer to what happened in the Assembly.

THE HONOURABLE MR. V. V. KALIKAR : I am not referring to the debate. I am referring only to the information I got. I know, Sir, that I cannot refer to the debates ; otherwise, I would have read the answer of the Defence Secretary. I am using it as an argument that the remark is not correct.

[7TH OCT. 1936.]

THE HONOURABLE THE PRESIDENT: We do not know the remark.

THE HONOURABLE MR. V. V. KALIKAR: Well, Sir, I will not dilate on that point. My contention is, that the demand put forward by the India Office was,—after great consideration and labour on the part of the Government of India and after investigation and inquiry by the India Office,—put forward for getting just and fair treatment for India. The Army in India serves an imperial purpose. It is unquestionable that the British garrison in India is of incalculable value to the British Government and the Empire generally, in addition to the services it renders to India in particular. Without it either the imperial garrison would have to be increased or an imperial reserve would have to be located in the East at the expense of the Home Government. Sir, there is the very highest authority and testimony of British statesmen that the Army in India does serve an imperial purpose. Even the Right Honourable Mr. Ramsay Macdonald has stated that in his book on the Government of India that the British Exchequer must give to India half the cost of the Army in India.

Then another point that has struck me is that after the introduction of provincial autonomy and the separation of Burma and Aden our Eastern Frontier from China to Siam goes out and that will become the concern of the British Government and not of the Government of India. In that case the cost for the protection of that frontier should be incurred by the British Government and not by India.

Sir, the question is, whether we should make a demand at this time or not? I submit this is a proper time for making a demand because if the report which I have read in the papers is true, the British Government have withdrawn 10,000 troops from Egypt; if so, the expenditure which they were incurring by keeping that force in Egypt should be remitted to India. And I think we should make a demand at this time because that will to some extent relieve the financial burden on the Central Government. Sir, I do not want to say much on this point but I think this is just the time for us to make such a demand and I hope my colleagues will agree to my proposal and support my Resolution.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: Sir, as stated by the Honourable mover, a very similar Resolution was moved by the Honourable Mr. Hossain Imam only a year ago but was withdrawn on the assurance of my predecessor that Government were not unsympathetic towards the Resolution but considered it a singularly inopportune moment to raise the question with His Majesty's Government. As the Honourable mover has said, Sir Philip Chetwode also agreed that it was a good thing that this very important question should be aired occasionally, and it is chiefly for this reason, I imagine, that the Honourable mover has brought forward this Resolution today.

Now, Sir, I regret that I can add very little to what Sir Philip said in September, 1935. I do not think it can be reasonably argued that any particular event has occurred in the interval to make the moment more opportune than it was last year. During these last 12 months His Majesty's Government have not only paid us their contribution of one and a half million, but have also relieved us of the total cost of certain small units which were sent

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to Aden and other places in connection with the Italo-Abyssinian situation. On the other hand, the last thing I wish to do is to give the House the impression that Government are opposed to the principle behind the Honourable Member's proposal. We have always admitted that the amount of the contribution received as a result of the Garra Tribunal was something of a disappointment from our point of view. I can, however, assure the House that they need be under no apprehension that this matter will cease to engage the attention of the Government of India. It is a matter that we continually have in mind and we are not in the least likely to forget it. I do hope, therefore, that the House will agree to leave the matter in the hands of Government for, that the House will agree to leave the matter in the hands of Government on the assurance that they will not hesitate to reopen the question with His Majesty's Government if and when conditions are favourable for doing so. I regret I cannot say more than this at the moment and hope that the Honourable Member will understand my difficulties and agree to withdraw his Resolution in the knowledge that Government, while not opposed to the principle of it, are really not in a position at present to take the action recommended even if the Resolution was passed.

THE HONOURABLE MR. V. V. KALIKAR: Sir, I have listened with great patience to the remarks of His Excellency the Commander-in-Chief and I think that the question is before the Government of India. I might agree with them that this is not the proper time to make an effort in that direction, but in view of the financial situation of the Central Government I thought it would be advisable to make this effort before the introduction of provincial autonomy. I thought it reasonable and advisable to make an effort in this direction before the introduction of provincial autonomy. However, Sir, as His Excellency thinks that the Government of India will make an effort in that direction as stated by me in my Resolution, I beg leave of the House to withdraw the Resolution.

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

RESOLUTION RE PROTECTION TO INDIAN-BRED RACE-HORSES.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN (West Punjab: Muhammadan): Sir, I beg to move the following Resolution:

"This Council recommends to the Governor General in Council that with a view to give protection to the country-bred race-horses the following steps should be taken immediately:

- (a) That an import tax of Rs. 1,500 be placed on all geldings and Arab horses which are imported into India for racing or which are used in races in India after importation, and
- (b) That all race-courses in India should be licensed and that a condition of the licence should be that at least one race on each day of every meeting of the race in India should be provided for Indian horses and that the stakes for that race should not be less than the average value of the other races on the same day."

Sir, this is not the first occasion that the attention of this Honourable House is invited to one of the most vital problems of India, namely, providing protection to the horse-breeding industry in this country. This question has

[Raja Ghazanfar Ali Khan.]

been mooted on the floor of this House on more than one occasion. I myself was responsible for bringing two Resolutions, one concerning the horse-breeding colonies of Sargodha district and the other concerning the horse-breeding colonies in Montgomery district. This particular question of race-horses was also brought, although in a somewhat different form, by my Honourable friend, Sir Phiroze Sethna, in 1934. The object of this Resolution, as Honourable Members will realise from the wording of it, is to afford protection to this horse-breeding industry. India was at one time the greatest horse-breeding and horse-using country in the world. Up to about the year 1857, India was virtually self-supporting in respect of her horse supply, but owing to the importation of horses in large numbers began. Since then owing to the importation of horses in large numbers, the horse-breeding industry has languished except in two areas in the Punjab where subsidies of draughts and lease of land has been given since 1903. Even in these two areas methods of compulsion rather than persuasion have to be used to force the zemindar to produce good horses. The poor horse-breeding zemindars are threatened with the forfeiture of their lands if they do not satisfy the Army Remount authorities. These methods of compulsion rather than of encouragement have not succeeded on Government's own admission. The number of Indian horses produced for the army in the last ten years is only about 10,000. As the number of mares retained for the purpose in the various horse-breeding areas exceeds 10,000, it follows that each of these mares has produced only one horse suitable for the army in the course of ten years. The waste of young stock horses rejected for army use has been immense and the breeders have had to sell them at sacrificial prices of two or three scores of rupees. As long as a certain number of remounts have been obtained annually for the army, Government has not considered that this lamentable wastage has been a matter for their consideration. Being content with a limited horse-breeding factory in the two compulsory areas in the Punjab, Government has not concerned itself with the immense wastage of young stock in the two compulsory and all the voluntary horse-breeding areas. Because the army established a limited horse-breeding factory in the two new compulsory areas, virtually all the old areas, formerly famous for horses and where the people were hereditary horse-breeders of ancient renown, were allowed to fall into neglect.

In practically every country in the world where it exists on an organised basis, racing serves an important national purpose, apart altogether from the provision of sport and recreation for the public, namely, to assist the national horse-breeding industry. The value of this industry cannot be disputed.

Now, Sir, England was the first country to discover those means. There were so few riding and pack-horses available in England at the time of Queen Elizabeth that the commandeering of 3,000 horses for the defence of the country to a great extent disorganised the public transport available. It was largely due to Charles II, 1660—1685, encouraging racing that the best breed of saddle-horse in the world was evolved, and England, and later, Ireland, became famous for their plentiful supply of good saddle-horses.

The instance of South Africa can also be quoted as a typical instance where the Government thought it their duty to give protection to the country-bred horses. Similarly, Sir, you will hardly find any country in the world which has not come to the conclusion that the only way to encourage horse-breeding is by means of providing protection. The policy adopted in South Africa has been followed in all countries and parts of the Empire except India. The home-bred horse is given preference—even in places under British influence that are not within the Empire. At Shanghai, for instance, the racing is confined to Chinese ponies. At Hongkong, Chinese ponies from the mainland are favoured. At Rangoon, about Rs. 8 lakhs are given in stakes for Burmese ponies as compared with only Rs. 30,000 for imported horses. In South Africa all the classic races are for home-bred horses, and in many other ways they are favoured. In France, Germany, Hungary and Austria some of the most valuable races are confined to home-bred horses.

Sir, the importation of geldings of other breeds are subsidised by Griffin schemes as well as by vastly more valuable races than for Indian horses. Races to the value of more than Rs. 40 lakhs annually are given for imported horses and only to the value of about Rs. 2 lakhs for Indian horses. The average value of the stakes apportioned is about Rs. 3,000 per imported horse and only Rs. 1,000 per Indian horse, whereas the cost of training each kind of horse is the same. This is a great discouragement to people who would like to buy Indian horses.

Sir, the Government of India in spite of giving assurances on various occasions have not taken any practical steps in the way of fulfilling their promises.

THE HONOURABLE LIEUTENANT-COLONEL NAWAB SIR MAHOMED AKBAR KHAN (North-West Frontier Province : Nominated Non-Official) :
What promises ?

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : That the Government of India will do something in the way of giving protection to the horse-breeding industry in this country. I will presently quote the speech of the Honourable the Leader of this House on the subject.

Now, Sir, the army people who are the largest buyers of horses every year —it is an unfortunate charge to make, Sir, but they have been all the time inclined to encourage horses imported from Australia rather than the horses bred in this country. If you will kindly look at the figures, Sir, the Punjab Government is the only Government in India who have done something to encourage horse-breeding. Land, which can be valued at about Rs. 6 crores, has been allotted by the Punjab Government for the purpose of horse-breeding. The number of horses which are purchased by the Army Department only, if the amount spent on the Army Remount Department is divided up on them the price of each horse would be something like Rs. 3,000. Therefore, Sir, the Army Remount Department should be the first Department of the Government who should encourage this industry. I have purposely left out the army from this Resolution because I thought I might be faced with some important political problem. I have confined my Resolution merely to horses imported for the purpose of racing.

[Raja Ghazanfar Ali Khan.]

If I were an extremist, Sir, I should have insisted that in the interests of the industry, the Government ought to stop altogether the importation of race-horses into India. But I have satisfied myself with just making this modest demand. And what is that demand, Sir? It merely says in the first instance an import tax of Rs. 1,500 should be placed on all geldings and Arab horses which are imported for racing purposes and the other is that in the race-courses a condition should be laid down for issuing a licence that they will devote one day in their meetings for country-bred horses and that the stakes should be of as high a value as for other races on the same day. When this question was discussed in 1934, the Honourable the Leader of the House on behalf of Government replied in the following words:

"But I am prepared to say that if the Honourable mover of the Resolution feels that there is an industry for horse-breeding in India and that it needs promotion, then the course for that industry is absolutely clear. They have to make out a case for reference to Government on definite grounds that they deserve help and the way in which that help should be secured".

THE HONOURABLE THE PRESIDENT: That is quite different from what you stated—that the Government made promises which they did not fulfil.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: I have not finished the quotation. He went on to say.

"On the floor of this House it is impossible to arrive at any decision as to what the nature of the existing industry is, its extent, the amount of help it demands or deserves, and so on. I trust the Honourable mover will realise that that is as far as it is possible for Government to go".

Now, Sir, these were the words of the Honourable the Leader of the House. And it was on that assurance that the Honourable mover of the Resolution agreed to withdraw the Resolution. He said:

"I have already given figures to show that out of a total of about Rs. 42 lakhs for stakes, only Rs. 2 lakhs is allotted to races for Indian horses, which I say is a scandal. I have nothing more to add. I accept the Honourable Leader's assurance and ask for leave of the House to withdraw my Resolution in the fervent hope that Government will do their best to improve the existing situation".

Now, Sir, after this assurance from the Leader of the House, am I not entitled to ask the Government what practical steps they have taken since 1934? Naturally, Sir, as you are aware we, the Members of this Upper House, are always willing to meet the Government half-way. As a matter of fact, Sir, we are always anxiously waiting to catch the slightest opportunity where we can with a certain amount of satisfaction and self-respect come to a compromise with them. In return, Sir, we expect that even if the Government's declaration or announcement is cleverly worded, they mean to do something in the matter. If the Honourable the Leader of the House will assure me that since that announcement was made by the Leader of the House Government did look into this question or did start some sort of inquiry, I will have no objection to withdrawing the Resolution, but if I find that things are the same in 1936 as they were in 1934, I would ask the House to accept the Resolution.

Before I conclude, Sir, I would ask the Government to kindly abstain from taking part in the discussion because it is only fair that when anybody is

directly concerned in any business he should not be allowed to take part when that business is under discussion. As I have shown, Sir, the Army Department, one of the most important departments of the Government, is directly concerned with the horse trade, I would request you to ask the Government Members to keep the same strict neutrality as the Honourable Political Secretary ordered his party to keep in connection with my Bill.

Sir, I move the Resolution.

THE HONOURABLE THE PRESIDENT: It is not in my province to advise Government.

THE HONOURABLE SIR HENRY CRAIK (Home Member): Sir, in opposing this Resolution I do so in three capacities and of those three capacities perhaps the least important is that of a Member of the Government of India. I speak, Sir, primarily as President of the National Horse-breeding Society and on behalf of that Society, and I also speak as one who for some years has been very much interested in racing, and especially in the racing of what the Honourable Member incorrectly describes as country-bred horses—the proper term is Indian-bred—and as one who has some small knowledge of the technical and financial side of racing.

Sir, this Resolution purports to be for the benefit of Indian-bred race-horses and if I were convinced that it was for their benefit I should not hesitate to give it my strongest support because anything that would promote and encourage the horse-breeding interests in India has, and for years has had, my deepest sympathy, and nothing in my opinion tends so directly to encourage the horse-breeding industry in India as the development of the only profitable market that exists, that is, the market offered by the race-course. But, Sir, in my opinion the measure proposed by the Honourable mover of the Resolution, so far from benefiting the trade in Indian-bred race-horses would do it the greatest injury, and I will try to show why. The imposition of a tax of Rs. 1,500 on imported geldings and Arab horses would give a blow to racing throughout India (and this the Honourable Member can take from me because I have studied it in close consultation with both the principal Turf Clubs)—would give a blow to racing throughout India which would mean probably the complete cessation of all racing of any kind whatever. I say that after careful reflection and on a somewhat careful study of the facts. The average value of horses imported into this country is, in the case of the United Kingdom, about Rs. 2,000; in the case of horses imported from Iraq, that is, Arabs, it is something like Rs. 300 and in the case of horses imported from Australia, about Rs. 570. Does the Honourable Member seriously suggest that horses of that value can stand an import tax of Rs. 1,500 each? From that point of view the proposal can have only one result, viz., that the importation of horses of this class will completely cease. South Africa has been quoted as an example of a country where racing has gone on in spite of a heavy import tax. The analogy is in no way complete. To begin with, for some years after the import tax was placed, South African racing suffered very heavily. The total value of stakes offered went down considerably and the number of horses running also went down considerably. But, apart from that, South Africa had at that time a far better and greater supply of indigenous horses than India

[Sir Henry Craik.]

has at present. It also had a considerable number of very rich owners who could afford to import horses in spite of the import of tax of—I think it was—£137 per horse. In India there are few, if any, owners to whom such a sum is a small consideration.

The present position as regards racing in India is that there are about 290 Indian horses registered for racing at the outside. I have checked up the numbers today. Of these at least 50, I am convinced, will never see a race-course again. So, we can say that roughly 240 Indian horses are registered, that is, qualified for racing in India. Of the imported horses, not counting Arabs, there are, I think, over a thousand. Assuming that the importation of English and Australian horses was stopped, as I believe this tax would stop it, does the Honourable Member seriously suggest that racing on any considerable scale could go on with the comparatively few Indian horses at present available? The suggestion, when examined, is altogether impossible.

Another suggestion is that Arab horses should be taxed Rs. 1,500, or about five times their market value, on importation. Well, Sir, the number of Arab horses has already steadily declined. In three years, the number imported into this country has gone down from 721 to 395, and the number of horses of all classes imported into this country has gone down in the same period from nearly 3,700 to 2,300. Arab horses, though I agree that they are a poor class of race-horse, do supply in Bombay and Poona four races per day. Now, the racing industry is a business matter just as any other industry and if you stop the importation of Arabs—and this tax would surely stop it altogether—what does the Honourable Member suggest the racing executive of Bombay and Poona can substitute for those four races? For, remember the racing executive have to face facts. They have to make their racing pay. They have to provide a programme that will offer good sport and will attract the public, and if you cut four races out of eight clean out of the programme without being able to offer any other scheme as a substitute, you can hardly imagine a more severe blow to racing as a whole. Of course, if racing as a whole goes, Indian-bred horse-racing goes too.

The Honourable Member hinted that Government had given some promise to do something themselves for Indian-bred racing. When it came down to quoting the words actually used—I can read them to you—it became clear that no sort of promise was given. But, as a matter of fact, a great deal has been done to encourage the Indian breed both by the Society of which I have the honour to be President and by the great Turf Clubs and Race Clubs of India. At present the position is this, that the number of Indian horses available and qualified for racing is barely sufficient to fill the closed races already provided for them. During the cold weather in India there are race-meetings which cater for Indian horses at Bombay, Madras, and also at the race-courses of Northern India. Races are also provided for Indian horses during the monsoon at such centres as Ootacamund, Mysore, Bangalore, and this year in Calcutta. The number of races provided at the above mentioned meetings is more than sufficient to meet the number of horses available and some of the races barely fill. What the Indian breeder requires is a guarantee that as the

number of Indian horses increase, the number of races provided for them should also increase and that guarantee in the case of the Royal Western India Turf Club has been given and has been observed. That Turf Club drew up a five-year programme of closed races for Indian horses, the amount of stakes provided being roughly in the neighbourhood of three-fourths of a lakh. That programme has been faithfully carried out. We are now in the fifth year. But the number of horses competing in those races has in recent years shown a falling off although the stakes were attractive enough. The average yearly replenishments from the few studs which breed Indian horses has declined in recent years from about 40, which was the number five years ago, to 21 in this year. The amount of stakes provided for closed races for Indian horses—I am talking now of Western India; of Poona and Bombay—has risen since 1916-17 when it was about Rs. 12,000 or Rs. 13,000, to Rs. 75,000 now. But the number of horses running has not, to the regret of the Turf Club, shown a corresponding increase. In Calcutta, for example, this year, the Calcutta Turf Club started closed races for Indian horses at their monsoon meetings. Four of such races were, I think, provided. My Honourable friend Mr. Arthur will correct me if I am wrong. There were four of such races provided. The number of entries was miserably small, the number of runners in each single race never exceeded five and actually, in one race only one horse appeared and had a walk-over—a thing which I believe is practically unknown on the Calcutta Race-course.

I think I have shown that the suggestion in the Resolution as a means of encouraging the Indian-bred horses is altogether fallacious, and that it would kill Indian-bred racing as well as every other kind of racing. Provided the number of horses increases, and unfortunately there is little sign at present that the number of Indian horses qualified for the race-course is increasing, what is required is the provision of more races, especially on those race-courses which are close to the breeding centres, that is the race-courses in the north of India. Now, I have here the prospectuses of four meetings which are to be held in the north of India this winter, the only four that have yet published their prospectuses. These are the Lucknow Autumn Meeting, the Meerut Autumn Meeting, the Lahore Extra Meeting and the Lahore Christmas Meeting. That means 12 days racing with six races a day. Of those 72 races no less than 30 are closed races for Indian-breds. Of the remaining 42 there is not one in which an Indian-bred horse cannot enter, and in the great majority I have not the slightest doubt that there will be Indian horses competing. Well, I think it is quite unreasonable to say that this is not, within the means of the Race Clubs concerned, a very generous allotment. On every race day on those courses there will be two closed races at Lucknow and Meerut and at Lahore, which particularly caters for the breeding centres, there will be three closed races every day for Indian-bred horses. The Honourable Member must admit, if he understands racing at all, that that is a very generous provision for one class of horse, especially when you consider that they are eligible to run, and a great many will run, in the other races. I do not really think that at the moment there is any case for reserving more races for Indian horses.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: I would just like to ask one question. What about the prizes for these closed races?

THE HONOURABLE SIR HENRY CRAIK: Without looking at the prospectuses I cannot say. But some of the races for Indian-breds are as valuable as some of the races for other horses. That comparison which the Honourable Member made of Rs. 40 lakhs in stakes being provided for English and Australian horses and only Rs. 2 lakhs for Indian-bred horses is a most misleading comparison. Indian horses are eligible to compete for those Rs. 40 lakhs. The Rs. 2 lakhs are for closed races only in which no horse except an Indian-bred can run. Indian horses do run in and win those other races and it is completely fallacious and misleading to quote those figures in that way.

I think I have said enough to show that at the moment it would be an act of the greatest folly to impose a tax of the size proposed in the Resolution. It would provoke opposition from everybody interested in racing, and I think it would provoke more vocal opposition from the Indian breeder than from anybody else. It could have only one effect, to kill racing altogether.

As to the second part of the Resolution, that in effect asks that Government should step in and interfere with the management of race-courses. Now, there are in India two great racing authorities, the Royal Calcutta Turf Club and the Royal Western India Turf Club. These are bodies of considerable antiquity and to the best of my belief are held in very general respect. They have managed racing affairs in India, as the Jockey Club do in England, for many years with success and impartiality and they command the respect of all people connected with racing. There is no case whatever for Government to interfere in a matter of this kind in which there is already a well-established, independent and highly competent authority. I can see no justification whatever for Government taking any steps to control the management or to license race-courses. The Turf Clubs at present perform that task and perform it with competence and command the confidence of the racing public. To ask that on every day on which racing is held there should be a closed race for Indian-bred horses of the average value of all the races of that day would be in effect to impose on the Turf Clubs the obligation in some cases to provide a race where the stakes were greatly in excess of the value of the animals running. If you take the Viceroy's Cup Day in Calcutta, it would mean that the Calcutta Turf Club would have to provide a closed race for Indian-breds—a class, as I have said, which has only appeared in very small numbers on the Calcutta Race-course and when races are provided for them they do not fill—on that day of the value of over Rs. 10,000. That I submit would be altogether out of proportion to any field that could be expected to turn out for such a race. In Bombay, on the day when the most valuable race in the West of India is run, the Eclipse Stakes, it would mean the Royal Western India Turf Club would have to provide a race for Indian-breds of the value of nearly Rs. 12,500. There again, considering the generous way in which that Turf Club has catered for Indian-breds and the considerable financial assistance it has given to the Horse-breeding Society in various directions, I think that would be returning evil for good in a completely disproportionate measure.

Sir, it seems to me that this Resolution is ill-considered and could only have the exact opposite of the effect which it is intended to have. As I have said, I have every sympathy with Indian racing and Indian breeding, and I have shown it for many years in a very practical form. I am willing to

assist the Honourable Member or any Indian breeder with any well-thought-out and balanced scheme to assist Indian breeding. I think a great deal has been done in that direction and done lately by the provision of a larger number of closed races for Indian horses on the Northern India race-courses this year, and by the provision through the generosity of the Turf Clubs of large sums for research into equine diseases. In all those ways the horse-breeders—and especially the horse-breeders of the province from which the Honourable Member and myself both come—are certain to benefit. But they will not benefit by ill-conceived and badly-thought-out proposals of this kind.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Education, Health and Lands Member): Sir, I think all Members here are very grateful to my Honourable colleague Sir Henry Craik for giving us such detailed and first-hand information on racing in India. Sir Henry Craik has been closely connected with racing here and he has done, as he has shown, all that lies within his power to encourage horse-breeding in this country.

I now come to the speech of my Honourable friend the mover of the Resolution. I will not be very long because I know that Honourable Members are very anxious to get on with their other Resolutions and the clock is against them. My Honourable friend said that my distinguished predecessor, Sir Fazl-i-Husain, had given an undertaking on the floor of this House that the Government of India—

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: An assurance.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: An assurance—I accept that—on the floor of this House that the Government of India would take steps to impose a customs duty—

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: I never said that.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: An assurance with regard to what?

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: To do something to give protection to the horse-breeding industry in India.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: I was only paraphrasing it—that he would give protection to the Indian horse-breeding industry. If my Honourable friend will go through the speech, he will find that Sir Fazl-i-Husain said that it is impossible on the floor of this House to come to a decision. My Honourable friend in spite of this warning wants us to come to a decision whether protection can or cannot be given on the floor of this House. Sir Fazl-i-Husain suggested that as it was impossible to decide a question of this kind on the floor of the House those who wanted protection should state their case and then if there was a case the Government of India would no doubt be prepared to hand it over to the proper authority. This is what Sir Fazl-i-Husain said:

“On the floor of this House it is impossible to arrive at any decision as to what the nature of the existing industry is, its extent, the amount of help it demands or deserves, and so on”.

[Sir Jagdish Prasad.]

It was not possible to decide on the floor of the House whether protection should be given; if such a course was desired, an application should be made supported with facts, and if the Government of India were satisfied that there was a case for proceeding further, they would hand over the case to the proper authority. That is what Sir Fazl-i-Husain said. Therefore, I think I am justified in saying that no assurance was given on behalf of the Government of India that they will take steps by way of protection for the encouragement of the Indian horse-breeding industry.

Now, Sir, I come to the merits. My Honourable friend suggests that we should impose a customs duty of Rs. 1,500 on horses and a certain amount on geldings. How is the Customs Officer to know whether a particular Arab which is imported is going to be raced or whether it is going to be used for polo or hacking or breeding purposes? That is going to be the first difficulty. It is impossible by looking at a horse to be able to say that this is a horse which will be raced. Everyone of us recognises—(The Honourable Raja Sir Ghazanfar Ali Khan rose to interrupt.) If my Honourable friend will allow me to continue without his very interesting interruptions, I think we will get on with the work much more quickly—I was going to say that even if a horse is originally intended by the owner to be raced, if it does not come up to expectation, he may use it for another purpose. That is going to be the first difficulty and it is impossible to be able to discriminate between a horse which is to be raced and which is to be used for other purposes. Therefore, if a duty is to be imposed, it will have to be imposed on all horses. You cannot say that only the horses which are to be raced will bear the duty and not the others. Now, if we impose a duty on all horses, as my Honourable friend will recognise, this may have a most deleterious effect on the improvement of the breed of horses in India. It will also increase the cost to the army. We know that a large number of horses are imported from Australia for the army and if every horse which is imported is taxed, then the expenditure of the army in regard to the purchase of these horses will be increased. Therefore, on those two grounds alone, if there were no others, the imposition of a duty would *prima facie* be regarded as requiring further examination. Now, I also challenge the statement of my Honourable friend that after 1857 the horse-breeding industry in India has greatly declined. The figures show that during the last five years the number of horses has increased by about 15,000. The population of horses according to the census is over 1,400,000. The imports from foreign countries, as Sir Henry Craik showed, are decreasing. The imports of Arab horses has practically declined by half within the last three years. There has also been a decrease in the import of horses from Australia and from England. Therefore, there is every reason to assume that the number of Indian-bred horses is increasing. I would not repeat again what the Turf Clubs have done. I would only say that I understand that the Army Department are spending over Rs. 20 lakhs a year in encouraging the breeding of Indian horses and also mules—the major portion of the expenditure is on Indian horses. As we know, there are what are called, bound areas in the Punjab. This breeding is confined mostly to the Punjab and to three districts in my own

province, the United Provinces, the districts of Aligarh, Bulandshahr and Meerut. Apart from what the Military Department are doing, I understand there are about six private farms and particularly one farm which supplies about 75 per cent. of the Indian-bred racing horses. As my Honourable colleague Sir Henry Craik has said, the Government of India fully realise the importance of giving every legitimate assistance to the Indian horse-breeding industry. If my Honourable friend's proposals were to be carried out, it would mean that practically all racing in India would be destroyed and the very object which he has in view would be frustrated. Sir Henry Craik has shown that at present there are not enough Indian-bred horses to make race meetings thoroughly successful and if we were to exclude foreign horses from our race-courses, the result would be disastrous to the breeding of Indian horses. The Royal Calcutta Turf Club have already made it a rule, I believe, that in all races run under their rules there will be no Arab horses.

Sir Henry Craik also mentioned that the number of special classes for Indian-bred horses has been increased to three and that every effort is now being made to increase the number of such races and also to increase the stakes available for such races.

As regards the second part of the Resolution, the question of licensing of race-courses, if I may again say so without offence to Honourable Members, it is a matter which is primarily the concern of Local Governments. They are the persons who are responsible for that, and, apart from the question of jurisdiction, Sir Henry Craik has shown that licensing might indicate a reflection on the efficiency and impartiality of the two Turf Clubs existing in India. There is no reason to think that they are not doing all that is possible to encourage Indian horse-breeding and no Government would like to interfere unless it were satisfied that this interference was absolutely necessary and would promote the industry. In these circumstances I hope my Honourable friend, if he is wise, will withdraw the Resolution. If unfortunately I have not been able to persuade him, it will be my duty to oppose it.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: Sir, today's debate on this somewhat unimportant question gives us many lessons. The first is how the Government can cleverly take shelter behind words and phrases. They have tried to draw a distinction between the words "promise" and "assurance". They have further tried to make a distinction between a Resolution and an application. They have also tried to show us that if we can establish in the course of the debate that a certain case deserves consideration, that is not enough. We should submit a memorial couched in the most humble language and there we should state what are the facts to persuade Government to take certain action. The Honourable Leader of the House has admitted that his worthy predecessor gave an assurance that if an application is made the Government of India would look into the matter.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: If a case is made out and sent to the proper authorities; not otherwise.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: Sir, I would like to know what is the proper authority and what is the form of application?—Is

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there any prescribed form which we should fill in and put before the Government?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : I am very sorry. I merely stated what the late Mian Sir Fazl-i-Husain said in this House.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : Is that your opinion also?

Sir, I would submit that a Resolution being discussed in this Honourable House should have more value with the Government than an application signed by half-a-dozen horse-breeders. We, who are mostly the representatives of landlords and come from horse-breeding areas, when we are here to make a request to the Government that they should kindly do something to give encouragement to the horse-breeding industry, is it not enough for the Government to get up and give an assurance that they will consider the matter?

Now, Sir, it is much easier to give lessons to others to be wise, but I wish the Government of India were wise themselves. If they had the slightest sense of wisdom, the only thing they would do would be to get up and say that they regret that, since the Leader of the House in 1934 gave an assurance that the matter would be looked into, they had done nothing, but that they now proposed to look into the matter by appointing a committee or holding a departmental investigation. Instead of adopting that simple course, the Government are trying to take shelter behind these empty words and phrases.

Now, Sir, I have just to deal with one point raised by the Honourable Leader of the House before I turn to the Honourable the Home Member. The Honourable Leader of the House has questioned my statement that horse-breeding in India has decreased after 1857. I would like to ask a simple question at least from those people who have read something of Indian history. Before the British came to India, were the horses required for the armies in India imported from Australia? Sir, is it not a fact that all the Rajput Chiefs and the Emperors in India used to have cavalry regiments in much larger numbers than we have at present and all the horses required for these regiments were Indian-bred horses and they were not imported from Australia? I know that the Government have done something to encourage the horse-breeding industry but they have managed the business in a most unbusinesslike manner. And here I would quote the authority of the late Sir Fazl-i-Husain. He said :

"The cost of the horses would be somewhere near Rs. 2,000 per horse while in the market that poor animal would not find patrons of Indian horses willing to give even Rs. 300 for it".

That is, the money that is spent on the Army Remount Department in India to look after this horse-breeding industry makes the price of the horse Rs. 3,000 while that poor animal would fetch only Rs. 300 in the market. Now, Sir, I leave it to the businessmen here in this House as to whether the Government is running the business in a business-like way. That is my reply to the Honourable the Leader of the House.

Now, Sir, I must acknowledge that the Honourable the Home Member can speak on this subject with great authority. As he has himself said, Sir, he was speaking in three capacities—(Of course, the third was the least important, that is his being the Home Member, although I think this portfolio of "Home Member" is such that it can include anything in the world, but still I think racing is not one of its subjects.) One capacity, he said, was as President of a certain association which is interested in horse-breeding and is called by the name of the National Horse-breeding Society. How far they are trying to achieve that object it is difficult for me to say at present. But the other capacity, and to which I attach the greatest importance is his own personal interest which he has been taking for such a long time in racing. If my information is not wrong, Sir, the Honourable Sir Henry Craik must have in the beginning of this hobby favoured and patronised Indian horses—

THE HONOURABLE SIR HENRY CRAIK : He still does!

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : But finding that the Indian-bred horses were not as superior as imported horses, his patronage has now been shifted to a different country.

THE HONOURABLE SIR HENRY CRAIK : On a point of personal explanation, Sir. The Honourable Member's information is entirely incorrect. I have won more races with Indian-bred than with imported horses.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : But at least you are not patronising any Indian horses now. Sir, the Honourable Member's speech can be divided into two parts. The first part is of what may be called a general character. Whenever there is any question of giving protection to any industry in this country, 90 per cent. of the arguments advanced by the Honourable Member are advanced by the Member in charge. And therefore in the short time at my disposal I would not like to answer all these points. There is no doubt that when you give protection to Indian-bred horses, the standard of racing would be lowered to some extent for a short period. It is a matter of supply and demand. If there is a demand for good Indian-bred horses, I am sure the supply will automatically follow. But you cannot expect that, while your valuable prizes are earmarked for imported horses, that Indian horse-breeders would be encouraged to produce good horses. Now, Sir, he has counted a large number of races which he calls "closed races" but he has not given the value of those races. This, Sir, reminds me of a little story. A sahib was travelling in a train and his chaprasi, who seemed to be a very modest sort of self-respecting man, was travelling in the servants' compartment. He was well-dressed and naturally somebody thought he was a Deputy Collector. So, after some conversation, he asked him : "What is your salary?" He replied : "Well, the salaries of the sahib and myself put together come to Rs. 2,020". Now, Sir, I will tell you the value that is paid to Indian-bred horses. Three races for imported horses, of the hundreds of races provided for them, are alone of more value than all the races given for Indian horses. The most valuable race in India, the Eclipse Stakes at Bombay, Rs. 75,000 in value, was founded for the encouragement of horse-breeding in India, but it has been won nine times in 13 years by imported geldings. Indian-bred horses are not even permitted to enter for this race. I may here inform the Leader of the House that geldings were not used for

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breeding purposes. The two other most valuable races for imported horses, "The King-Emperor's Cup" and "The Viceroy's Cup", each of a value of about Rs. 70,000, were each won 11 times in 15 years (1920—1934) by geldings. The Royal Calcutta Turf Club does not provide a single race for Indian horses at its more important meetings in the winter.

Now, Sir, after these figures, I am sure my Honourable friend will agree with me that the encouragement which is being given to Indian-bred horses is very nominal and insignificant.

THE HONOURABLE SIR HENRY CRAIK: Not at all.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: If racing in India is used merely for gambling purposes and it is only intended for the amusement of a few who can afford to indulge in these luxuries, I have no sympathy for racing in India and I would not mind if it is stopped altogether. But, Sir, if it is used for the purpose of helping this national industry, then, Sir, I would not mind if the amusement and gambling is considered as a secondary part. To give importance to gambling and amusement at the sacrifice of Indian-bred horses is a perfect scandal. I have no intention of withdrawing the Resolution unless the Government are prepared to honour the assurances given by the late Sir Fazl-i-Husain that the Government would consider it their duty to look into the matter without waiting for any memorials or applications and will straightaway start inquiring into this question. If the Government are prepared to agree to this modest request of mine, I will then gladly withdraw this Resolution. But if the Government just want to put me off on this occasion, if some Honourable Member gets up and raises this same debate later on, they will again get up and say that they have not received an application in the proper form. If that is what Government are going to do, I have no intention of withdrawing the Resolution. I hope the Honourable the Leader of the House, who himself is a very leading and popular zemindar of the United Provinces will be in sympathy with his poorer zemindar brethren and will take a more sympathetic attitude and tell us that he will look into the matter and start departmental enquiries. If he says so, I will be satisfied and will withdraw the Resolution.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: Sir, I would like to clear up a misconception. Perhaps my language might have been ambiguous or I might have failed to make myself clear. All I said was that when the Resolution was last discussed in 1934, the late Sir Fazl-i-Husain made a certain statement and I think it will probably resolve our doubts if I read out—I hope the House will bear with me while I do so—what actually the late Sir Fazl-i-Husain said. The House will then be able to judge whether the Government of India have done anything which is contrary to the statement made by the then Leader of the House. This is what the late Sir Fazl-i-Husain said:

"They have to make out a case (this is with reference to customs) for reference to Government on definite grounds that they deserve help and the way in which that help should be secured. If their application makes out a *prima facie* case, I have no reason to believe that the Government of India will not be prepared to give them a chance of establishing their case before a proper authority and it would be only after a proper investigation by a properly constituted authority that we can arrive at a reasonable decision on a matter

of this importance. On the floor of this House it is impossible to arrive at any decision as to what the nature of the existing industry is, its extent, the amount of help it demands or serves and so on."

This is what I said the late Sir Fazl-i-Husain had said——

(At this stage, the Honourable Raja Ghazanfar Ali Khan rose to interrupt.)

THE HONOURABLE THE PRESIDENT: Order, order. The Honourable Sir Jagdish Prasad is in possession of the House.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: I am prepared to give way, Sir. I did not for a moment say, Sir, that it was my opinion that it was necessary that application should be made to the Government of India and that action could not be taken on a Resolution of this House.

I was only stating to the House what the late Sir Fazl-i-Husain said. I did not make any comment on it. I did not annotate it. I did not state that that was my opinion. All I said was that the late Sir Fazl-i-Husain said that if action were to be taken, a certain procedure will have to be adopted. That was all that I said in discussing this question. I hope that during the course of the remarks that I made I did not give the impression to Honourable Members here that the Government of India or I was not interested in the encouragement of the breeding of Indian horses. My Honourable friend, whilst describing how horse-breeding was encouraged in England, said that in the time of Charles II racing was established. It was thought that the establishment of races would lead to the improvement of the breed of English horses. Here, when my Honourable colleague Sir Henry Craik says that if you impose a customs duty you will destroy racing, my Honourable friend says, "I don't care if racing is destroyed; it means so much less gambling". The whole point was that encouragement of racing is necessary for the improvement of the breed of horses in this country. My Honourable friend started on that very basis when he gave us a description of how the improvement of English thoroughbreds took place. We do not encourage, nor does the Honourable Sir Henry Craik encourage, racing in this country merely to enable rich men to gamble. The whole object is to improve the breed of Indian horses. The point we are trying to make is, that if you have fewer horses, if there is not enough money, it will not be possible for these Turf Clubs to encourage Indian racing. That was the whole point. If you destroy the very institution which you yourself have admitted does encourage the breeding of horses, it will not help you. I hope I have been able to show that we are in full sympathy, but all that we do differ in is that we think the actual suggestion that my Honourable friend has made will not achieve his purpose. The only difference is as regards the method. There is not the slightest difference between this side of the House and the other that it is desirable and necessary that we should give every possible encouragement to the improvement of the breed of Indian horses.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: What method do you suggest, Sir.

THE HONOURABLE THE PRESIDENT: Order, order.

[Mr. President.]

Resolution moved :

" This Council recommends to the Governor General in Council that with a view to give protection to the country-bred race-horses the following steps should be taken immediately :

- (a) That an import tax of Rs. 1,500 be placed on all geldings and Arab horses which are imported into India for racing or which are used in races in India after importation, and
- (b) That all race-courses in India should be licensed and that a condition of the licence should be that at least one race on each day of every meeting of the race in India should be provided for Indian horses and that the stakes for that race should not be less than the average value of the other races on the same day."

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: May I request you, Sir, kindly to put these two parts separately, because some may find it possible to support the second part while they may have some difference with the first part? This will give them a fair opportunity of expressing their opinion on both the parts.

THE HONOURABLE THE PRESIDENT: During the course of the debate I have not heard anybody say in the House that he is prepared to adopt the second part of the Resolution only.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA (United Provinces Central: Non-Muhammadan): Nobody spoke, Sir,

THE HONOURABLE THE PRESIDENT: That is not my fault. In view of that fact, I think it is not necessary to divide the Resolution into two parts.

The Question is :

"That that Resolution be adopted."

The Council divided :

AYES—1.

Ghazanfar Ali Khan, The Honourable Raja.

NOES—25.

Akbar Khan, The Honourable Lieutenant-Colonel Nawab Sir Mahomed.	Jagdish Prasad, The Honourable Kunwar Sir.
Akram Husain Bahadur, The Honourable Prince Afsar-ul-Mulk Mirza Muhammad.	Johnson, The Honourable Mr. J. N. G.
Arthur, The Honourable Mr. C. G.	Kameshwar Singh of Darbhanga, The Honourable Maharajadhiraja Sir.
Ayyangar, The Honourable Diwan Bahadur Narasimha Ayyangar Gopalaswami.	Lal, The Honourable Mr. Shavax A.
Charanjit Singh, The Honourable Raja.	Maxwell, The Honourable Mr. R. M.
Choksy, The Honourable Khan Bahadur Dr. Sir Nasarvanji.	Menon, The Honourable Diwan Bahadur Sir Ramunni.
Clow, The Honourable Mr. A. G.	Nixon, The Honourable Mr. J. C.
Devadoss, The Honourable Sir David.	Noon, The Honourable Nawab Malik Sir Mohammad Hayat Khan.
Dow, The Honourable Mr. H.	Pandit, The Honourable Sardar Shri Jagannath Maharaj.
Ghosal, The Honourable Sir Josua.	Parker, The Honourable Mr. R. H.
Glancy, The Honourable Sir Bertrand.	Ray of Dinajpur, The Honourable Maharaja Jagadish Nath.
Haidar, The Honourable Khan Bahadur Shams-ud-Din.	Russell, The Honourable Sir Guthrie.
Ismail Ali Khan, The Honourable Kunwar Haji.	

The Motion was negatived.

STATEMENT OF BUSINESS.

THE HONOURABLE THE PRESIDENT: There are still four Resolutions on the list of business, of which the mover of the fourth Sir Phiroze Sethna has already left for Delhi. This being the last non-official day, Honourable Members are anxious to have an opportunity of moving their Resolutions, but as the Council met at 10 o'clock this morning and it is now nearly a quarter past six, I should like to leave the decision of this matter to the House.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Leader of the House): As far as we are concerned, I leave the decision to the non-official Members of the House.

(On a count being taken by the Honourable the President, a large majority of the non-official Members were in favour of adjourning.)

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: I understand that the Companies Bill will probably be finished in the other House sometime this evening. I am sorry that it is not possible to lay it on the table of this House tomorrow, so that it will be necessary to meet on Friday, when the only business will be questions and the laying of this Bill on the table. We propose then, Sir, to meet on Monday and continue meeting day by day until official business is concluded.

The Council then adjourned till Eleven of the Clock on Friday, the 9th October, 1936.

APPENDIX.

Statement of criticisms and suggestions regarding the Durgah Khwaja Sahab Bill.

I. Section 2 (2) should read as follows:—

“Court” means the court of the District Judge, Ajmer.

II. Section 2 (4) (d).—The word “or” should be added before the words “dedicated to the Durgah” and after the words “any source whatsoever”.

III. Section 2 (5).—The word “Mutawalli” should be used in place of words “trustee, manager or superintendent”.

IV. Section 3 should be altered as follows:—

“The Religious Endowments Act, XX of 1863, shall always cover this Bill where inconsistency occurs”.

V. Section 4 (1) should be modified as follows:—

“The supervision and control of the Durgah endowment and all buildings connected therewith shall be vested in a Committee constituted in the manner hereafter provided.”

VI. Section 5.—

- (1) The Mutawalli should also be an *ex-officio* member of the Durgah Committee.
- (2) In clause (c) the word “Muslim” should be replaced by “Hanafi Sunni”.
- (3) The public and Durgah members should be half and half.
- (4) The members of the Committee should be from Rajputana as a whole and not from Ajmer-Merwara alone.
- (5) The existing rights of the Dewan, Khadims and Mutawalli should be safeguarded.
- (6) Provision should be made in the Bill for the representation of the Mutawalli on the Committee.
- (7) Provision should be made for a representative of His Exalted Highness the Nizam on the Committee, if he wishes it.
- (8) The number of members should be increased from 9 to 10.
- (9) As the Kishengarh State has donated a village to the Durgah, the Kishengarh Darbar should have a representative on the Committee.
- (10) The Khadims should have one seat on the Committee.
- (11) The office of the President of the Committee should be reserved for an independent Muslim representative.

(12) Section 5 should be amended as follows:—

“The Committee shall consist of 9 members of whom—

- (a) one shall from the family of Dewan;
- (b) one shall be from the family of Mutawalli;
- (c) two shall belong to the Khadim communities, *viz.*, one from the Sheikhzadas and the other from the Syedzadas;
- (d) two shall be Muslim citizens of Ajmer other than the three classes mentioned in clauses (a) to (c) above. All these members shall be elected by persons possessing the qualifications mentioned in section 7 of the Bill;
- (e) two shall be elected by the Muslim members of the Federal Assembly from among themselves; and
- (f) one shall be elected from the Muslim members of the Council of State from among themselves.”

(13) Section 5 of the Bill should be read as follows:—

“The Committee shall consist of 11 members of whom:—

- (a) one shall be the Dewan for the time being *ex-officio*, or his nominee;
- (b) one shall be from the Pirzada community.
- (c) same as clause (b) in section 5;
- (d) 7 shall be elected from amongst the Muslim citizens of Ajmer other than the Pirzadas and the Sajjadanashin;

(14) All the time-honoured rights and customary privileges of the Dewan, Mutawalli and the Khadims should be maintained.

(15) The Mutawalli or his nominee should be a member of the Committee.

(16) The office of the Mutawalli should be hereditary.

(17) No person deriving any pecuniary benefit from the Durgah should be a member of the Durgah Committee.

(18) In place of section 5 of the Bill substitute the following:—

The Committee shall be composed of the following members:—

- (a) a nominee of the Sajjadanashin;
- (b) a nominee of the Mutawalli of the Durgah;
- (c) two members of the Khadim community elected by the members of their own community;
- (d) a nominee of His Exalted Highness the Nizam;
- (e) a Muhammadan member of the Legislative Assembly;
- (f) a Muhammadan member of the Council of State elected by the Muhammadan members of the Council;
- (g) a representative of the Muslim University, Aligarh;
- (h) 4 Muslims elected from amongst the Muslim citizens of Ajmer other than those coming under (1) and (7) above;
- (i) a representative of a donor other than (4) donating a sum in cash or property adjudged to be worth Rs. 1,00,000 or a recurring contribution of Rs. 5,000 per annum;
- (j) 2 Muslims to be nominated by the Administration of Ajmer-Merwara.

[The gentleman who makes these suggestions is a Shia and it is not clear why his opinion was sought or what *locus standi* he has in this matter.]

(19) In clause (c) the word “Muslim” should be replaced by the words “Hanafi Sunni”.

(20) Clause (c) should be amended as follows:—

“Out of 6 members from amongst the Muslims of Ajmer one will be from amongst the Muafidars elected by them only and the remaining 5 shall be from amongst the Muslim citizens of Ajmer other than Sajjadanashin, Khadims and Muafidars and 3 shall be elected by persons other than the Sajjadanashin Mutawalli, Khadims and Muafidars possessing the qualifications mentioned in section 7 of the Bill.”

VII. Section 6 should be amended as follows:—

“For the purpose of election to the Durgah Committee, the electoral area shall consist of the City of Ajmer and all places within a radius of five miles from the Durgah Sharif.”

VIII. Section 7.—

- (1) The word “Muslim” should be replaced by “Hanafi Sunni”.
- (2) The Pirzadas should be given the right to elect at least one out of nine members of the Committee and the Khadims should have nothing to do with the management of trust of which they are servants.
- (3) The proposed franchise should be based on some tangible property qualification and should be extended to the towns of Beawar, Nasirabad and Kekri.

IX. Section 8 (a).—The words “and should be acquainted with the necessary religious knowledge” should be added after the words “he can read and write Urdu”.

X. Section 8 (b).—

- (1) The drafting is a little obscure.
- (2) The words “for a period exceeding three months” be deleted. There should be no provision at all for a morally (sic) convicted person for election on the Committee.

(3) The clause should read as follows :—

“ he has not been convicted by a Criminal Court of any offence involving moral turpitude and sentenced to any imprisonment or fine ”.

(4) Clauses (c), (d) and (e) should be added to this section as follows :—

“(c) he shall be a member who can attend at least 90 per cent. of the meetings and shall be among the local respectable Rais of Ajmer :

(d) one who possesses the qualifications under section 7 (a) shall not be a candidate for membership :

(e) he is not deriving any pecuniary benefit from the Durgah or the endowment of the Durgah Khwaja Sahab, Ajmer, by way of emoluments, perquisites, allowances, and contract money under any subsisting contract or otherwise ”.

XI. Section 10.—

(1) There should be some provision in the Bill for the removal of a member of the Committee who is found unfit to continue as a member.

(2) There should be some provision for bye-election to fill casual vacancies.

XII. Section 11.—Clause (1) should be amended as follows :—

“ The Committee shall elect a President and a Vice-President from among its members other than the Dewan, the Mutawalli, Khadims and local Muslim members .”

(2) The President of the Committee should not be elected from amongst the independent members.

(3) Clause 11 (1) should read as follows :—

“ The committee shall elect a President and a Vice-President from amongst its members other than Sajjadanashin or his nominee and the members belonging to the Pirzada or Khadim communities.”

(4) In place of section 11 the following should be substituted :—

(a) “ The Committee shall elect a President and a Vice-President.

(b) In the absence of the President, the Vice-President shall exercise the functions of the President. In the absence of both the President and the Vice-President, a meeting of the Committee may be presided over by a member elected by the majority of the members present at the meeting.

(c) The members of the Committee under (a) to (c) in the list given in VI (18) above will not be eligible for election to preside over a meeting under sub-sections (1) and (2) of section 11.”

(5) The powers and duties of the Vice-President should be elucidated.

XIII. Section 12.—

(1) The following should be added at the end of sub-section (1) :—

“ and shall not usurp the rights of the Dewan Mutawalli or Khadims which they enjoy at present and which do not derogate with (sic) the purpose of this Bill.”

(2) The following should be added to section 12 :—

“ The Local Government shall have supreme power over the Committee, such as power of desolation (sic) and power of interfering in the management of the Committee. The Committee shall not have power to spend the Durgah revenues on expenditure other

than mentioned in paragraph 9 of the Report of Jageers of Ajmer District and shall not have control to alter the grants, perquisites, allowances and all other payments which are in force since the time of Mughal Emperors. The Committee shall treat all the connected persons according to their status.”

XIV. Section 14 shall be amended as follows :—

“ Save as expressly provided in this Act the provisions of the Religious Endowment Act, 1863, shall apply in respect of the Durgah Committee and the Mutawalli of the Durgah, except that the post of Mutawalli shall remain hereditary on account of the established practice of the provisions of the Muhammadan Law.”

XV. Section 15.—The following should be added to this section :—

“ which are in force since the time of the Mughal Emperors and which are performed at present.”

XVI. Section 17.—

(1) Clause (2) (j) should be deleted.

(2) Sub-section (3) should provide for a period within which objections to the draft bye-laws may be made.

(3) Bye-laws framed under section 17 should be subject to the confirmation by the Chief Commissioner.

XVII. Section 18.—

(1) The proviso to this section would produce a good deal of litigation. It is very difficult for a Civil Court to determine what constitutes a persistent default or neglect of duty. It would be much better if the orders of the Committee were final or else final subject to an appeal to some Executive Officer.

(2) The orders of the Committee should be final subject to an appeal to the Chief Commissioner.

(3) The words “ and except in the presence of at least 7 members of the Committee ” should be substituted for the words “ except at a meeting specially convened for the purpose by a notice issued at least a month prior to the date of that meeting ”.

(4) The word “ paid ” should be inserted between the words “ hereditary ” and “ servants ”.

(5) The following should be added at the end of clause (c) :—

“ but the Committee or its President shall have no power to assign the works (sic) other than prescribed in the Mughal Emperors' Farmans.”

(6) Appeal from orders passed under Section 18 should lie to the Chief Commissioner.

XVIII. Section 19.—It is not clear among whom the offerings of the Durgah should be distributed. It should be made clear that while distributing the offerings, the rights of the present claimants will not be adversely affected.

XIX. Section 20.—An extra section 20 should be added as follows :—

“ The Durgah Committee shall not be empowered to use the property movable or immovable of the Durgah Endowment for any purposes other than those intended by the donors of the wakf.”

COUNCIL OF STATE.

Friday, 9th October, 1936.

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

MEMBER SWORN :

The Honourable Mr. Susil Chandra Sen (Government of India : Nominated Official).

QUESTIONS AND ANSWERS.

ADMISSION OF KING'S COMMISSIONED INDIAN OFFICERS TO THE STAFF COLLEGE, QUETTA.

168. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS :
(a) Will Government state whether the late Commander-in-Chief Field-Marshal Sir Philip Chetwode during his term of office issued orders to all the Commands that those King's Indian commissioned officers, who qualify in the Test Examination, will in future be admitted to the Staff Colleges ?

(b) If so, has there been any change in the order ? What is the change and what are the reasons which have led to it ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : (a) No.

(b) Does not arise.

GRANTING OF KING'S COMMISSIONS ON COMMUNAL GROUNDS.

169. THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS :
Will Government state whether it is their decision that in future no King's Commission in the army will be given on communal grounds, and that Indianisation policy will not apply in staff appointments ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : No commission in the army ever has been or ever will be given on communal grounds. As regards the latter part of the question I would refer the Honourable Member to my answer to part (a) of his question No. 42 on the 28th September, 1936.

EXAMINATION OF THE LATE STAFF SELECTION BOARD HELD IN 1922.

170. THE HONOURABLE RAI BAHADUR LALA JAGDISH PRASAD :
(a) What were the categories of the ministerial staff of the Government of India Secretariat and its Attached Offices for which the Staff Selection Board held their examinations in 1921 and 1922, the number of marks required to be secured and the scales of pay then obtaining ?

(b) Was the scale of pay admissible to assistants in the Attached Offices, slightly lower than that admissible to assistants in the Secretariat, but higher than that admissible to lower division clerks in the Secretariat?

THE HONOURABLE MR. R. M. MAXWELL: (a) No examination was held by the late Staff Selection Board in 1921. The examination of 1922 was held for recruitment to the following categories:

- (1) Upper division, Secretariat (only for departmental candidates).
- (2) Lower division, Secretariat.
- (3) Typists, Secretariat.
- (4) Stenographers.
- (5) Assistants, Attached Offices.
- (6) Clerks, Attached Offices.
- (7) Typists, Attached Offices.

The scales of pay obtaining in the several divisions were as follows:

- (1) Assistants, Secretariat.—Rs. 200—500.
- (2) Lower division clerks and typists, Secretariat.—Temporary Rs. 80; permanent Rs. 100—8—300.
- (3) Stenographers.—Rs. 175—9—400.
- (4) Assistants, Attached Offices.—Rs. 120—350.
- (5) Clerks and typists, Attached Offices.—Rs. 75—175.

It is regretted that no further information can be supplied.

(b) The reply is in the affirmative.

PROMOTION OF CLERKS QUALIFIED FOR THE FIRST DIVISION IN ATTACHED OFFICES.

171. THE HONOURABLE RAI BAHADUR LALA JAGDISH PRASAD: (a) Is it a fact that from exclusively such persons as are qualified for the lower division, Secretariat, but still employed in the lower division of the Attached Offices, so many as 40 out of 100 are promoted to be assistants in Attached Offices? If not, what is the percentage?

(b) Has a percentage similar to that mentioned in (a) above been fixed for promotion to the post of assistants in the Secretariat exclusively of persons who qualified for the upper division of the Attached Offices but happen to be still employed in the lower division, Secretariat? If no provision of this nature exists, do Government propose to fix a certain percentage, for such persons also? If not, why not?

(c) Is it a fact that the number of persons referred to in (b) above is very small; if not, what is their correct number? Do Government propose to grant them relief from the loss of prospects in service by fixing a certain percentage for their promotion to the upper division or otherwise?

THE HONOURABLE MR. R. M. MAXWELL: (a) No. In accordance with paragraph 3 (IV) of the Home Department Office Memorandum No. F. 94/30-Ests., dated the 18th February, 1931, a copy of which is in the Library

of the House, typists and routine clerks who are qualified for the routine division of the Secretariat are eligible for promotion to the first division in Attached Offices to a maximum of 10 per cent. of the vacancies occurring in that division. Typists and routine clerks employed in the lower division of the Attached Offices who are qualified for the second division of the Secretariat are eligible for promotion to the first division in Attached Offices and until they are absorbed the maximum of 10 per cent. has been increased to 33½ per cent.

(b) The reply to the first part of the question is in the negative. As to the second part, under the recruitment rules, all persons qualified for the first division of the Secretariat, if fit for promotion, have preference over others. In offices where there are no such qualified persons, all persons working in the second division of the Secretariat are equally eligible for promotion to the first division of the Secretariat in the 50 per cent. of vacancies which are not reserved for external recruitment. It is not considered desirable that the vacancies available for promotion should be divided up in fixed percentages among the different classes of staff, as promotion should as far as possible be given on the basis of merit.

(c) Yes, the number is small. In view of what has been stated in reply to part (b) of the question, Government do not propose to reserve for these persons a definite percentage of the vacancies available for promotion.

STATEMENTS LAID ON THE TABLE.

EXTENSION OF THE PROVISIONS OF THE CANTONMENTS ACT TO CERTAIN VILLAGES.

THE HONOURABLE THE PRESIDENT: Adjournment Motions are generally dealt with after questions, but as Your Excellency wants to go away I will now ask you to lay the information on the table.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: Sir, I lay on the table the information promised in reply to questions Nos. 93 and 94 asked by the Honourable Raja Ghazanfar Ali Khan on the 30th September, 1936.

Question No. 93.—(a) The provisions of certain sections of Chapters IX, X, XI, XII and XV of the Cantonments Act have already been extended to the villages in question by the Local Government under section 286 of that Act.

(b) The reply to the first part is in the affirmative. As regards the second part, a portion of the 2,000 acres acquired at the time of the formation of the Jhelum Cantonment was taken from the agriculturists of the two villages.

(c) The villages are under the jurisdiction of the District Board who were not in favour of extending any of the provisions of the Act to them. The Chairman of that body, however, held that the proposal was "in the interests of the public generally and ultimately in the best interests of the villages themselves", and the Local Government agreed with his views.

(d) Does not arise, as the Local Government have already extended to the villages certain sections of the Cantonments Act.

Question No. 94.—(a) Eight, namely, Jhelum, Lahore, Rawalpindi, Peshawar, Abbottabad, Mardan, Dharamsala and Murree Galis.

(b) The application of the provisions of the Cantonments Act to the areas outside cantonments does not impose any financial liability on the villages.

[9TH OCT. 1936.]

EXCISE DUTY COLLECTED ON KHANDSARI SUGAR.

THE HONOURABLE MR. J. C. NIXON (Finance Secretary): Sir, I lay on the table the information promised in reply to parts (c) and (d) of question No. 19 asked by the Honourable Rai Bahadur Lala Mathura Prasad Mehrotra on the 22nd September, 1936.

(c) and (d). Five open pan factories were prosecuted for evasion of excise duty; one case resulted in the acquittal of the accused, two in fines, one is still pending and one was compounded. In another eight cases, the factories were found not to be maintaining proper accounts. This irregularity was condoned but excise duty was summarily assessed and realised from them. The information so far received shows no case under the Sugar (Excise Duty) Act or Order in which an open pan factory was prosecuted and let off with a warning.

MOTION FOR ADJOURNMENT *RE* HARMFUL EFFECT TO INDIAN TRADE DUE TO DEVALUATION OF CONTINENTAL CURRENCIES.

THE HONOURABLE THE PRESIDENT: Honourable Members, late last night I received a notice regarding an Adjournment Motion signed by two Honourable Members, Rai Bahadur Lala Mathura Prasad Mehrotra and Mr. Hossain Imam. The notice of Adjournment is addressed to the President. I may draw the attention of Honourable Members to the fact that all such notices should be addressed to the Secretary as required by the Standing Order and not the President. The notice reads thus:

"We wish to move on 9th October, 1936 an Adjournment of the House to consider a matter of urgent public importance, namely, the failure of Government to take any action to counteract the harmful effect to Indian trade due to the devaluation of Continental currencies."

Mr. Hossain Imam, I frankly acknowledge that the Motion which you propose to move is a matter of public importance, but I would like you to convince me first, before I give my decision on the subject, that it is a matter of urgent public importance.

THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa: Muhammadan): Mr. President, when we gave notice of this Motion, we did not know the fate of a similar Motion in the other place. We now know that it was thrown out in the other House, and so I do not intend to move it.

BILL PASSED BY THE LEGISLATIVE ASSEMBLY LAID ON THE TABLE.

SECRETARY OF THE COUNCIL: Sir, in pursuance of rule 25 of the Indian Legislative Rules, I lay on the table copies of the Bill further to amend the Indian Companies Act, 1913, for certain purposes, which was passed by the Legislative Assembly at its meeting held on the 7th October, 1936.

STATEMENT OF BUSINESS.

THE HONOURABLE THE PRESIDENT: There is nothing now which remains to be done and as the Honourable the Leader of the House has absented

himself with my permission, I will therefore now adjourn the Council till 11 A.M. on Monday, the 12th October, 1936, when the Indian Companies Bill will be discussed in this Council.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA (United Provinces Central: Non-Muhammadan): May I know if our amendments will be considered valid if we give notice on Monday, because the time is very short?

THE HONOURABLE THE PRESIDENT: You are getting the usual statutory period. I shall thank you all if you will please send in your amendments by tomorrow evening, 6 P.M., the latest.

The Council then adjourned till Eleven of the Clock on Monday, the 12th October, 1936.

COUNCIL OF STATE.

Monday, 12th October, 1936.

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

MEMBERS SWORN :

The Honourable Mr. John Bartley, C.I.E. (Government of India : Nominated Official).

The Honourable Mr. Bijay Kumar Basu, C.I.E. (Bengal : Nominated Non-Official).

QUESTIONS AND ANSWERS.

TRAVELLING ALLOWANCE EARNED BY POSTAL INSPECTORS IN THE BENGAL CIRCLE.

172. THE HONOURABLE MR. MAHMOOD SUHRAWARDY : Will Government please furnish a statement showing separately the amount of travelling allowance earned by each of the Postal Inspectors of Bengal Circle, month by month, from January, 1936 to July, 1936 ?

THE HONOURABLE MR. A. G. CLOW : I regret that I am unable to furnish such a statement. Its compilation would involve an amount of research quite incommensurate with its value.

EXPENDITURE INCURRED ON ACCOUNT OF TRAVELLING ALLOWANCE FOR 1934-35 AND 1935-36 IN THE POSTAL DIVISIONS OF MIDNAPORE, MYMENSINGH, ETC.

173. THE HONOURABLE MR. MAHMOOD SUHRAWARDY : Will Government please furnish a statement showing the amount spent under the Head Travelling Allowance for 1934-35 and 1935-36 in the Postal Divisions of (i) Midnapore, (ii) Mymensingh, (iii) Rangpur, (iv) Hooghly and (v) Jalpaiguri ?

THE HONOURABLE MR. A. G. CLOW : A statement containing the information is laid on the table.

A statement showing the expenditure incurred on account of travelling allowance for 1934-35 and 1935-36 in the following postal divisions.

Postal Division.	1934-35.	1935-36.
	Rs.	Rs.
Midnapore	6,464	6,723
Mymensingh	5,965	6,133
Rangpur	6,323	5,493
Hooghly	4,986	4,654
Jalpaiguri	7,251	8,821

INCIDENT AT A FOOTBALL MATCH OF THE DURAND FOOTBALL TOURNAMENT ON THE 30TH SEPTEMBER, 1936.

174. THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE : (a) Is it a fact that a Muslim boy of tender age belonging to the Harcourt Butler School was injured by soldiers of the Royal Scots and other regiments present in the one rupee enclosure of the Annandale ground on the 30th September ?

(b) Is it also a fact that one Indian died as a result of the injury caused by the assaults of the soldiers ?

(c) Is it a fact that a large number of persons were also seriously injured ? If so, what is the number so injured and how many of them are Muslims, and how many of them are Hindus, and how many are Sikhs ?

THE HONOURABLE MR. R. M. MAXWELL : (a) No. In the confusion that followed the football match, a Muslim boy received a cut on the head. The injury was not serious and there is no proof that it was caused by soldiers.

(b) No.

(c) No. Only three persons including the Muslim boy referred to in (a) above received minor injuries. I have no information as to the communities to which the other two persons belonged.

CONCESSION FARES GIVEN BY RAILWAYS IN CERTAIN HILL STATIONS.

175. THE HONOURABLE KUNWAR HAJI ISMAIL ALI KHAN : (a) Do some of the Railways allow concession in fare for certain hill stations in India ?

(b) If the answer to above part is in the affirmative will Government be pleased to state the name of the Railways and hill stations for which concession is allowed ?

THE HONOURABLE SIR GUTHRIE RUSSELL : (a) Yes.

(b) Assam Bengal Railway .. Haflong Hill and Shillong.

Bengal Nagpur Railway .. Ranchi.

Eastern Bengal Railway .. Darjeeling, Ghum, Kurseong, Guelle Khola and Shillong.

Great Indian Peninsula Railway Matheran, Kirkee and Poona.

Madras and Southern Mahratta Railway. Bangalore, Ootacamund, Coonoor, Wellington.

South Indian Railway .. Ootacamund, Coonoor and Wellington.

Darjeeling Himalayan Railway Darjeeling, Ghum, Kurseong and Guelle Khola.

THE HONOURABLE KUNWAR HAJI ISMAIL ALI KHAN : Will Government kindly state in which hill stations the concession is allowed ?

THE HONOURABLE SIR GUTHRIE RUSSELL : The hill stations I have given in this list.

THE HONOURABLE KUNWAR HAJI ISMAIL ALI KHAN : Is it a fact that the Great Indian Peninsula does not allow any concession for Mussoorie hill station ?

THE HONOURABLE SIR GUTHRIE RUSSELL : Mussoorie is not on the Great Indian Peninsula Railway !

BILL PASSED BY THE LEGISLATIVE ASSEMBLY LAID ON THE TABLE.

SECRETARY OF THE COUNCIL : Sir, in pursuance of rule 25 of the Indian Legislative Rules, I lay on the table copies of the Bill further to amend the Indian Tea Cess Act, 1903, for certain purposes, which was passed by the Legislative Assembly at its meeting held on the 10th October, 1936.

INDIAN COMPANIES (AMENDMENT) BILL.

THE HONOURABLE THE PRESIDENT : Honourable Members, the Council will now proceed to discuss the Bill further to amend the Indian Companies Act, 1913. I am very sorry to inform you that the Honourable the Law Member is unable to be present here today owing to illness and under medical advice but he has asked me to tender his apologies to you. The Honourable Mr. Sen.

THE HONOURABLE MR. S. C. SEN (Government of India : Nominated Official) : Sir, I move :

"That the Bill further to amend the Indian Companies Act, 1913, for certain purposes, as passed by the Legislative Assembly, be taken into consideration."

Sir, before I actually place some of the facts which it is necessary to place before this Honourable House, I must express my regret at the unavoidable absence owing to ill-health, as you have already intimated to this House, of the Honourable the Leader of the Lower House. No one is more sorry than himself that he could not come to this House to present the Bill as he originally

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intended, and I hope, Sir, that the Honourable Members will extend to me the indulgence of taking his place and doing the best I can so far as this important Bill is concerned.

Sir, in moving the Motion which stands in my name I would like, with your permission, to give a short synopsis of the events leading up to the introduction of this Bill in this Honourable House. Sir, as Honourable Members are aware, the Indian Companies Act of 1913 was introduced and based on the English Companies Act of 1908. As a matter of fact, except in a very few minor details it was a verbatim copy of the English Act. Sir, since then 23 years have passed and we have gained much experience as a result of the working of the Act. In England, Sir, during this period two commissions were issued to examine the law as it stood with a view to find out what possible amendments could be made. The first of these, Sir, was presided over by that eminent company lawyer, Lord Wrenbury, or Justice Buckley as he was called when he was on the Bench. But his recommendations were made at a time when the war was just over and naturally the main points dealt with there were questions regarding the trading of aliens in England. After that, Sir, there was another commission issued which was presided over by Mr. Wilfrid Green as he then was and Lord Justice Green as he is now and a report of that committee was laid before Parliament in 1928, and the English Consolidating Companies Act, 1929, was based upon his report. Sir, since the amendment of the English Companies Act, demands were made in this country for amending our Act, and the Government had to give pledges from time to time that the question would be taken up as early as convenient. Pursuant thereto, Sir, in 1934, His Excellency the Viceroy announced that the Government had decided to appoint a special officer to go into the question and to make a preliminary survey of the matters which required reconsideration and a special officer was appointed. Sir, this report was submitted by the officer in February, 1935. In order that the Government might have regard to all points of view before the actual drafting of the Bill was taken up, Sir, the Government appointed an advisory committee consisting of the representatives of the two great associations of Chambers of Commerce, namely, the Associated Chamber of Commerce and the Federation of Indian Chambers of Commerce, the representatives of the millowners, the representatives of the shareholders, and the representative of the Reserve Bank. Sir, that committee made certain tentative suggestions upon which the draft Bill was based. That Bill was introduced in the Lower House in the Indian Legislative Assembly in the budget session of this year, and it went into Select Committee where it was examined by the representatives of all groups in the House. Sir, the Bill as amended by the Select Committee was placed before the Legislative Assembly during the current session and after 18 working days during which amendments were received from all quarters and criticisms of all kinds were considered, the Bill was finally passed.

It is that Bill, Sir, which is now before this Honourable House and it is in regard to that Bill that my Motion relates.

Honourable Members will find that in the Bill we had to deal not only with problems which had to be considered in the English Act but we had to

deal also with problems which are peculiar to our own country. The principal amongst them was the question of managing agencies, a system which as such is not present in England at all. The matters which had to be dealt with were indeed very numerous and Honourable Members will find that as a result the Bill had to run to about 126 clauses. In order to enable Honourable Members to know exactly the matters that have been dealt with in this Bill I shall, with your permission, Sir, give a short resume of the principal matters dealt with in this Bill and the provisions made with regard thereto. If I may shortly summarise the matters which the framers of this Bill had to bear in view, they fall, really speaking, under six main heads; firstly, the question of prevention of mushroom companies and the suppression of fraudulent companies; secondly, the question of better disclosures to shareholders; thirdly, the giving of further powers to shareholders; fourthly, providing for check over what was called the autocracy of the directors; fifthly, prevention of abuses of the managing agency system; and lastly, provisions relating to banking companies. The last matter came in because Government found that it was not convenient to have a more comprehensive Act to deal with banking companies and they wanted to eradicate some of the evils which were not attended to by the Reserve Bank of India Act. Sir, I will not, for the time being, refer to the various miscellaneous matters which have also been dealt with in the Bill but the sum total of which will be found to be very considerable.

Sir, with your leave, I will now indicate the provisions in the Bill under each of these heads. The first clause to which I will draw the attention of the House is clause 55. Before this, the provisions of the Indian Companies Act allowed companies to put in in their own articles any fancy sum which they liked as the minimum subscription, and under the statute, once you got shares to the amount of the minimum subscription, you could commence business and the company could function. There were great abuses in this direction. Some companies had ridiculously low minimum subscriptions with the result that they practically, with no capital worth the name began their activities, they began to incur liabilities with the inevitable result that in most cases they came to grief. That is the first point which this Bill has tried to make good. Under clause 55 it is not now possible to give any arbitrary figure as the minimum subscription. The law has provided that certain matters must be taken into account, and in order to fix the minimum subscription the directors have got to provide for the matters mentioned in sub-clause (2) of clause 55. This prevents one of the great abuses.

Then, Sir, you come to clause 79. It provides for prosecuting at the cost of the State, persons who have been guilty of offences in relation to companies. Under this provision in the Bill, it is the State which undertakes the liability of prosecuting such persons, and that is no mean advantage.

I then come to clause 77 (b), where you will find that Registrars of Joint Stock Companies have been given powers to investigate into cases of what are known as fraudulent trading, cases which are now very frequent in at least two provinces, namely, Bengal and Bombay. In many cases which have been brought to the notice of Government it has been found that small

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mushroom companies have been carrying on their business but their activities have been mainly directed to defrauding the public who come into contact with them.

THE HONOURABLE THE PRESIDENT: What is the law in England?

THE HONOURABLE MR. S. C. SEN: The law in England is much the same as we have sought to bring in this country, under this clause, except that it is the Board of Trade in England which undertakes these tasks in England, but there is no similar body in India and so the duty has been cast upon the Registrar of Joint Stock Companies to do the investigation. The procedure here, under this Bill, is that if the Registrar gets any information that there is any fraudulent trading, he carries out his investigations and submits a report to the Government, and the Government then begins the prosecution as a State prosecution.

These three matters in which the Bill has sought to introduce innovations will, I am sure Honourable Members will agree, provide a substantial check against the growth of mushroom companies and against the continuance of fraudulent companies.

It will be convenient to deal with the second and third matters under the same head, namely, better disclosures to shareholders and giving of further powers to shareholders. In this matter, I will begin with the formation of the company. Sir, I have, for the time being, left out private companies, because, as Honourable Members are aware, they are more or less glorified partnerships, and they really do not come within the category of companies in which the general public are interested. Sir, in the case of public companies, the first thing which is taken in hand after the formation is the publication of the prospectus. Honourable Members will find in clause 50 of the Bill the statute now imposes upon the directors or the promoters a great deal more of liability than was in the old Act. Very many details which did not find a place in the old Act have been introduced. The main idea has been to give to the shareholders who are likely to purchase shares the fullest idea as to what the company is going to do, and what its prospects are, and to place all facts and material to enable them to judge about the shares and the prospects of the company.

I then come to clauses 69, 70, 71 and 72. These provide for various new things. First of all, they provide for the compulsory preparation of a profit and loss account; they provide for a directors' report; they provide for an auditors' report, and what is more, they provide for the compulsory circulation of all these documents to the shareholders in order that they might have a real insight into the company's working and its finances.

Clause 15 is the next clause to which I draw the attention of Honourable Members. It compels the directors to disclose all changes in the management, and clause 34 puts a stop to arbitrary and indiscriminate rules regarding meetings of shareholders. Then we have a clause which does away with the restriction on the right of the shareholder to vote after he is put on the register. That was one of the evils which was canvassed on the floor of the Lower House. It was pointed out that under the articles of many companies they

have put a period of restriction within which shareholders, although they are on the register, could not vote. That was a matter which has been put right in this Bill.

Then we come to clause 44 of the Bill, which restricts the right of managing agents to pack the directorate with their own nominees, and by process of elimination gives the shareholders a right to have, except in cases where there are special directors, their own nominees on the Board to the extent of two-thirds.

The next provision to which I would draw the attention of this Honourable House are clauses 17, 37 and 46. These clauses give the shareholders access to the share register, the minutes of proceedings of general meetings and the register of contracts entered into by the directors. The last is a matter upon which there is a great divergence of opinion, but there is unanimity of opinion to this extent that this undoubtedly is a great boon to the shareholders.

Clause 86F of the Bill gives the shareholders a statutory right to remove the directors in proper cases by a special resolution. And lastly, we come to clause 44 in which sub-clauses (d) and (e) places in the hands of the shareholders the most valuable right of appointing, removing and varying the terms of contracts of managing agents.

Sir, I think even the most fastidious of critics will agree that all these provisions collectively serve to give to the shareholder a very great amount of control which they previously did not have under this statute.

I now come to the fourth matter, namely, provisions for the check of what they call the arbitrary power of the directors. In this direction, very substantial alterations have been made. While the Bill does not purport to interfere with the internal management of the company by the directors, yet it has certainly striven to check and stop many of the evils which were proved to exist. Sir, I shall try and shorten the enumeration of the clauses which deal with it. I will first take clause 42, and I draw the attention of Honourable Members to section 86A. This is a clause under which undischarged bankrupts have been prevented at all times from getting themselves elected as directors and interfering in the management of companies. It has very often been found that people who have been unsuccessful in their private life, unsuccessful in the sense that they have had to take the help of the bankruptcy court, have got themselves attached to companies and by the continuation of their own schemes have brought the companies to ruin. Sir, this provision was found very useful in England and we have adopted that in the Indian Act. Then in section 86B we have prevented the assignment of offices by directors. In 86C the conditions in the articles of association which relieved directors from liabilities in respect of negligence, breach of trust or breach of duty has been rendered void. In 86D there is a very important departure, namely, that loans to directors have been debarred, except in the case of banking companies. The reasons for this exception were, as has been pointed out, that the directors in the banking companies mostly represented their best constituents and that it would be inopportune and inequitable not to provide an exemption for them. Then in section 86E we find a provision which prevents a director from holding offices of profit under the company

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except of a certain nature, such as managing agent, managing director, manager, etc. Section 86EE deals with and curtails the hitherto unrestricted right of the directors to enter into contracts with the company. Until recently under the existing statute, all that the directors had to do was, provided there was a provision in the articles, to disclose that they were concerned in any contract and they could enter into any contracts with the company. That is no longer possible. They have now to obtain the sanction of three-fourths of the number of the directorate before they can enter into any contracts, and under the same section they have got to maintain a register which shows the contracts which have been so entered into with the company and that is open to inspection by the shareholders. Section 86FF provides for the first time the automatic vacating of the office of director in certain contingencies. And in clause 59 section 105C the power of directors to issue new shares for increasing the capital and allotting them to any one they liked has been curtailed. It is now made compulsory that when new shares are issued they must be offered in the first instance to the existing shareholders to be taken up by them in proportion to their personal holding, and only if they decline, then and then only can outsiders be allotted those shares. That is a very substantial change which I have no doubt the Honourable Members will agree are for the benefit of shareholders.

Clause 68 which incorporates the new provisions regarding the keeping of books by companies imposes upon directors a liability, and a very stringent liability, to keep proper books. Any director who does not take proper steps to enforce the keeping of the proper books runs the risk of being fined or imprisoned. This is not a novel feature. It is on a par with similar provisions in England regarding penalty. Clause 46, which deals with section 91A (3), imposes upon the directors an obligation to keep a register, and section 91B (1) and (3) prevents an interested director from forming a quorum at the meeting of the board when such a contract is likely to be decided upon. Clause 96, section 177A, imposes upon them the liability to furnish the liquidator, in the event of the company being wound up, a statement showing the affairs of the company. This was very necessary as in many cases the liquidators found themselves absolutely at sea because of the way in which the papers were kept and because of the indifference of the directors as regards helping them after the winding up.

Sir, these are shortly the provisions relating to the check upon the directors' activities, and I have no doubt that Honourable Members will agree that this is a formidable list of liabilities and that, with penalties attached for default, this will really serve to remove what are called dummy directors, of which we had many instances under the present law. In my submission, and I think Honourable Members will agree, this will serve to ensure proper supervision of the directors and the proper discharge of their duties.

The next head which I want to touch is that of the managing agents. This is one of the most important features of the present Bill. This is a matter for which no precedents could be found and the framers of the Bill found the greatest difficulty in steering a middle course between the extreme views

which were entertained by the various public bodies and the general public at large. Sir, the materials available to the Government show that it is impossible so far as India was concerned to suggest that this system of managing agency could be done away with. The Government has proceeded on the basis that the managing agency system cannot be done away with, that it has served to benefit the industrial progress of the country to a very considerable extent.

THE HONOURABLE THE PRESIDENT: Can you tell the Council how the system originated in India?

THE HONOURABLE MR. S. C. SEN: Sir, the system originated in India with formation of companies in the early times when the idea of a corporation was practically unknown to India and people were chary of putting their money into companies unless they had the guarantee of some men of proved worth and substance. That is how it began, Sir. It also gained its foothold because of the want of banking facilities which companies in India suffered from the beginning, and I am quite sure—and we have acknowledged it on the floor of the Lower House and elsewhere—that but for the help given by the managing agency system many of the thriving concerns which we have today would not be there. But at the same time the Government could not be blind to the fact that amongst a particular section at least of the managing agents there were abuses which were proved to exist, abuses which called for remedies, and that is the basis, Sir, on which this Bill has proceeded. The Bill does not purport to do away with the system of managing agency; it purports to retain it, but retain it within limits. Before I come to the actual provision I crave your permission to indicate shortly the abuses which were found to exist and which Government thought called for remedy in the Bill. Sir, in the report which was submitted to the Government at pages 31 and 32, Honourable Members will find a summary of what were the matters of which consideration was called for. If I may be pardoned for drawing your attention to them, the matters against which Government was called upon to consider amendments were:

- (i) Inter-investment, or the investment of the surplus funds of one company in another company run by the same managing agents;
- (ii) the practice of financing capital expenditure by short-term loans;
- (iii) the unsatisfactory way in which managing agents have discharged their obligation in respect of subsidiary services undertaken by them;
- (iv) unreasonableness of the remuneration, specially the charging of commissions on the sales and purchases and office allowance;
- (v) the practice of managing agents taking up the management of more concerns than they can effectively control;
- (vi) the practice of assigning the agency without any reference to the company; and
- (vii) the unduly long periods for which managing agents are appointed and the unsatisfactory provisions for their removal.

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These were the matters upon which the Government was called upon to consider. The greatest difficulty with which the Government was faced was in the case of existing managing agents and in making up their minds the Government had to take into account two extremely divergent views which were urged. One section wanted the abolition of the system. The other view (and this was urged by some Honourable Members in the Lower House) was that the sanctity of contracts must be observed and that irrespective of the fact whether the terms were unconscionable or not the existing agencies must not be touched. That provided, Sir, the greatest difficulty; and while it is true that the Government has always been prepared to observe the sanctity of contracts, they came to the opinion that it was equally true that it was the duty of the Government to stop abuses by legislation should there be proof in support of them even if it required affecting the subsisting contracts. In this case, on the materials which were placed before the Government they came to the conclusion that there was abundant evidence available to show not only that there were abuses in some directions but that they needed immediate stopping.

THE HONOURABLE THE PRESIDENT: Do you think that shareholders buying shares in particular concerns enquire into these matters before buying?

THE HONOURABLE MR. S. C. SEN: I agree that they do not and this has been the main theme of the argument of the Shareholders' Association and they have all along urged that the shareholders need protection against themselves. Well, Sir, that is a principle which can hardly be pushed to its extreme. The Government has taken this course that it is necessary in the interests of the industrial development of this country to put in certain restrictions regarding the activities of managing agents; and when I draw the attention of this Honourable House to the provisions which have been made, I think it will be conceded from all quarters that the Government has done what is only reasonable, that they have interfered to the extent of making what may be called the minimum requirements and that anything less than what they have done would have been open to misrepresentation in the country. Sir, the first matter in which Government has interfered under the provisions of this Bill is the question of the terms on which managing agents can be appointed and under the provisions of this Bill it is provided that managing agents, both new and old, cannot have a span of life of more than 20 years at a stretch from now. Sir, it was urged on behalf of certain sections of the public that there should be a differentiation between existing managing agents and those who will come into existence in the future, but on consideration of all the facts it was found that there was absolutely no justification for differentiation, and in the Bill you will find therefore that old and new have been placed really on the same level.

Now, Sir, if I may, with your leave, draw the attention of the House to the various provisions which have been made in this behalf, I ought to begin in the first instance with clause 2, where in section 9A the managing agent has been defined. I must confess that the question of definition gave us not a

little trouble, but the definition which has been evolved you will find, Sir, has met with the approval of all the sections in the sense that no one has been able to give a better definition or suggest a better definition. The definition makes it clear that managing agents are after all under the control of the directors, but that the extent of the control is limited, and depends upon the delegation which the directors or the company agree to make under the agreement. We next come to clause 44 which contains all the provisions relating to managing agency in general. The new section 87A limits the term of appointment as I have said, to 20 years. Sir, I think it is only right and proper to indicate that in this matter the Government chose to differ, and differ for good reasons, from the recommendation made by the Special Officer. From the opinions received by the Government after the Bill was circulated, if I may point out, out of 300 opinions received, only three differ from his suggestion, namely, they asked for a lesser period in the case of existing companies. The rest asked mostly for more and others were indifferent. That showed, Sir, that the period fixed by the Government was just and proper—at least it was considered to be so by an overwhelming majority of the sections of the public interested in the matter.

THE HONOURABLE MR. HOSSAIN IMAM: Will the Honourable Member enlighten us how many of these opinions were from managing agents and from their connections and partners?

THE HONOURABLE MR. S. C. SEN: I do not think, Sir, the Government possess material for investigation of these matters, but if you read, on the face of it, you will find that they represent the opinion of independent bodies in the country.

THE HONOURABLE THE PRESIDENT: If the managing agents form the majority, you cannot prevent them from controlling the minority.

THE HONOURABLE MR. S. C. SEN: The principal idea in the matter of companies is that the minority has got to obey the mandates of the majority except in cases which amount to fraud and oppression. It is one of the vital principles underlying companies that the minority must always obey the majority, but subject to limits. As I say, if it amounts to fraud or oppression, it is the right of the minority to set it right. There can be no centralised organisation if the constitution gave the right to the minority to revolt against the majority on all occasions.

Sir, as I was pointing out, in section 87B we have the power of removing the managing agents for certain offences proved in court. Then we have the invalidating of the assignments of their remuneration. A managing agent would not hereafter be able to transfer his office without the consent of the shareholders. Lastly, there is no compensation to be allowed to a managing agent on winding up if he is accessory to or if he has hastened the winding up by his negligence. Clause 87C, Sir, provides that future appointments can be made only on the basis of remuneration calculated on a fixed percentage of the net annual profits of the company, with a provision for a minimum payment in the case of the profits proving inadequate. In clause 87D, Sir, loans to managing agents are debarred, and in 87D we also have a provision that no managing agent can enter into a contract for the sale of goods with a company

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While if the company is solvent the members are, of course, as Honourable Members will appreciate, the persons who have something at stake. There may be a surplus after payment to creditors. Therefore they have been given more control.

Another welcome feature in this direction is in relation to cases where companies are wound up compulsorily by court. A very difficult situation arises often owing to lapse of time between the making of an order and the appointment of a liquidator. During this period the company remains in a state of suspended animation, and its funds are in jeopardy specially as there is nothing to prevent the directors from carrying on until and unless a liquidator was appointed to take charge of the assets from the hands of the directors. This has been set right and now the official receiver becomes automatically the official liquidator directly an order is made. There is, therefore, no period of interregnum between the passing of the order and the appointment of the liquidator.

Sir, the provisions of clause 96 for the making of a statement by the directors to the liquidators, the appointment of committees of inspection, the periodical statements by liquidators and the power of liquidators have, in my humble opinion, removed most of the legitimate complaints that could be made in the matter of winding up proceedings.

This brings me, Sir, to the last subject, the miscellaneous provisions in the Bill. Sir, it is not possible for me, during the short time at my disposal, to refer to these in detail. They are far too numerous. But if I may draw the attention of Honourable Members to the provisions of clauses 111, 120 and 121, they will find how some of the most bitter complaints which were made against the way in which companies made away with security money, with provident funds, etc., have been dealt with and how the new provisions have sought to place them on a basis of absolute security, and to this extent, they are distinct advances in the present Bill.

Sir, I have now done, but before I resume my seat, may I once more remind this House of the various stages through which this Bill has passed? It has passed through a most gruelling test in the Lower House, all possible phases have been discussed in the amendments that were raised—and I can assure my Honourable friends they were not very small in number; they reached up to the modest figure of 600. Sir, no legislation is perfect, and we, on this side of the House, do not claim this to be a perfect piece of legislation. But what I venture to submit, Sir, is that it will be admitted that what we have done, what we have striven to achieve by this Bill, is undoubtedly a considerable advance on the law as it stood. I venture to submit that if Honourable Members will consider this Bill calmly and dispassionately, they will find that we have tried to grapple with problems which presented themselves to us. It will be for posterity to say if we have succeeded or if we have failed. Experience alone will show if we have been too lax or if we have been too lenient. But I sincerely hope that this Bill will be given a fair trial before it is condemned and its provisions are unduly criticised. Sir, fortunately for us, this is a matter in which there cannot be any party question, nor is there any political issue involved. We all have the same ideal, namely, the eradication of the evils and the

advancement of the industrial progress of the country. I seek, Sir, the co-operation of all sections of the House. Let us, like a team, put forth our shoulders to the wheel and let us help to usher forth the new legislation for the attainment of our common ideal. (Loud applause.)

THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa : Muhammadan) : Mr. President, before I commence my remarks on the Bill, permit me to congratulate our new colleague on the masterful exposition of the case which he gave us. The Bill before the House is of momentous importance, and although we, on this side of the House, may not regard the provisions made as adequate and may question the methods which have been adopted by the Legislative Department in piloting this Bill, we cannot be blind to the fact that it has involved a great deal of labour to the Legislative Department and we are all grateful to the Honourable the Law Member for the indefatigable energy, zeal and keenness with which he has seen this measure through. (Applause.) His worthy lieutenant, Mr. Susil Chandra Sen—he will pardon me if I say that I regard him better as he was than as what he is. The proposals as they originally emanated from him were far superior, in my opinion, as safeguarding the interests of the investors than the Bill which is now before us. Sir, I cannot allow this discussion to go on without saying how keenly we feel the calculated disrespect and disregard of this House which has been evinced by the Legislative Department in not referring such an important Bill as this to a Joint Select Committee of the two Houses. A Bill of this nature, which does not involve any political issue, but which requires a more dispassionate consideration, ought to have been referred to a Joint Select Committee of the two Houses as was done in the case of the Reserve Bank Bill. We have been told that it is the opposition in the other place which was the stumbling block. I beg to differ. In the discussions on the Bill in Simla, once or twice a warning was given by the Government benches that if certain unacceptable amendments were persisted in, the Government may have to withdraw the Bill. That had a salutary effect. If Government had been really determined on referring this Bill to a Joint Select Committee, they could have used their armoury to this purpose and nothing would have deterred them. We were told that the Assembly has no objection *per se* to a Joint Select Committee but that their objection arises from the fact that a House of 145 will have the same representation as a House of 60. I am afraid this bogey has been raised simply in order to stop the reference of the Bill to a Joint Select Committee. This law, as it at present stands, will perhaps be in the future legislation as well.

THE HONOURABLE THE PRESIDENT : There is no law ; it is rule 42 of the Legislative Rules.

THE HONOURABLE MR. HOSSAIN IMAM : The Standing Order is subject to amendment and the Government have had this matter before them for a long time. We tried to amend the Standing Orders once for certain purposes but we failed. If the Government really felt that this Standing Order stood in the way they ought to have changed it long ago and not allowed it to stop us from exercising our share in the shaping of the Bill.

12 NOON.

THE HONOURABLE THE PRESIDENT : There was nothing to prevent you from putting in amendments.

THE HONOURABLE MR. HOSSAIN IMAM : We once moved amendments in similar circumstances and the fate they met was enough to deter us from making future efforts in that direction.

Sir, in the second place this is rather an inopportune moment to bring this Bill before the House. Government will remember, or perhaps they have forgotten, that when the Assembly was being dissolved two years ago they had the Simla session earlier so as to give the Assembly Members a chance to contest their elections, which took place in November and December. But when it comes to the turn of the Council, as this House by its subservience has made itself the mock of the public as well as of the Government, the Government have no regard for the feelings of this House, and we are compelled to stay here up to the middle of October when we have to file our nomination papers within 25 days of our departure. That is the regard which the Government pays to the wishes and the convenience of this House.

The Honourable Mr. Sen gave us the ancient history of this Bill. I shall try to give to the House a little bit of modern history. There has been strong agitation for the amendment of Company law for a long time, but the impetus was given by the reports of the Tariff Board on the textile industry. From the first report onward to the last report, which we got in 1934, they always had something to say about the unsuitability of the present Companies Act. It was directly due to the last Tariff Board report that this matter came up before the Government and in September, 1934 the Honourable Mr. Sen was appointed to revise this measure. I congratulate the Honourable Member in having waded through the mass of literature which was in the Commerce Department during the short period of five months. He gave us a very comprehensive and, I may say, a very exhaustive report, and the draft which he placed before us was far superior and they could have made it almost a fool-proof Act. But what has happened? When he submitted his report in February, 1935 it was pigeon-holed either in the Commerce, the Law or the Home Department. No one heard anything about it until January, 1936. For ten months it remained in a dormant condition. Now, in January, 1936, a Committee known as the Company Law Amendment Committee sat, in which people who were really very competent to deal with this subject sat and gave us the benefit of their views. Professor Davar, Sir Joseph Kay, Mr. Niranjan Sarkar, Sir Walter Lamond and Mr. Aikman were the members of this Committee. The report of this Committee gave us certain amendments which it is supposed were incorporated in the original Bill, modifying the draft of the Honourable Mr. Sen.

THE HONOURABLE THE PRESIDENT : I do not know what you are arguing, but do you wish to contend that you are prejudiced by the delay on the part of the Government?

THE HONOURABLE MR. HOSSAIN IMAM : No, Sir. What I am saying is that it was possible for the Government to bring in this measure earlier and

thereby give ample time to both the Houses to consider this measure in a dispassionate manner.

Sir, we have no statement of the Government as to the policy underlying this Bill. What we know is from the letter which the Honourable Mr. Sen wrote forwarding his report and from the speeches of the Honourable Law Member in the other House. As I said, it was supposed that the original Bill was modified in consideration of the opinions of this expert Committee. But I find there are certain amendments for which I could get no explanation either from the Law Member's speeches or the papers before us. I refer to the amendment by the Honourable Mr. Sen of section 911.

THE HONOURABLE THE PRESIDENT : May I draw the attention of the Honourable Member that we are discussing now the general principles of the Bill.

THE HONOURABLE MR. HOSSAIN IMAM : Sir, that is what I am saying, we do not know what is the basis of this Act. Is the basis of the Act as announced today, is that the basis on which we are to frame the Act or the original letter of the Honourable Mr. Sen, dated February, 1935.

THE HONOURABLE THE PRESIDENT : We have nothing to do with the Honourable Mr. Sen's letter or with anyone else. You must discuss the Bill as it stands.

THE HONOURABLE MR. HOSSAIN IMAM : And are we debarred from discussing how this took shape and how the original Bill has been destroyed by the present measure? That is what I am drawing attention to. The Honourable Member said that we were out not to abolish but to reform the managing agency system, and the reform which he recommended embodied the principle that in companies to be formed after the passing of this Act the terms of the managing agency contract shall be subject to confirmation by the shareholders. That very salutary provision which would not have affected any existing company has been removed without rhyme or reason. I want to know the reason for removing this. The expert Committee had not a word to say about it. The original Bill does not contain it. This makes us suspicious that there are influences not known to us.

THE HONOURABLE THE PRESIDENT : I may point out to the Honourable Member that this is a Government Bill. The Government have brought this Bill and it is open to them to incorporate any section and to present the Bill in any form they like. You cannot go beyond the Bill itself in discussing the provisions of this Bill. I would therefore ask you to confine yourself to the Bill itself.

THE HONOURABLE MR. HOSSAIN IMAM : I shall abide by your decision. But this makes the attitude of the Government rather suspicious.

Now, Sir, I come to the essential features of the Bill as announced by the Honourable Mr. Sen just now. I may say that I am not competent to deal with them all. My only interest lies in two. What steps have been taken to stop the growth of mushroom and fraudulent companies and the reform of the managing agency system, involving as it does the control of the board of directors, the control of the shareholders and of the amenities and rights given to the shareholders? I am not concerned either with the banking provisions or other

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miscellaneous items to which the Honourable Mr. Sen referred. First and foremost of all, are the provisions which have been made for stopping the growth of mushroom companies. Mushroom companies, as the name shows, are institutions which are not *bona fide*. The difference between the Bill as it has been passed by the Assembly and as it was presented to the Assembly is that whereas in the former Bill stress was laid on prevention, here the stress is laid on cure. As we all know, Sir, prevention is better than cure. What Mr. Sen in his original draft wanted to do and what was incorporated in the original Bill was that it should be made impossible for a mushroom company to grow up, and thereby safeguard the interests of unwary shareholders. But what the Bill, as it has been passed, does is that after we have been fleeced, after the sharks have had their bite, they will not be allowed to devour—

THE HONOURABLE MR. H. DOW : Are these sharks the same as the mushroom rooms ?

THE HONOURABLE MR. HOSSAIN IMAM : No, Sir. The managing agents of the mushroom companies after they have devoured a part of the body of the shareholders, they will not be allowed to take up the whole of it. That is what the present Bill does. I shall show how this has happened. The original Bill—

THE HONOURABLE THE PRESIDENT : I have already ruled that you are not to go into the question of the original draft.

THE HONOURABLE MR. HOSSAIN IMAM : I am referring to the original Bill as introduced in the Assembly and we are in possession of it and we are entitled to discuss it. I have left the draft of Mr. Sen because it was too good to be true. The original Bill in section 41 provided that no allotment shall be made until a certain minimum amount of share has been subscribed and a minimum amount on the subscribed capital has been realised. Now, the Select Committee changes that provision by dropping all reference to the minimum capital to be subscribed. That, Sir, has been left to the discretion of somebody and what further harm they did was that they do not mention, do not explain, why they have dropped the salutary provision of 25 per cent. of the subscribed capital being collected before allotment is made. The note of the Select Committee, if I may be pardoned for saying so, tries to hide things rather than elucidate them.

THE HONOURABLE THE PRESIDENT : Order, order. I do not think you are entitled to use such expressions about the Select Committee.

THE HONOURABLE MR. HOSSAIN IMAM : Mr. President, I will read the report and I will leave it to the House to see whether it is fair or not.

THE HONOURABLE THE PRESIDENT : You may read the report and the Council may draw its inference, but you cannot say what you have said.

THE HONOURABLE MR. HOSSAIN IMAM : It may not have been their intention, but this is what we find in the Act as it stands at the present moment. This is their explanation to clause 41 :

“ We have redrafted the section with the object of simplifying it by transferring the substance of the four clauses (a) to (d) to a new sub-section and have omitted the words

‘ providing as an alternative for the minimum subscription the subscription of 33½ per cent. of the offered share capital’. We have omitted sub-section (2) of the section as drafted, considering that its provisions are superfluous”.

Now, Sir, this part, 25 per cent. thereof, has been erased by the Select Committee without giving any explanation.

THE HONOURABLE THE PRESIDENT : But the Select Committee is not bound to give an explanation. They can make whatever change they think proper and the Honourable Member is too old a Member not to know that. I do not think it is fair on the part of the Honourable Member to question the discretion of the Select Committee in the matter of their report.

THE HONOURABLE MR. HOSSAIN IMAM : No, Sir. I am not questioning their right to do so ; what I am questioning is that they have not given us a true picture.

THE HONOURABLE THE PRESIDENT : They are not bound to meet with your wishes.

THE HONOURABLE MR. HOSSAIN IMAM : They may not be bound to but in fairness they should. Even the Honourable Law Member in his introductory speech of the 8th September has felt himself compelled to mention this fact of 25 per cent. which the Select Committee dropped.

THE HONOURABLE THE PRESIDENT : You could have brought an amendment in this House to that effect. If your point is a very sound one, what is the good of talking about the Select Committee's report ? It was open to you to bring in an amendment.

THE HONOURABLE MR. HOSSAIN IMAM : The Honourable Law Member in introducing the report of the Select Committee in the other House has clarified the situation which was left dark by the Select Committee ; and in that we find that the issues have been confounded. The issue was whether mushroom companies should be allowed to grow or not. But what has happened ? As will be found from page 614 of the debate in the other place—

THE HONOURABLE THE PRESIDENT : Order, order. You cannot refer to it.

THE HONOURABLE MR. HOSSAIN IMAM : I am just giving it to the House so that they may verify my statement if they so desire. There, Sir, he has stated that he has been guided in removing this provision because of the under-capitalisation of the Ahmedabad industry. The Ahmedabad industry is an old established industry ; that has absolutely no concern with mushroom companies—

THE HONOURABLE THE PRESIDENT : Do you hold a brief for the Ahmedabad industry ?

THE HONOURABLE MR. HOSSAIN IMAM : No, Sir. The Ahmedabad industry is an old established industry and it cannot even by a stretch of the imagination be called a mushroom company. Mushroom companies which are in our minds and in the mind of the Government Draftsman are something quite different from an established industry. It never gets established. Its function is just to collect money, eat it up and then wind it up. That is what the

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mushroom company does. Now, Sir, personally I was unable to understand how the question of the under-capitalisation of the Ahmedabad industry could be pertinent to a consideration of measures to be taken to prevent the growth of mushroom companies. I would like the Honourable Member to enlighten us how he did apply that state of affairs to the growth of mushroom companies. The only explanation which I could think out was that it would be impossible in future to start an industry on the same basis on which the Ahmedabad industry has been started. If you stretch this point to that extent and want to avoid a similar development you can say that it has an applicability to the present case. But may I point out that the Government is now trying to create the very circumstances which have led to the imposition of the managing agency system in India. The basis and the thriving ground for the managing agency system was the unsound financial position of the company. If you have a sound and a prosperous company which has full backing of capital at its back, there is no necessity of having a managing agent. What is the real root cause of the growth of the managing agency system is now brought forward by the Government as an argument for stopping the growth of mushroom companies.

THE HONOURABLE THE PRESIDENT: I anticipated that argument and in order to put the Council in possession of the facts, I asked the Honourable Member to give the origin of the managing agency system in India and he has fully explained how that system originated and from your remarks it appears that you have not followed the Honourable Member.

THE HONOURABLE MR. HOSSAIN IMAM: Mr. President, I do not wish to say anything about your remarks, because you are perfectly just. The managing agency system originally may have grown in good ground. But are the Government prepared to say that all the managing agents of the present day are of similar capacity and of similar sound standing as the old managing agency firms were when this system originated? There is a world of difference, Sir, between the original people who started this managing agency system and the men who are exploiting this position. Now, Sir, as far as these mushroom companies are concerned, may I tell the House how these mushroom companies grow up? One of the tricks of the trade is, someone comes forward and underwrites a considerable portion of the shares. Indeed the underwriting commission is usually fixed at 10 per cent. That is what happens in most of the mushroom companies—10 per cent.—and the first application money is fixed at 5 per cent. Now, what they do is that a person connected with the managing agent goes and underwrites a lakh of shares and therefore he is entitled to get Rs. 10,000 as his commission. He files, either fraudulent papers from men of no standing or applications from people of note and substance, and debits Rs. 5,000 from his own commission and those people who are caught in the net are deluded by getting shares for nothing. Now, the underwriter is entitled to get Rs. 5,000 clear profit out of his commission without having incurred any loss. The company after receiving a small quota which is fixed as a minimum proceeds with the allotment and starts functioning. Those people who have subscribed, if they are genuine buyers and have been caught in the net, find that they have to go on paying without respite. If they are

just men of straw, whom the underwriters have put up, then they do not care, because they have nothing to lose. In this way this thing is multiplied. Some people are genuinely caught and those people whose business it is to exploit the ignorance of investors thrive on the trust which investors have in them. Now, Sir, another aspect of these mushroom companies is that the directorate almost always consists not only of the partners of the managing agency firms but of their connections. And here I find, Sir, that the law as drafted is defective in not having cured a very clear defect pointed out by the first Tariff Board on the textile industries—that at least in Bombay they found that most of the directors were directly or indirectly connected with the firms of managing agents. I know that provision has been made that the nominees of the managing agents shall not be more than one-third but there is nothing to prevent members of the firm of managing agents from being nominated as directors on behalf of the shareholders. That, Sir, was a necessary provision for the safeguarding of the interests of the shareholders to be incorporated in this Bill. The question might be asked, Sir, why did I not bring any amendments? I have been here for six years and I know what the chances are for getting an amendment accepted in this House, and therefore, Sir, I did not like to waste the time of the House. (*An Honourable Member*: “If they are reasonable amendments.”) Sir, there is nothing as reasonable as the will of the Treasury benches. (*An Honourable Member*: “I protest against that.”) Therefore, I regard, Sir, that this provision for checking the growth of mushroom companies are ineffective. At the utmost we can say that they have tried to stop the robbery of the mushroom companies to proceed further than a certain stage but they have not checked that robbery from being started at all.

THE HONOURABLE THE PRESIDENT: We have had enough of these mushroom companies!

THE HONOURABLE MR. HOSSAIN IMAM: Sir, if the draft had been adopted, we would not have had any mushroom companies in India in future.

Now, Sir, I come to the second point as to the abuse of the powers of the directorate. There, Sir, I find that there is a very widespread complaint about the interference with the transfer of shares, at least of fully paid shares on which the company has no lien; this power should not be given arbitrarily to the directors. That power of the directors interferes with the vendability of the shares and it has a great influence on the voting powers and the control of the company. Some of the companies, Sir, in their articles of association had put in provisions which are very detrimental to the interests of the shareholders and no check has been applied by the Government to stop this usurpation of the powers of the shareholders by the articles of association.

THE HONOURABLE THE PRESIDENT: Do you know that this is the law all over the world?

THE HONOURABLE MR. HOSSAIN IMAM: Mr. President, the law all over the world and the law in India are never similar. Nowhere in the world have we got Criminal Law Amendment Act, 1935. And, if that is the basis on which the Government is prepared to act, we would not mind, Sir. But we are not going to be a party to a procedure that when it suits their purposes we should follow one course, and when it does not, we should follow another.

THE HONOURABLE THE PRESIDENT: Do you mean to say there is no provision of criminal law in other parts of the world?

THE HONOURABLE MR. HOSSAIN IMAM: No, Sir, there are Acts and Acts, but the sting is there in the bite.

Sir, you will remember that in the Reserve Bank Committee we recommended that there should be no restriction on the transfer of shares. And there we rather wanted that shares should be freely transferable. Even in the Imperial Bank, Sir, provision has been made that fully-paid shares should be freely transferable. Why should a thing which is permitted in the Reserve Bank and the Imperial Bank—I mean the power of free transfer—why should this power be denied the ordinary companies, when it is given to those who are so fundamentally connected with the financial stability of India? The stock argument is that we do not wish to fetter the discretion of the directors. As if the directors are like the Pope—infallible! As if they are the masters of the situation. As if the shareholders had no *locus standi*. (An Honourable Member: "They have.") If they have a *locus standi*, Sir, I claim that they should have full swaraj and they should have the same powers as a sovereign legislature.

Now, Sir, I should like to place before the House a telegram which I received from a very important business man, Mr. Ram Kiresha Dalmia. I shall place the telegram* on the table of the House. He complains that the Bharat Insurance Company, which holds shares in the Lahore Electric Company, is not allowed to transfer its shares and by their not doing this, he is put to loss. The Lahore Electric Supply Company have a rule that after over and above a certain amount of shares, the votes shall decrease with the increased amount of shares. A man holding Rs. 10 lakhs of shares has not the same number of votes as other people having a lakh of shares in different names. By this manipulation, once you deprive the right of transfer, you restrict the right of voting, so that you prevent the very basic principle which Mr. S. C. Sen has enunciated today that the majority must have the control. It is all right to make out principles, but it is when we come to detailed consideration that we have to see whether the sound principle which he enunciated has been followed or not? The case of the New Victoria Mills is a scandal which I think the Honourable the Leader of the House himself knows personally.

THE HONOURABLE THE PRESIDENT: I am afraid you are treading on dangerous ground.

THE HONOURABLE MR. HOSSAIN IMAM: Sir, I will read from the Opinions. This is not dangerous ground, because it is a published document and everybody had a right to institute a suit in a civil court. It has been in our possession for the last eight months. People who have subscribed Rs. 1,03,883 have the same voting strength as people who have subscribed Rs. 10 lakhs. By a manipulation of deferred shares which have paid eight annas only, they have doubled the voting right of a preference share which has contributed Rs. 5. All this is the doing of an Honourable Minister of the United Provinces. Sir, there are any number of instances which I can go on quoting, but as I do not wish to waste the time of the House, I will refer to pages 22 and 23 of the Opinion of the Bombay Shareholders' Association

* See Appendix, page 436.

Now, Sir, in fairness, Government should have at least adopted regulation 60 in clause 8, giving one vote for each share, which is incorporated in the present Indian Companies Act. But the application of that regulation has not been made compulsory just as other regulations have been made compulsory. This was a right reform which Government should have adopted.

The proposal was made in the Assembly that the directors should be elected by a system of proportionate representation. Government refused to accept the proposal. May I say that the present system of election of directors plays into the hands of managing agents? The shareholders have different interests. A strong body of shareholders, at least in big towns, have blocks of shares in several concerns, and they are anxious to keep themselves in the good books of the managing agents so that their shares may give them a return. It is possible for the managing agents to so manipulate the balance sheet that after setting aside necessary sums for depreciation, reserves and other contingent items, nothing may be left over for distribution to the shareholders. So, they want to keep themselves in the good books of the managing agents. One of the leading business men of Bombay confessed to us that he never cared what the managing agents wanted to do. He said that whenever they asked him for a proxy, he used to sign it and give it to the managing agent, because in the long run, he had found that that is the best policy to adopt to keep in the good books of the managing agents.

THE HONOURABLE MR. BIJAY KUMAR BASU: A very shrewd business man!

THE HONOURABLE MR. HOSSAIN IMAM: You also heard this confession. Under the present system whereby there is no proportionate representation or even representation by blocks, we have a very crude form of election. Government, in bringing reforms, have adopted different constituencies for the election of different Members. It was quite possible for the companies to have had blocks of shares, say, from 1 to 100 or 1,000 or 2,000 or 500,000, and say these blocks of shareholders will be entitled to elect one member each. They could divide the whole capital between the number of directors, and thereby you could have representation of every block so that two or five men holding even a minority of shares could not combine and control because the proxies from all shareholder are not always available.

THE HONOURABLE SIR DAVID DAVADOSS: Whose fault?

THE HONOURABLE MR. HOSSAIN IMAM: That is a very pertinent question. Does my Honourable friend, the High Court Judge, realise that there are times when people are placed as wards of courts? At the present moment, the Indian investors are more or less in the position of wards. They have to be safeguarded, and that is one of the reasons why there has not been that industrial prosperity which we have been wishing for. The investors have been bitten so often that people are not prepared to come in. If I may be pardoned for saying it, commercial morality is something different from ordinary morality. The get-rich-quick methods of the capitalists are different from the methods of ordinary life and as they are always in strife, the old proverb that everything is fair in love and war applies to their case also.

I now come to the managing agency system. The reforms incorporated

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in this Bill are no doubt a step in advance, but the question is, whether they are a sufficient advance or not? All the complaint about the present reforms is that it is not a sufficient advance. Similarly, our complaint is that Government have not seen their way to incorporate all the necessary things which would have made this managing agency system free from evil. In the first place, Sir, I differ from the Government benches that the managing agency system could not be dispensed with. I know, Sir, the sanctity of contracts. There are provisions even in the present Criminal Code that contracts obtained by fraud are vitiated. Now, who does not know that all these managing agents are formed in a manner which is open to very serious objection. A company is formed with a capital of Rs. 50 lakhs. Seven people subscribe Rs. 100 each, sign articles of association and enter into a contract with managing agents, giving them the right of control over Rs. 50 lakhs for the sum of Rs. 700. That is what happens. I am not questioning the old companies. What I am dealing with is the provision for companies to be incorporated in future. Now, the provision in the draft was that that contract should be subject to confirmation by a statutory meeting of the shareholders to be held six months after the commencement of business. The Government in their wisdom have given the go-by to this provision and in this particular reform none of the established industries were interested because it did not concern them. Further, when we come to what I call the renewal or what may be called the continuation of the present managing agency contracts, in fairness the Government should have taken some measure of control in revising the present contracts. I do not say they should have gone out of their way and reduced the commissions which the managing agents earn. But, where a case exists for revision, as where commissions are based not on profits but on sales, purchases and that kind of thing, they should have taken power. I came across a company, the Jamshree Ranjitsinhji Spinning and Weaving Co. of Sholapur, in which the percentage of commission on the basis of profit rose to 101.6 per cent. in 1934. The managing agents are Laljee Narainjee and Co. There are innumerable instances in which the companies have been charged on the average 38, 27, 22, 26, 34 and 47 per cent. for commission on the profits of the company. I say that it was the duty of the Government to take power to revise those contracts of managing agents where the commissions are based on sales, purchases and other items and not on profits. (*An Honourable Member*: "How can that be insured?") They cannot assure profits, but why allow them to continue this system? There is no doubt that those managing agents who have been managing well are entitled to our respect. They are entitled to have our support, but those who have mismanaged have ceased to have any rights. The Government could at least have made a provision that all those companies which have not declared a dividend of 15 per cent. in all during the last ten years, that is, $1\frac{1}{2}$ per cent. per annum, should not be allowed to continue as managing agents. If they have not got that much profit why should those managing agents be allowed to continue?

THE HONOURABLE THE PRESIDENT: Is it always in the hands of managing agents to make profits?

THE HONOURABLE MR. HOSSAIN IMAM: Sir, it is always in the hands of managing agents to show what is real profit and real loss, and as you have questioned me I will give you one instance. I refer to a very respected firm, the firm of Messrs. Burn and Co. We had the pleasure of having Sir Edward Benthall, the present head of the firm as our colleague and I may say that this matter refers to a period before his term of office. Messrs. Bird and Co. were the real managing agents of the Titaghur Paper Mills Co., and that such an upright and old firm should have indulged in such a dirty thing it grieves me to state. What they did was to purchase china clay from a subsidiary company of their own, the Nagpur Clay Co., at the rate of Rs. 86 per ton, while that Company was getting this clay at Rs. 42 per ton. The Nagpur Clay Co. purchased that clay at site for Rs. 42 per ton and sold it to the Titaghur Paper Mills Co. for Rs. 86 per ton, thereby making a clear profit of Rs. 1,26,000 per annum. That is what managing agents can do. They can always change the profits into a loss. If further instances are necessary I shall quote them if anyone wants to know. This is a form of legalised cheating of the shareholders and Government has taken no steps to check this. There is only one provision, that managing agents, if they contract to supply anything, they will have to do so with the sanction of three-fourths of the members of the board. But there is nothing to prevent the managing agents from committing the same sort of mischief which was committed on the Titaghur Paper Mills Co. in future. Then, Sir, a necessary provision of the Bill ought to have been that managing agents in spite of the articles of association shall be subject to the superintendence and control of the board of directors and shareholders. No provision of this nature is in the Bill. We know that in the articles of association many of the provisions of the Bill can be negatived, unless we have things like clause 8 which makes it incumbent on the company to incorporate certain provisions in the regulations.

Now, I come to the proposition enunciated by the Honourable Mr. Sen that minorities should not be allowed to have control. The other place, as well as the Government Members, seem to be under the impression that in most cases the managing agents hold a substantial stake in the company which they manage. My own experience is that they have very little share in the capital of the company. As I pointed out in connection with my speech on the Textile Industry Bill in this House, the managing agents hold a very small proportion of shares in the concerns which they manage. You will find in the proceedings of the Council of State of the 20th April, 1934 a Statement D in which I had shown that the percentage of agents' holding was only 5.2 per cent. That shows that here exactly the contrary is the case. The minority have the whole control and the Government have gone out of its way to allow them a further lease of life without any check, without any reformation and without any fear of being called to account. Then there are certain minor points on which the Bill is also in certain respects defective. Although in section 50 we have provided for some information being given in the prospectus, in the form given in the Second Schedule there is an omission of an existing provision of the Indian Companies Act. In the Indian Companies Act as at present standing in Schedule II, Form I, a statement is given of minimum subscription fixed by the memorandum and articles of association on which the company may proceed to allotment.

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That statement is not found in the present statement in lieu of prospectus as incorporated in this Bill. I think it is a minor point, but it is something which would be helpful to the future growth of industry. May I say that what the Government have at the present moment done is that they have allowed the existing company, irrespective of whether they are doing the right or wrong things, to have a further lease of life. I am not averse to giving a further lease of life to those managing agents who have during the past shown their capacity to manage and who have been beneficial to shareholders. But all those people who have so far proved themselves to be unable to manage things should have been ousted. I know that a question may be put to me that I am advocating a measure of control by the executive over the functions of the private individuals; I am tempted to say in reply to this that as it is by legislative action and the lapses in the existing law that these people have come by the enjoyment of these illegal rights, it is only fair that we should not allow them to continue these depredations any further.

Now, Sir, coming to the control of the directors over the managing agents, no doubt there has been some effort made in the Bill. But I am not quite sure and therefore I put it more as a question than as a criticism. Is it possible for the articles of association to negative the provisions of the Act by not taking those regulations as compulsory? For instance, there is no provision for making regulation 60 compulsory which gives one right to one share in future cases. The real reason why there has been no industrial prosperity in India is that the company law was so defective that people had a general impression that once you purchase a share in a concern, you are caught, and you do not know how far you may be landed, especially, Sir, in the new companies, because you start with a small amount of application and allot money and then you find that you have been caught hold of for a huge amount. A friend was telling me yesterday evening a story. When he sent in some money to a managing agent as his full quota for a certain number of shares, but by mistake he had signed the blank form and not filled in the number of shares. What the managing agent did was that he kept that money as application and allotment money and when the company was tottering, he was asked and he had to pay a further call which amounted to Rs. 30,000.

THE HONOURABLE MR. BIJAY KUMAR BASU: Penalty for the mistake!

THE HONOURABLE MR. HOSSAIN IMAM: Penalty for the mistake! For confidence in commercial morality!

THE HONOURABLE SIR DAVID DEVADOSS: We must hear the other side.

THE HONOURABLE MR. HOSSAIN IMAM: There are black sheep in every place and I do not say that all the managing agents are like that. The mistake Government have made is that they have not differentiated between the two. This is my complaint against the Government.

THE HONOURABLE THE PRESIDENT: Who is to be the judge?

THE HONOURABLE MR. HOSSAIN IMAM: Mr. President, the whole paraphernalia of the Government of India and the Provincial Governments! If that is not sufficient to check these things, I do not know what will.

Sir, as the Honourable Member pointed out, in England they have a Board of Trade. If the Government considers that the present authorities are not sufficient to deal with this thing, there was nothing to prevent them from creating something on the lines of the Board of Trade here. The question of the industrial development of the country is too big an issue to be side-tracked on the issue that there is no authority to look into these things. If there is no authority, it is the duty of the Government to create an authority; but they cannot deny the responsibility which rests upon their shoulders to see that the legalised robbery and legalised swindling which is going on now is not allowed to continue any further. Sir, the managing agency system has got a bad name due to the fact that certain unscrupulous people have come in as managing agents and it is in the interests of the genuine managing agents to differentiate themselves from these rapacious people and they are making a mistake if they want to identify themselves with those interests. The interests of fair managing agents should be kept separate and distinct from those black sheep in the garb of managing agents. I am sorry to say that most of the culprits belong to my own community, Indians. There are few Europeans in this category of black sheep. This does not mean that I should hide or that they should be sheltered merely because they are Indians. If there is a mistake, if there is some trouble, it is the duty of the Legislature as well as of the Government to set it right and the complaint that we cannot examine these things is not a valid excuse. At the present moment most of the industries are subsisting because of protection. I know that the jute and the coal industry in the Eastern Provinces is not bound to the Government for any help, but the textile and the sugar industry, the prosperity of these, is dependent on the help and protection which they will get from the country. If the country is prepared to foot the bill for protection, I think the industry ought to come in and give us information and not regard itself as a private property. If it were a private property in the strict sense of the word, then there was no reason why we should be burdened with the weight of protection. They should fend for themselves. But as we are footing the bill, as

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we are supporting them in their prosperity, it is necessary that a certain amount of control should be exercised by the Government on at least those industries which are existing due to protection. Sir, we know the Tariff Board came across great difficulty recently in the inquiry relating to the woollen industry because some of the industries were not prepared to lay their figures before the Tariff Board. I ask, Sir, has the Honourable Member provided anything in this Bill that protected industries are bound to give their facts and figures relating to the protected industries whenever they are asked?

THE HONOURABLE THE PRESIDENT: I think all industries are bound to do so.

THE HONOURABLE MR. HOSSAIN IMAM: Well, Sir, they are not bound to give their figures in relation to manufacturing costs and it is that

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with which we are mainly concerned when we are dealing with tariff policy. They are not bound to give us their expenditure under the heading of marketing. This also, Sir, is a very important fact and is included in the tariff inquiry. Personally, I should have liked the formation of separate boards to have control over each and every type of industry where representatives of the industry, labour and the Government would assemble together and eliminate unnecessary competition. And a measure of this nature could have found a place in the Companies Law Amendment Bill if the Government had so desired. I do not say, Sir, that the Bill is not an advance on the old Act or that it should not be supported. What I have been complaining of, Sir, is that it is not as good as it might have been and it cannot have that amount of spontaneous and full support from us which it would have received if it had come to us in the form in which it was drafted by the Honourable Mr. Sen.

THE HONOURABLE SIR PHIROZE SETHNA (Bombay: Non-Muhamadan): Mr. President, I am sure every Member of this House joins with you in the regret that you expressed at the absence from our proceedings this morning of the Honourable Sir Nripendra Sircar. We wish he were here so that we could have offered him our congratulations in person on the very excellent work he has done for the country in putting forward this Bill in the form in which it is before us today.

As the Honourable Mr. Sen pointed out to us this morning, for some years past representations were being frequently made to Government by commercial bodies that the Indian Companies Act of 1913 should be amended and improvements made therein which would bring it into line with the Companies Act of 1929 in the United Kingdom. The most insistent demand made from certain quarters was for the abolition of the managing agency system which prevails in this country. I have no doubt in my mind that were it not for the opposition to the managing agency system perhaps the existing Act might have been allowed to be continued longer. Then, again, the failure about two years ago of a large commercial firm in Bombay which held the managing agencies of several concerns perhaps gave prominence to the necessity of amending the present Act and the Honourable the Law Member decided that steps should be taken for a thoroughgoing revision without further loss of time. The Honourable the Law Member deserves our gratitude for proceeding in the matter in a thoroughly business-like spirit. He rightly came to the conclusion that the first step to be taken was to have an inquiry conducted by a special officer. He selected Mr. S. C. Sen, a prominent solicitor of Calcutta, and we compliment him on his choice, for Mr. Sen has had a close and intimate acquaintance with the methods of the working of limited companies in his own province be they good, bad or indifferent. The report which Mr. Sen prepared within only five months of his appointment gives proof of his great knowledge of the subject. His recommendations are all well thought out and it is clear that whilst he is out to remedy existing defects he has taken care to see that his proposals will prove acceptable to the commercial community as a whole.

The general public are indeed very thankful to the Honourable the Law Member for referring Mr. Sen's report at first to an informal committee. Thereafter the Bill was prepared and at the Delhi session referred to a Select Committee. The Select Committee's report was before the Assembly for fully eighteen days. Nearly 500 amendments were tabled and the Assembly has now sent the Bill to this House for acceptance. There are perhaps proportionately a larger number of business men in this House than in the other place but they have been forestalled as might have been expected in the changes made and we will certainly approve of most of the changes made after considerable thought and discussion. There are, however, some points in regard to which we find some Honourable Members have sent in amendments which it will be our duty to consider.

And here I have to enter a humble protest against the attitude of Government in regard to this House. Such matters might preferably be referred not to the Select Committee of a single House but to a Joint Committee of the two Houses. The Government of India Act of 1919 provides for such joint committees but during the last fifteen years only two Bills, so far as I remember, were referred to Joint Committees—those in regard to the Imperial Bank and to the Reserve Bank. If the present Bill were referred also to a Joint Committee there would not have been 500 amendments in the Assembly and 65 in this Council nor would the discussions have lasted as long as 18 days. I have no doubt if our Honourable President had a say in the matter he would have insisted on a Joint Committee. Again, I would ask Government to consider the inconvenience Members of this House have to put up with by a Bill of this importance being brought up here at the fag end of the session, in consequence of which we are forced to waste our time by being held up here and practically doing very little work for days together. This is a state of affairs which does require to be remedied. Of course, this Council ceases to exist in a few days from now but I hope Government will be more considerate to the new Council. I may be pardoned for observing that Government realise they cannot trifle with the Assembly constituted as it is, whereas constituted as we are Government make a convenience of this body.

Whilst the Bill covers very considerable ground, in the words of Mr. Sen he has paid special attention to remedying five evils, viz., (1) the growth of mushroom companies and the checking of fraudulent companies; (2) the complaint that shareholders were ignored and kept in the dark by the people in charge of the management; (3) the abuses by the directors; (4) the abuses of the managing agency system; and lastly, the non-disclosure of material information to the shareholders.

There is a section of the public to whom the words "managing agents" are an anathema. They seem to think that nothing good has come out of it. These attacks are mostly against the managing agents of cotton mills at Bombay and Ahmedabad. The Bombay Presidency is the stronghold of the textile industry in India and it is generally believed that the first cotton mill in India was put up in Bombay by one Mr. Cowasjee Davar, an ancestor of Mr. S. R. Davar, to whose help in the preparation of this Bill as a representative of the Bombay Shareholders' Association Sir Nripendra has referred

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in complimentary terms on more than one occasion in the other place. The first cotton mill in India however was erected on the banks of the Hugli about 15 miles from Calcutta more than 75 years ago by Messrs. Kettlewell Bullen and this the Bowreah Mill still continues under the managing agency of the same firm.

It is gratifying however that after the fullest consideration the new Act will continue to recognise this managing agency system and it has not been done away with as was seriously contemplated at one time. The criticisms that were levelled and are still being levelled at managing agents are all conceived with the idea that managing agents as a class are bent as it were on looting and robbing the shareholders of what is their due. As the Honourable the President remarked that there are black sheep everywhere and in all professions and it may be that some managing agents are guilty of offences which the previous Act did not penalise. To condemn, however, the system for the sins of a few is of course entirely wrong and all dispassionate people must admit that not only was the managing agency system a necessity in this country but that the great majority of managing agents have discharged their duties very honourably and shareholders have reason to be thankful to them. As the Honourable Mr. Sen explained this morning, the managing agency system is an absolute necessity in this country. It is so by reason of the fact that the general public have not yet been trained to look upon industrial concerns with the same confidence as in England or elsewhere. The result is that if any new company is started people fight shy and the necessary capital is not forthcoming. It is in such cases that the managing agent is of value not only for the promotion of the company concerned but thereby for the promotion of industries generally and thus helping the country at large.

India is recognised by the League of Nations and the International Labour Organisation as one of the eight largest industrial countries in the world and it cannot be denied that if the managing system had not prevailed we would not have reached this position. In other countries not only is the capital required freely taken up by the general public more easily than here but it is a well-known fact that banks in this country will not help industrial enterprises by advances as is done elsewhere. The banking system in England is acknowledged to be the best in the world and yet we find that banks in Continental countries go at times much further. In Continental towns we find, for example, huge hotels. The owner may be a man of limited means. With the small margin he supplies he gets very large credit from banks who watch every detail of the business but thus enable the proprietor to carry on a large and lucrative business. In India a bank insists upon the personal guarantee of managing agents. This is so in the majority of cases and managing agents in giving such guarantees have on occasions lost very considerable sums of money. The Honourable the Law Member quoted very many of such cases in the Assembly. I know of many others but I may be allowed to quote just one from my personal experience. This relates to the managing agency in Bombay of a cotton mill. The agency firm consisted of three partners. They had to guarantee the loans borrowed

from banks and from depositors with the result that between the three they dropped more than Rs. 42 lakhs in ten years because of the bad times through which the industry was then passing. This was a net loss because during these ten years they never drew a penny piece as managing agency commission. The Honourable the Law Member will agree that this was a worse case than any of those that he quoted.

The managing agency system is not all plain sailing. It does not always make money but on occasions has proved the ruin of some of them. I have said that there are black sheep everywhere. My Honourable friend said there are many bad cases of this kind. The percentage of unscrupulous managing agents is indeed very small.

THE HONOURABLE MR. HOSSAIN IMAM: Let the Government inquire.

THE HONOURABLE SIR PHIROZE SETHNA: There is no necessity for it. I will give you the answer. Such cases are given the widest publicity and rightly so. The percentage of such cases is infinitesimal when we find that there were in India according to the official report of the year 1932-33 as many as 8,715 companies with a capital of Rs. 286½ crores. The number of companies and the capital invested by now, that is within four years from then, must have increased very considerably. These are large numbers but of course very small as compared to the number of companies limited by shares and incorporated in the United Kingdom of which the latest published figures we have are up to the end of the year 1934 and according to which there were 13,449 public companies and 108,640 private limited companies in the United Kingdom at that date. I would ask my friend to calculate and he will find that the number of cases in which the managing agents have been held up in India will not come to even one per cent. I give these figures to show that with the growth of industrialism we shall have far more companies in the future and the continuance of the managing agency system will help to increase their numbers whereas if on the other hand this system were done away with industries in this country would not be promoted to the extent we desire.

Unfortunately all the criticism that has been levelled against the managing agency system is very one-sided. These criticisms reveal absolute mistrust in managing agents and it reminds one of the manner in which the Joint Parliamentary Committee considered proposals in regard to advancing Indian interests. Several suggestions made were turned down in the belief that if any concessions were granted as asked for they would be converted to the disadvantage of the Britisher in the country and this fact accounts for the Joint Parliamentary Committee report being considered unsatisfactory. Similarly those particular critics here believe that if the managing agency system continues it will be used to the detriment of the shareholders. This mistrust prevails not only in India but also in England as can be illustrated by a story I may be permitted to give. There were three Tommies who were very hazy in their ideas of a limited company as also of a managing director. One of them asked, "I say, Bill, what is a company and what is a managing director?" "That is easy explained", said Bill. "Suppose you and I and Alf paid two shillings each and with the joint money we bought a bottle of whisky; then we three are the company; I drink the whisky, I am the Managing Director; you two fellows look on, you are the shareholders!"

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[Sir Phiroze Sethna.]

The managing agency system has its advantages and I for one am glad that the majority of the other House have come to the conclusion of retaining it. It is generally believed that this system prevails only in this country. I submit, Sir, that this is not so. Precisely the same function governs the appointment of managing agents in Great Britain but they are not usually known there as managing agents. The firms exercising this function are called there managers or secretaries. They hold their position normally by their expert knowledge of a particular line of business. Some of the famous shipping lines are under the management of firms. To name some, they are the Orient Steam Navigation Co., the Orient and Bank lines, and others. The Moor Line, Ltd., has for its General Managers and Secretaries the firm of Walter Runciman and Co., Ltd., a name famous both in shipping and politics and it may be mentioned here that it has never been thought necessary to bring in any special legislation in Great Britain for the control of such managing agency firms. Then, again, there is the Kolar group of gold mines managed by Messrs. John Taylor and Sons who work in the same capacity as managing agents in England. The same applies to several tea concerns and others as well. The attacks directed against the managing agency system are not so much provoked by the demerits of the system itself as because of its abuse by a very few. I repeat I am glad the amended Bill recognises the system and that it will continue. If it were checked in any way it would undoubtedly have hampered the development of different industries in India which we so sorely need.

Mr. Sen has next tried to clip the wings of the directors and has done so to a reasonable extent. We find no objection to his proposals in regard to giving no loans to directors and similar restrictions and which also applies to managing agents. There were many who thought that the directors should be restricted to the number of companies on whose boards they might serve. That again would have been very awkward. Even in large cities like Bombay and Calcutta the number of men whose names the shareholders would like to see on the boards of their companies are not very many and it is not strange herefore that a few directors are serving in quite a number of concerns as directors. That cannot be helped. Such men are in request not only for their knowledge of the Companies Act but also for their knowledge of business generally and perhaps for their financial standing in time of need. The Bombay Shareholders' Association had prepared a list of what they call multiple directors but they were not able to show that these so-called multiple directors have done any harm or have been found wanting in the discharge of their duties as directors. Directors in India of fairly large companies are paid anything from Rs. 25 to Rs. 100 per meeting. Directors in England are paid very much more, anything from £100 to £500 per annum whereas the chairman is invariably paid much more. The chairman of a large bank gets anything from £10,000 to £20,000 a year. The late Sir Basil Blackett, one of our Finance Members, after retiring from India became the Chairman of a big concern in the city on a larger salary than what he received as Finance Member. The last Finance Member, Sir George Schuster, was specially selected for the Chairmanship of a large concern and it is reported that his

emoluments as such Chairman amount to £10,000 a year. Again, in England, in some companies instead of regular fees a certain percentage of the profits are divided amongst the directors. This practice has started in India as well of late. Clause 39 of the Bill deals with the percentage of directors. In fact this clause as worded is not quite clear as the Honourable the Law Member will admit to judge from the fact that even such leading newspapers as the *Times of India* and the *Statesman* have not been able to interpret it as the Honourable the Law Member would like them to do and I believe that one or both of them have even consulted counsel in the matter. I should very much like therefore that the Honourable the Law Member makes this section perfectly clear during the passage of the Bill in this House.

The shareholders' interests have been safeguarded as far as possible. They shall certainly have a bigger say hereafter and there can be no complaint against the same. On the other hand, however, it would appear that the Bill has gone much further than it might. It says that a shareholder is entitled to speak and vote the moment his name is registered. That is bound to work very adversely at times. There are men who are not well disposed towards a particular company by reason of any difference they may have with the managing agents or for other reasons and it will be possible for them and their friends to buy a single share each on the very last day or the day before the meeting, thus getting themselves registered and they will then have a right to speak and vote and be in a position to do much harm. In the articles of association of different companies a period of a very few months is fixed to enable a shareholder to speak and vote. This is a salutary rule for it prevents designing persons from harming a company all of a sudden. The House is aware that there are some people who hold a very nominal number of shares or even a single share in a company with the sole object of being obstructive. They do so for the purpose of seeking notoriety and at times put companies to considerable annoyance and expense by dragging them to the courts. If such a person has some knowledge of the law he can appear in person whereas the company will have to engage counsel and thus be out of pocket to the tune of thousands. Perhaps the ulterior motive such a shareholder has may be none other than that he may be bought out by the payment to him of fancy prices. Such persons are a great hindrance to the smooth working of companies.

There is one important point which I must not omit and that is in regard to the inclusion of the deduction of depreciation from the net profits in arriving at the commission to be paid to the managing agents. This is a mistake to my mind but rather than enlarge upon it at this stage I would prefer to give my reasons when the amendment in this connection is before the House.

My friend referred to proportional representation, and I am very glad that the Lower House has not approved of that. To my mind proportional representation is nothing but a chinese puzzle, and I am glad that proposal has been dropped.

It has been sought to give Indian accountants the title of Chartered Accountants adding the words "India" after. This, to my mind, is a great mistake and I do hope that the Honourable the Law Member who is to decide on this point later will do nothing whereby the position and prestige of

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chartered accountants proper is in any way lowered. At the moment there are perhaps a dozen Indian chartered accountants but ten years hence there will be perhaps a hundred. It will be positively unfair to them after having passed very severe tests and after spending thousands of rupees that those who have not gone through the same course of training but distinctly lower should be entitled to call themselves by the same designation.

The Honourable Mr. Sen referred to banking clauses. There have been banking clauses introduced in this Act. It is just as well that this is so because we do not know when a Banking Act for India will be put on the Statute-book. In the meantime, we shall be quite content with the clauses in the Bill which have been introduced. I think that is a change in the right direction.

In the course of his speeches the Honourable the Law Member has given no indication as to the date from which the new Act will come into operation. The suggestion I have to make in this connection is that a few months time should be given to managing agents to amend their articles of association so that they may conform to the sections of the new Act. This is bound to take some time and I hope the Act will not become operative any earlier than 1st April, 1937.

With these words, Sir, I support the Motion of the Honourable Mr. Sen.

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. R. H. PARKER (Bombay Chamber of Commerce): Sir, I was very glad this morning that my friend, the Honourable Sir Phiroze Sethna, removed the misunderstanding about managing agencies. There are, as he says, quite a number of important companies in England where managing agents control the affairs of the company and it is perhaps worthy of note that in England no special legislation has been found necessary in connection with them. I think that all Honourable Members of this House must welcome an attempt to improve the provisions of the Indian Companies Act, and that we owe a debt of gratitude in particular to both the Honourable the Law Member and the Honourable Mr. Sen and to all those who took such pains before this Bill was introduced in the Legislature and during its passage through the Lower House. I am sure we all regret that the Honourable the Law Member is unable to be here and the reason for this absence.

I think the Bill was considerably improved in many respects in Select Committee and by the Assembly but on the other hand I am afraid they both from my point of view did something to make it worse. I have had some experience in England of the winding up of companies and I have great sympathy with the ignorant shareholders. Where there is suggestion of *mala fides* I have always found that most of the shareholders were widows or orphans or doctors or people who were unlikely to know much about these affairs but on

the other hand I think that in this instance we have gone too far in this Bill so far as the restrictions are such as will hamper the proper management of business.

There still remains to us the duty of endeavouring to improve the Bill as it now stands and to correct any errors which we may find in it. Some of them are no doubt matters of detail and are not of so great importance as others, but there are certainly some questions of principle involved which I think require the very serious consideration of Honourable Members.

Perhaps the most important of these is the very drastic clause which provides for the termination of all existing managing agency agreements after a period of 20 years. For my part I regard this as open to very serious objection. It is clearly in the nature of expropriation without compensation. Moreover, I think it is quite wrong to assume that it is fair either to the shareholders or the managing agents. Why should the shareholders cease to have the benefits of an agreement and be forced to make fresh arrangements for the management of the company's affairs which may quite likely be less favourable in one or more respects? It is true that they can re-appoint the same managing agents, but if the subsisting agreement is a favourable one to the shareholders they may be put to the disadvantage of having to increase their emoluments. I cannot agree that it is fair to the shareholders for the law to take away from them their rights under an agreement of this kind. Why should a managing agent lose his office before the period of his agreement with a company has expired without being compensated for such loss? In very many cases it has to be borne in mind that the managing agent originally floated the company and has been primarily responsible for such benefits as the shareholders have gained. He probably would not have done so had the period of his agreement been limited to the extent now suggested and I feel that in every way the proposal is unfair to the managing agent as well as to the shareholders.

Sir, I feel very strongly that these provisions of the Bill are mistaken and I have far too great a respect for my eminent friend, the Honourable the Law Member, to believe that he will find it impracticable to arrive at a basis of compensation which would at any rate be nearer to being just than no compensation at all could be. It is noticeable that the Select Committee made certain provisions in this connection and, although I think they were highly unsatisfactory themselves, they definitely recognise the fact that compensation ought to be made. I realise that time now is short but I express the hope that he will take the matter into his consideration with a view to dealing with the subject in an amending Bill.

Then there are certain provisions of the Bill relating to the proportion of the directors of a company who shall be appointed by the company in general meeting and the proportion which can be appointed otherwise and matters of that kind. I foresee that great difficulties may arise as the result of provisions of this nature.

I have been connected in my time with a very large number of companies, both in England and in India, but to a large extent the same considerations apply.

[Mr. R. H. Parker.]

It not infrequently occurs that a company gets into a difficult position and requires more funds to extricate it from its troubles and that the necessary money can only be obtained on conditions which include the power to nominate a certain number of directors on the board. I assure the House that this is a really practical point which is deserving of consideration, for to prohibit the facility is to hamper the raising of capital which is surely retrograde.

Then there are a number of sections which are mandatory and deprive the shareholders of what I regard as their reasonable rights. I cannot understand on what ground it can reasonably be contended that there should be disclosed in the accounts of a company matters which the shareholders themselves feel ought not to be disclosed. There is a line which can be drawn between proper frankness in matters of this kind and a disclosure of what one may describe as the personal affairs of certain individuals to their own disadvantage and for the benefit of competitors who have no direct interest in the concern at all.

Another provision which I would regard as opposed to the interests of shareholders is that where the directors decide to increase the capital of the company by the issue of further shares, they are bound to offer these shares in the first instance to the existing shareholders. I have known of many arrangements for the benefit of all parties concerned which could not have been carried through had this been a provision of law. Not infrequently it happens that the best way of bringing about an economic amalgamation of interests is by one company issuing shares to individuals or to the shareholders of another company, and I deprecate any restriction of this kind which militates not only against shareholders but against the general public, for the public is greatly affected by economy in production which can frequently be brought about in this way. Moreover, such schemes are now recognised by the introduction of the new section 153B in clause 84 of the Bill which is borrowed from the new English Act, and it would seem that clause 55 will to a large extent curb the facilities offered by that section.

Then there is a provision under which depreciation becomes a charge against profits before arriving at the sum upon which the remuneration of managing agents has to be calculated. I entirely agree that from a pure accountancy point of view depreciation is a charge against profits in just the same way as an item like wages is. There is, however, this material difficulty in practice: that depreciation is to a certain extent a matter of opinion. Now that opinion must normally be the opinion of those best acquainted with the circumstances of the case, and those who are best acquainted with the circumstances of the case in a company managed by managing agents must at any rate very often, if not always, be the managing agents.

The provision thus places the managing agent in this dilemma: that if he estimates the depreciation at a low figure he will benefit himself, and if he estimates it at a high figure he will reduce the amount of remuneration which he will receive.

We are trying, I submit, to remove as far as may be possible abuses by those who have control of shareholders' money but I do think that it is asking rather much to place a responsibility of this kind upon the shoulders of any ordinary man.

There is another provision which I think is open to very great objection from the point of view of shareholders, and that is in clause 46 of the Bill which provides for a register being kept by the company in which shall be entered particulars of certain contracts and arrangements which shall be open to inspection by any member of the company.

Now, Sir, what will be the result if this provision becomes law? It will merely mean that anybody who can gain an advantage by knowing the policy of a particular company and using it to their own advantage as opposed to the interests of the shareholders will buy the smallest number of shares which will entitle him to inspect this register, and the most unfair results will occur.

I regard this provision as one which will help the mischief-maker and harm the interests of a shareholder.

There is what appears to me to be an unintentional error in clause 119 of the Bill in the proposed section 277L. In the form in which this now stands a banking company lending money to a company that is a subsidiary company of another on the security of more than 50 per cent. of its shares would be in jeopardy, as the moment it found it necessary to become the holder of the shares it would be contravening the law, as under other provisions of the Act the borrowing company would automatically become a subsidiary company of the lender. I think this is a matter which there should be no difficulty in dealing with by amendment.

Then there is the point on which the Honourable Mr. Hossain Imam and the Honourable Sir Phiroze Sethna touched.

I admit, Sir, that in tabling amendments on these and some other points I have found myself in great difficulty. I fear that if this Honourable House supports some of these amendments there may be successful opposition to them in another place and that in that event, having regard to the fact that this Council will be dissolved on the 26th October, 1936, there would be the risk that the Bill, if it were then a pending Bill, would lapse. If there is that risk I feel that it is one that ought not to be run, but I also feel that when an important matter of this kind has to come before the Legislature arrangements should be made so that ample time may be available for due consideration by this Council of the views of the other House, and by the other House of the views of this Council.

All of us are here in the interests of India and we had the assurance of His Excellency the Viceroy in his speech to the joint sitting of the Central Legislature this session that he regarded the Council of State as an institution of some importance.

Unless we are given proper opportunity to refer our views back to the Lower House and in the event of this House and the Lower House disagreeing, of a joint session as provided for in the constitution, I submit that we are being deprived of our functions and robbed of the opportunity to perform our duties.

THE HONOURABLE MR. C. G. ARTHUR (Bengal Chamber of Commerce): Sir, in an endeavour to place before the House the attitude of the Members of the Bengal Chamber of Commerce whose representative I have the honour to be, I would ask your indulgence, and that of the Honourable Members of this Council, while I state as briefly as possible their views on the Indian Companies (Amendment) Bill of 1936.

Before doing so, Sir, I should like, if I may, to acknowledge the impartial attitude of the Honourable the Law Member, whose task has been one of great difficulty, and to say how very much I regret his illness and his enforced absence today. In paying tribute to the Honourable the Law Member I should like to thank the Honourable Mr. Sen for all he has done. To hold the balance between warring factions must always call for powers of an exceptional nature and, Sir, my community acknowledges with gratitude the judicial fairness of the Honourable the Law Member's views.

At the same time, Sir,—and with all due respect—that does not mean that they are prepared to accept the Honourable the Law Member's views as final, however fairly conceived, because it is but natural that legal and commercial opinion may not be at one. In fact, Sir, that is one of the grave difficulties of a Bill of this nature, because what may be good in theory may be very far from good in practice, and may indeed be impracticable if due regard is paid to conflicting interests and established rights.

That the innocent have to suffer for the guilty is a platitude, but if by legislation a system is evolved that is unworkable, and further a system that may be inequitable to the terms of a bond, then, Sir, surely it is incumbent that legislators should see to it that an impasse of this kind will not result. The Honourable the Law Member in piloting this Bill through the Legislative Assembly has achieved what everyone of us must recognise to be a real bridging of the gulf between the demands of idealistic reformers and the demands of practical businessmen. On some points in the Bill now before us, however, I feel there is still room for improvement and if at a later stage in our discussions it is my unenviable task to oppose the Government of India, I feel sure that Government and my Honourable friends in this House will realise that I do so in no spirit of carping criticism but from a sincere desire to improve the Bill.

Sir, commercial interests welcome a tightening up of the Indian Companies Act of 1913—a tightening up which has long been recognised as most necessary. It has been well said that you cannot make a man honest by law, but you can at least so frame your Bill as to embody severe penalties for wrongdoers and to secure a proper disclosure of the affairs of the company to the board of directors who are responsible for its management and so provide real protection for the shareholders. No managing agency firm worthy of the name can do otherwise than welcome legislation of this kind. The large agency Houses which have been built up from small beginnings during the last century have

3-5 P.M. achieved their greatness by honesty and fair dealing, and many of the provisions of this Bill will in fact only make compulsory for all what is already the practice in companies under the management of managing agents of repute. The men at the head of such firms are much too proud of their good name ever to allow in companies under their management practices the restriction of which is a major object of this Bill.

That is one side, Sir, but there is another. In framing the Amending Bill and passing it into law, care must be taken to see:

- (1) that the rights of shareholders will be safeguarded;
- (2) that sanctity of contract is not violated, and that definite rights of managing agents are not ridden rough-shod over and consigned to that rubbish heap which is associated with a famous—or shall I say infamous—"scrap of paper";
- (3) that no undue interference is allowed to creep in, which will make the system unworkable.

Sir, it is on these important points that the commercial community will stand their ground in the hope that responsible legislators will acknowledge the reasonableness, and will see to it that nothing in this Bill will be passed into law that offends these just principles.

For myself, Sir, these tenets of which I have spoken will be the solid foundation and basis of any statements I shall make in the debates which lie before us.

I feel honoured today, Sir, to be addressing this House of distinguished Honourable Members, men from all parts of India who have served the State, in the services, in the law, as large landowners, in commerce, and who have occupied, and do occupy today, high places in their particular spheres—men who are accustomed to weigh evidence, to make big decisions, to choose between right and wrong, and I am happy, Sir, to think that before this Bill becomes law it has to pass the discerning scrutiny of the Honourable Members of this Council.

The responsibility is an important one for all concerned and in representing a commercial community in this House I do so in a dual capacity as a managing agent and as an individual whose stewardship of shareholders' funds, entrusted to my care as the Chairman of the boards of companies managed by my firm, and amounting to many crores of rupees, is indeed no light burden.

Sir, it has been said that money talks. In my position today it is a case of other people's money, and their money must be my passport to the minds of Honourable Members when they give consideration to the observations which I shall make. (Applause.)

THE HONOURABLE MR. P. N. SAPRU (United Provinces Southern Non-Muhammadan): Mr. President, we are sorry to miss Sir Nripendra Sircar today. The House will join me in wishing him a speedy recovery. Sir, the Honourable Sir Nripendra Sircar is one of India's greatest lawyers. He has had vast experience of commercial litigation and it was fitting that the revision of the Indian Companies Act should have been undertaken under his regime. Sir, the Bill will be remembered as Sircar's Bill, if I may put it like that, in years to come, and associated with Sir Nripendra Sircar will be the name of our Honourable friend, Mr. Sen, whom I would like to congratulate on the excellent speech that he made this morning. Our thanks are due to Mr. Sen. He has ably assisted Sir Nripendra Sircar and has worked devotedly over this Bill.

Sir, the Bill makes vast changes in the present Indian Companies Act of 1913. Considering the extent of those changes one feels that it would have

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been better if the Bill had taken the form of a consolidating statute. The last Companies Act was passed in 1913. In the 23 years that have elapsed since the passage of the last Companies Act, there have been many changes in Indian industrial organisation. The number of registered companies in 1913 was 2,000; the number of registered companies now is 10,600. The paid-up capital of these companies in 1913 was Rs. 60 crores; the paid-up capital of these 10,600 companies now is Rs. 300 crores. This increase in the number and capital of the companies has created new problems and an amendment of the Companies Act was overdue. Our Companies Act of 1913 is based on the English statute of 1908. The English statute of 1908 was revised in 1929 and seven years after the passage of the English statute we, the Indian Legislature, are engaged in considering an amending Act, and it cannot therefore be said that the amending Act is premature.

Sir, the Joint Stock Company is the product of our system of free enterprise and large scale production. Enterprises in the modern world cannot be started by single individuals or firms with private resources alone. The joint stock company is a co-operative effort which has given great impetus to commercial and industrial enterprise. But it is a venture liable to abuse in the hands of unscrupulous sharpers who trade upon the gullibility of a credulous public, and the public interest requires that the working of these joint stock companies should be regulated and controlled by well-devised and well-directed legislation. Joint stock companies must not be allowed to be misused and perverted for selfish needs by unscrupulous company promoters and organisers. A company failure means utter ruin to large numbers of poor investors. While we should not make honest business impossible, we should not forget the hundreds and thousands of poor investors who invest their savings in these concerns and who have to depend for their living upon the dividends that they get from these investments. Sir, the Bill, I am glad to say, is based upon correct principles. It recognises the peculiar difficulties of Indian industry and, while affording every encouragement to honest business, would make dishonest business more difficult. Dishonesty cannot entirely be eliminated from life by legislation, but to the extent that legislation can make dishonesty difficult this Bill will make dishonesty difficult. Sir, as was pointed out by the Honourable Mr. Sen, this Bill would check the growth, firstly, of mushroom and fraudulent companies; secondly, it would give some more living interest to shareholders in the management of the concerns of which they are shareholders; thirdly, it would prevent and check abuses by directors; fourthly, it would purge the managing agency system of the abuses which have crept into it; and, lastly, it would enable shareholders to get all the material information necessary for a correct judgment on the concerns of which they happen to be shareholders. It has in its various clauses taken into consideration the needs of the various classes affected by a joint stock company promoters, managers, shareholders and the public at large. It is in every sense a vast improvement upon the present Bill and while I should have liked it to go further in certain directions, further in the sense in which Mr. Hossain Imam would have liked it to go, I recognise that it is a compromise measure which can only succeed if there is

goodwill behind it. My attitude is that I want the Bill; for the time being I am content with the Bill as I recognise it to be a great advance over the existing statute.

Sir, the most controversial clauses of the Bill are in regard to the system of managing agency. The system is, as was admitted by the Honourable Mr. Sen, peculiar to India. Now, there is a school of thought which would abolish the managing agency system altogether. There is a school of thought which in the name of the sanctity of contracts would keep the managing agency system much as it is today. The clauses dealing with it have naturally aroused a great deal of controversy; interests are affected by these clauses and it is but natural that there should be some controversy in regard to these clauses. Sir, my own attitude towards the question of managing agency is this. I think that having regard to the present stage of our industrial development, we cannot get rid of this system. The Bill has struck a middle line in regard to this question of managing agency and I think the Bill's attitude towards the managing agency system is correct. Sir, many harsh things have been said about the managing agents and the system of managing agency. Sir, there is no doubt that the system lends itself to abuse and it ought to be our endeavour to stop those abuses as far as it is humanly possible to do so. But, Sir, the conditions in this country require the managing agency system. It is sometimes necessary for a company to have a managing agent who can pledge his credit, who can pledge his name in order to secure the necessary finance for the concern of which he happens to be the managing agent. A managing director is in a different position from a managing agent. A managing director is a servant and it is not his job to finance the concern or give guarantees to the bankers. Sir, experience shows that managing agents have proved to be on many occasions good financiers, managing agents have found on occasions money for the concerns they are running. Many harsh things, as I said, have been said about the managing agency system. When I read some of these criticisms, I am reminded of a book which was published some years ago called *Mother India*. That was a book by an American lady, Miss Mayo. She went to the hospitals, she looked into the jail reports and the law reports in this country and from these reports she made out a terrible indictment against the country. Many things that she said about our social customs were probably true, but if one read the book as a whole, one found that the picture that she gave of this country was absolutely an untrue picture. Sir, if we confine ourselves only to the dark spots in the managing agency system I think we can make a terrible indictment against the system and we can also say, as Miss Mayo said, that this system has done no good and it really ought to be scrapped altogether. But, Sir, if we take a more balanced view, we shall probably come to the conclusion that industrial development has on the whole been advanced by the system of the managing agency. There are abuses in this system and those abuses we want to get rid of. But I am not prepared to go to the extent of condemning the system altogether. Sir, the system, as I said, requires alteration and adaptation to changed conditions. There are, we know, good managing agents and there are bad managing agents. There are managing agents who run concerns committed to their care in their own selfish interests, little caring for the shareholders whose trustees they profess to be and whose trustees they legally are. There are others who take their

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work in a responsible spirit and the present stage of our industrial development is not a little due to them. Sir, the Bill has not abolished, as we know, the managing agency system altogether. The clauses dealing with it lay down that no managing agent shall be appointed to hold office for more than 20 years at a time. The period of 20 years at first sight looks rather a long period. But, Sir, while I would not like to dogmatise on this at all, while I should have liked the period to be shorter, say, about 10 years, I am free to confess that there is room for argument on this point and that if you want the managing agent to do the best that he can, you must give him time to do it. Clause 2 deals with the existing companies and existing agencies are to be terminated at the end of 20 years unless there is a fresh appointment. Sir, I cannot regard this as an expropriatory or confiscatory clause, because if my reading of the Act is correct, these managing agents are to be reimbursed for any losses that they may incur by reason of the termination of their managing agency contract. Sub-clause (3) very properly makes a charge upon the company assets by way of indemnity for liabilities or obligations incurred.

THE HONOURABLE THE PRESIDENT: If he enforces his right, what would be the result? Bankruptcy of the company? Would it not be so?

THE HONOURABLE MR. P. N. SAPRU: Not necessarily, Sir.

THE HONOURABLE THE PRESIDENT: If he wants all his money back?

THE HONOURABLE MR. P. N. SAPRU: If it is feared that bankruptcy would result if he enforced his rights, then the company would extend the period of managing agency and then he will be in a very strong position *vis-a-vis* the company because he can recover indemnity. I therefore cannot look upon the clause as confiscatory or expropriatory.

THE HONOURABLE THE PRESIDENT: Would he not dictate his terms when he is contracting for a second time to act as managing agent?

THE HONOURABLE MR. P. N. SAPRU: Therefore, Sir, the clause helps the managing agent and not the company. If the argument is correct, the clause is in the interests of the managing agents, not necessarily the company. I may here indicate that the clauses lay down that the remuneration of managing agents should be based on a fixed percentage of the annual net profits of the company, with provision for minimum payment in the case of inadequacy of profits, together with an office allowance, to be defined in the agreement of management.

Sir, managing agents, it is but right, should not get remuneration on output, production or sales but on profit. The paramount consideration must be the interests of shareholders. Sir, coming to some other parts of the Bill, I welcome the provisions which lay down that a certain proportion of the working capital should be actually subscribed before a concern is allowed to start. We have had, Sir, a number of mushroom companies in recent years. A company's failure does a great deal of the harm to industrial development and if we were to analyse the causes of these failures, we should find that probably one reason is that many of these companies start with inadequate

capital. The clauses therefore, Sir, are based on sound canons of industrial finance and, generally speaking, they have my support. I could have wished they were more stringent but even as they are I give them my support. Sir, there are, as I said, directions in which I should have liked the Bill to be somewhat different but, having regard to the stage at which we have arrived in our discussions I shall refrain from proposing any amendments on those points. For example, Sir, I should have liked the principle of proportional representation to have been introduced in the election of directors. Sir, I am myself in politics a believer in proportional representation. (An Honourable Member: "And also communal representation?") No, Sir, I look upon proportional representation as a substitute for communal representation and I have always held the opinion that if we could study proportional representation we should probably be able to arrive at a more correct solution of our communal problems. We do not want, Sir, as I said, to make business impossible but I do not understand how proportional representation would make business difficult. Perhaps some of our business friends will be able to explain how proportional representation would make business difficult.

Sir, I think it is but right that all sections of shareholders should find themselves represented on the directorate, that the directorate should not consist merely of the majority of shareholders. I should like, Sir, some business friends of ours to explain to us how and why proportional representation would make business more difficult. Therefore, Sir, I am in agreement with Mr. Hossain Imam so far as this question of proportional representation is concerned.

Sir, clauses 16, 35, 41 and 44 will enable shareholders to have access to the books of the company giving information as to the list of shareholders, directors, managing agents, contracts in which the directors are concerned, resolutions passed at meetings of shareholders, etc. Now, Sir, I maintain these clauses are very good clauses because they will keep the shareholders in touch with the living management of the concerns of which they happen to be shareholders.

Now, Sir, I now come to the clauses relating to the audit of companies. Sir, I recognise that the clauses in regard to audit represent an improvement over the present state of affairs but I must frankly say that I should have liked the Bill to go further and to have made the auditors entirely independent of the management. Sir, for his re-election an auditor will have to depend upon the management and to the extent that he will have to depend for his re-election upon the management he will not be entirely independent. Sir, we know that we have to depend for our re-election upon our constituents and even when we want to take an absolutely independent line we feel that we cannot do so. There are occasions when we very often speak in this House with a mental reservation. Well, Sir, after all auditors are not very different from Members of the Legislature and I think, Sir, it would have been on the whole better to have made them entirely independent of the management. Sir, as the House knows, I am always in favour of larger and larger state intervention. I am a state interventionist and I should have been, Sir, in favour myself of compulsory state audit by auditors chosen from

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a panel nominated by a special board of accountancy to be constituted by the Governor General in Council. Auditors, Sir, should be men who are under no obligations to the management and therefore, Sir, I think it is necessary that this question of an independent audit should be taken up at an early date. Then, Sir, there are certain other directions also in which I should have liked to see an improvement in the Bill. Sir, the Bill makes no distinction between public utility concerns and ordinary concerns and I think, Sir, in the case of a public utility concern, the control of the state ought to be larger. There ought to be some provision for direct representation of the consumers as represented by the State on public utility concerns. Then, Sir, there is another matter in which I am interested and that is the question of labour. Well, Sir, I speak with a certain amount of diffidence on this point. I know that workers in this country are not yet sufficiently advanced and yet I think, Sir, that if occasionally our concerns could associate workers with the management of the industry they are engaged in, the problem of capital and labour would be easier of solution. Sir, we have a number of protected industries in this country. The consumer is paying very heavily for this protection. I do not grudge the protection which our industrialists are getting. I think the system of discriminating protection has justified itself but, Sir, when we give protection to our industries we have a right to see that these industries are properly run. And therefore I think, Sir, that in the case of protected industries the actual control which the State exercises might be larger.

Well, Sir, these are all the criticisms that I have to offer in regard to the Companies Bill. I recognise that the Bill is in the nature of a compromise measure. It does not give us everything that we want. We should have liked it to go further but we recognise that the Honourable Sir Nripendra Sircar and the Honourable Mr. Sen had a difficult task. They had to reconcile many conflicting interests.

They had to consider the point of view of businessmen, the point of view of shareholders, the point of view of consumers, the point of view of directors, and so many other interests, and it must in fairness be admitted that they have done their task very well. Our thanks are also due to the various Chambers of Commerce, and particularly to the Bombay Shareholders' Association, for the help they have given us in considering this Bill.

There is just one complaint which we of this House have, and I must give expression to that complaint. The Honourable Mr. Hossain Imam and the Honourable Sir Phiroze Sethna have anticipated me in regard to that complaint. Our House was not associated with the Select Committee which considered this Bill. I think we have business talent and business experience in this House, and we have a just and legitimate grievance in regard to the manner in which we have been treated by the Government and the other House. Sir, we are all discussing this Bill at the far end of the session. We have had to study this Bill at very short notice and I do not think we can fairly say that we have given our very best to the Bill. I think that if we had been given more time, if we had been associated more closely, we should have been able to make a more substantial contribution to this

measure. However, Sir, we wish this measure every success. We hope that this Bill will prove a landmark in the history of Indian industrial development and will give an impetus to industrial development.

Sir, with these words, I generally support the Bill now before the House.

THE HONOURABLE SIR DAVID DEVADOSS (Nominated: Indian Christians): Sir, I must congratulate the Honourable the Law Member upon his tact and his ability in piloting this Bill before the other House and I must also congratulate the Honourable Mr. Sen upon the able manner in which he has discharged his duties. Sir, I have only a very few remarks to make. I will notice only one or two points in the Bill. So far as the managing agency system is concerned, the tenure is limited to 20 years. Much has been said for and against this. My experience of Indian companies in my own district of Tinnevely extends over 30 years. There, the managing agents make their position hereditary and the result was that in the course of a few years, the whole concern had to be scrapped, or rather, the concern became not at all a paying concern and the managing agents had to give up the whole thing. I am speaking of what happened 30 or 40 years ago. Ignorant people were asked to subscribe for shares. They paid only a small amount of their share amount. When the company went into liquidation, the poor people, who had paid only say, Rs. 10 a share, had to fork out Rs. 90. When they appeared before the District Judge each said, "I have already paid Rs. 10" and the District Judge said, "The law is such that you must pay the other Rs. 90 also". The result was, a number of good families were ruined. So, this provision is good. No doubt it may work a little hardship with regard to some well established firms, but considering the large number of companies that are being floated nowadays, I think this provision will have a very salutary effect. Otherwise, these people make themselves permanent managing agents with the result that they do not care for the interest of the shareholders and do just as they like and the companies come to grief.

I am glad to see that the managing agents are to be paid only a share of the profits. Sir, I have the misfortune or fortune to own some shares in a company. It has a very large capital. There was a time when it paid about 30 per cent. That was during the war. Now, Sir, the managing agents get Rs. 60,000 to Rs. 70,000 a year. For two years there has been no dividend at all declared. Is it right? The managing agents get a commission of, we will say, a pie or two pies on every pound of yarn spun, or so many pies on every yard of cloth woven. If these managing agents only cared for the interests of the shareholders, surely they will strain every nerve to see that the company is in a position to pay a dividend, and therefore, Sir, this provision that they should get only a share of the net profits is a very good one.

I have to make one or two comments about what has been left out. When a company is in a position to pay a dividend, there must be some provision by which the managing agents are made to declare a dividend. I have in my mind a case which came up before the Madras High Court. A well-known company, an Indian concern—so my English friends need not think I am attacking them—a very good concern had earned considerable profits. For several years no dividend was declared. The excuse was that

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they wanted to start some other concern or they wanted to buy some new machinery. Whenever the shareholders had the temerity to ask for a dividend, the managing agents said, "We will call up the rest of the share capital". Only about 50 per cent. had been paid and they were threatened with having to pay another 50 per cent. The result was that for a number of years—four or five years, I should think—no dividend was declared. The matter came into court. The shareholders wanted to liquidate the company. After a good deal of trouble, the High Court passed an order that the company should be wound up. The managing agents went up to the Privy Council. In the meantime the whole concern was mismanaged. The official liquidator could not get hold of the books, and could not get possession of the property, and the whole thing went to the dogs. Such a thing ought not to happen. I have suggested this to the Honourable Mr. Sen, that whenever a company is in a position to pay, there must be some provision in the law by which the managing agents or the directors should be directed to declare a dividend. Government was very careful with regard to the losses, that the losses in a particular year should be written off in that year. They wanted to benefit the Income-tax Department. If you spread the losses over a number of years and show no profit, the company would not be liable to pay income-tax. I believe that is the reason why this clause has been introduced. I do not suggest any wrong motive. It is perfectly legitimate for the Government to protect its own interests. But, at the same time, I suggest that the interests of the shareholders also should be protected by some provision under which the managers or the directors should be made to declare a dividend whenever a company is in a position to declare a dividend and not to say they are going to start another concern or they want to buy new machinery or some other such excuse.

Some well-known companies—I do not attribute motives—but some companies purposely refrain from declaring a dividend and the result is the price of the shares goes down. In some cases—I may be wrong in my information—the managing agents or some other people buy up the shares in the market, so that the poor people who have not had the benefit of a dividend are obliged to sell their shares at low prices, and when all these shares are purchased, a proper dividend is declared and the value of the shares goes up. Sir, such a state of things ought not to be allowed to go on and I would ask Mr. Sen to consider this point and if possible to bring in an amendment to the Bill so that my idea may be incorporated in it.

There is one other point I would draw attention to with regard to limitation. Section 235 of this Act says that the Limitation Act will not apply. But this has been deleted and I think it would be better to say that the law of limitation will not apply. I would therefore ask Mr. Sen to consider whether instead of simply deleting that clause in the Act of 1913 it would not be better to put in that the law of limitation will not apply to proceedings against directors and managing agents. I think that will help the courts in deciding the question without difficulty. In matters of this kind doubts may arise and different decisions may be given by different High Courts.

Then, Sir, with regard to proportional representation, I am against it. Business is not politics, and if you put in people who cannot manage the business you will kill the business. If I am not taking up the time of the House I might mention an instance of this. A very well-known lawyer left a considerable fortune. His sons, very respectable people, some of whom were B. As. and B. Ls., started a business. Well, even titles like that do not make a person a good businessman, and the result was that in a few years they lost everything and it was a sad thing they had to go into the insolvency court. Therefore, people who have simply shares are not necessarily businessmen. Most people take shares to get a dividend, and if they get a decent return they leave to businessmen to manage the concern. But if you have proportional representation a man who does not know anything about business may come on the directorate and you can easily imagine the fate of the business. Therefore, we must be very careful in introducing principles which will not at all apply to business concerns.

Sir, it is not necessary for me to say much about this Bill. I welcome all its provisions as being beneficial to business as well as to shareholders. The fear expressed by my friend Mr. Arthur and by Mr. Parker I do not think are well-founded. Managing agents if they do their work properly will be re-appointed. I think the shareholders are not such fools as to turn out the good men. (*An Honourable Member*: "They might have to pay more.") That again depends on the shareholders. If the managing agents are people who want to screw the last penny out of the shareholders, they may be able to do it. But everybody is not like that. No doubt they may bid for better terms, but if the company is in a position to pay and is thriving and if the managing agents deserve a little more let them by all means get it. But if the company is not a thriving concern I do not think the managing agents will be so foolish as to drive a hard bargain, because after all they will be entitled only to a share of the profits. That section will be in force when the new contract is entered into. They cannot say, "We will charge so much on every pound of yarn spun", because under the new law they will be only entitled to a share of the profits, so that if they drive a very hard bargain they will get very little.

So, considering all these things, I think the Bill is a very good one and we all ought to support it.

THE HONOURABLE MR. MAHMOOD SUHRAWARDY (West Bengal : Muhammadan): Sir, when we read the Bill that is now before us, the first impression that I feel sure comes to the mind of all of us is one of admiration and respect for the remarkable achievement of my Honourable friend the Law Member who, I regret is to-day absent owing to illness, and my Honourable friend Mr. Sen. They have succeeded in carrying through the Assembly a highly complicated measure which, I think, strikes a very just balance between the conflicting interests involved.

As I understand it, this Bill seeks firstly to bring managing agents and managing directors more under the control of the board of directors as a whole; secondly, to make the directors more responsible to the shareholders than they are today; thirdly, to close the door to possible abuses arising from interlocking interests among boards of directors and managing agents; fourthly,

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to tighten up the regulation of banking; fifthly, to give shareholders and the public fuller information about company affairs than they have at present; and lastly, to inflict proper penalties on those who infringe the new company law.

Now, Sir, we in this House are, I believe, strong supporters of all these objects, and we have therefore no criticisms to make on the Bill as a whole. Here and there on points of details, Honourable Members of this House will no doubt have suggestions to make for the improvement of the Bill; but of its general soundness there can be no doubt whatever and as I have already said, we are deeply indebted to the Honourable the Law Member for the great improvement in Company Law that he is responsible for bringing about.

On one point, Sir, I should like to say just a word before I sit down. I refer to clause 46 of the Bill. I can hardly think that the full implications of this clause have been considered. I know of one company with seven directors—four Indians and three Europeans—who are directly or indirectly interested between them in about 300 different companies. Is it really seriously suggested that every transaction with every one of these companies should be entered in a separate contract register in addition to being entered as each transaction must be in the ordinary journals and registers of the business? Sir, I can hardly believe that the implications of clause 46 have yet been fully considered and it will require close scrutiny by us. Again, in the proposed new banking section 277L, practical difficulties are involved that must be considered by this Honourable Council when that clause is before us.

I have criticisms to make also on one or two minor points but for the rest I believe this Bill to be a good Bill and I heartily support it in its general aspect.

THE HONOURABLE MR. V. V. KALIKAR (Central Provinces : General) : Sir, being a layman and fortunately or unfortunately not connected with any companies, I think I should be in a position to speak on the Bill with a detached view and especially taking into consideration the interest of the investing public. Sir, India, as we all know, is mainly an agricultural country. Industrial development in India is of recent growth and I congratulate the industrial classes who have invested large sums of money and who have started industries in this country with a view to compete with foreign companies. Not only that, Sir, but on account of industrial development in India to some extent the problem of unemployment has been solved. Some may think that it is a reactionary measure. I am sorry I cannot endorse that view because I think our industrial morality is not or cannot be called low as compared with that in other countries. We have read in the papers about the scandals of various companies in Western countries, but we have not come across such scandals in India. I quite agree that in recent times after the Act of 1913 was passed, many mushroom and fraudulent companies came into existence and their existence was made possible at the cost of the investing public, and I therefore congratulate the Government of India and the framers of this Bill for bringing this measure before us after taking into consideration the conflicting views on this measure. We have heard today speeches which show

that there are divergences of view regarding this measure. I for one though I would have liked the measure to be more stringent am satisfied with the present measure and I hope that this measure will to a very great extent save the investing public from the actions of these vicious people.

In this company affair, three factors come into prominence and according to me the interest of the shareholders must be looked into more carefully. The discussion today we had about the managing agency system shows—and those views are supported by some facts which nobody has been able to contradict—that in every fold there are black sheep, but I am not in a position to condemn the managing agency system as a class, though some of them might have fraudulently conducted their business at the cost of the shareholders. Sir, according to me the managing agency system has brought about the industrial development of India and I feel that it would not be desirable in the interests of India to get rid of the system. In other countries people get their initiative from the State, but in India this system has played a very important part in industrial development. In India we have got a policy of discriminating protection. According to me I think that this policy of discriminating protection does not give full protection to nascent industries. While supporting this policy of protection I cannot overlook the interests of the consumers and therefore the safeguards that have been provided in this Bill will, I hope, reduce the cost of production and the consumers will be able to get goods at reduced prices and that the intermediaries will not be able to make more profits than what is necessary for them. Though it is primarily the concern of shareholders, the directors and the managing agent, ultimately this thing is the concern of the general public and therefore I submit that from that point of view the provisions that have been incorporated in the Bill will safeguard the interests of the general public also. I should have liked that the provision about the appointment of managing agents should have been more liberal from the point of view of shareholders. I find a provision at page 21 which is to the effect that :

“ Provided that nothing herein contained shall apply to the appointment of a company's first managing agent made prior to the issue of the prospectus or statement in lieu of prospectus where the terms of the appointment of such managing agent are there set forth ”.

I would have liked, Sir, the appointment of the managing agent made subject to the approval of the general body of shareholders, because under this provision if the appointment is mentioned in the prospectus the general body of shareholders cannot have any voice in the matter, because, according to me the shareholders are ultimately the owners of the company and therefore in this very great matter their voice should have been felt. Then, Sir, also about the remuneration to be paid to the managing agent. I should have liked a provision that the remuneration should have been paid according to the wish of the general body of shareholders. Then, Sir, another difficulty that appears to me is about the compensation that is to be paid to the managing agent after his term of office expires under this provision after 20 years. I have not been able to quite follow this provision because if a managing agent is to get out of office after 20 years, why should the shareholders be responsible for his remuneration? The company may not like to dispense with the services of the managing agent but under the statute the managing agent has to go automatically and if under the statute the managing

4-5 P.M.

[Mr. V. V. Kalikar.]

agent has to go automatically the shareholders should not be burdened with the remuneration. (*An Honourable Member*: "They are not burdened with the remuneration. The men can be re-appointed.") Then, Sir, the clauses that deal with the question of allowing the managing agent to enter into contracts for the purchase, sale or supply of goods should have been more strict. I think, Sir, that the managing agent should not at all be allowed to enter into a contract with the company for the purchase or sale or supply of goods because the managing agent holds a very responsible position in the company and as abuses have occurred in the past and a well-known instance has been cited by my Honourable friend Mr. Hossain Imam, I should have liked that in this measure this particular clause should have been more stringent and should have been to this effect that the managing agent should not have been allowed to enter into contracts with the company. (*An Honourable Member*: "He will do it in the name of the benamidar if he is dishonest.") I say there should be such a provision in the Bill that he will not be able to do it in anybody's name. (*An Honourable Member*: "Can any legislation make a man honest?") I do not say that but an attempt should be made to make him honest. Then, Sir, I find—I speak subject to correction—that so far as foreign companies incorporated outside India who carry on business in India are concerned, they are not required to file their balance sheet as companies incorporated in India are made to file them. This invidious distinction should not be allowed to continue. I understand, Sir, that Indian companies which are incorporated in India and carry on their business in foreign countries have to file their balance sheets there. So, according to that, companies which are incorporated outside India should be made to file their balance sheets.

THE HONOURABLE THE PRESIDENT: What machinery have you got in this country to check the balance sheets of foreign companies?

THE HONOURABLE MR. V. V. KALIKAR: Well, Sir, I cannot point out or invent any machinery. The Government should have, and the Government, I think, are capable of inventing machinery for checking their balance sheets. Ultimately, Sir, I will ask my friends who have extreme views about this Bill, like Mr. Hossain Imam, and others—(*An Honourable Member*: "He is the only one")—that they should give a fair trial to this Bill and co-operate with the Government in making this Bill a success. I hope as times change the Government on receipt of opinions from various companies and from the shareholders—if there is any necessity—will make further changes in this Bill but till then, Sir, this Bill deserves a fair trial.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab: Non-Muhammadan): Sir, I rise to welcome this measure and I express my gratitude to the Honourable Sir Nripendra Sircar and the Honourable Mr. Sen for successfully piloting this measure in the other House and trying to get it passed here. Sir, I do not want to say much because many of my points have already been traversed by my Honourable colleagues. Sir, I must also join with my Honourable friend Mr. Hossain Imam in saying that the Government is certainly ignoring this House in the matter of Joint Select Committees. Sir, as my Honourable friend Sir Phiroze Sethna has pointed out there is a larger number of business men in this House than in the Assembly. I wish, Sir, that the

Government in time will see to this. This House ought to have been represented on the Select Committee on this Bill.

Sir, my Honourable friend Sir Phiroze Sethna observed that the number of managing agents in this case is very small. Our past experience shows that in the Punjab some of the managing agents have fared very badly. Sir, the case of the Punjab Paper and Pulp Mills is known to all Honourable Members. That was a concern with a capital of about Rs. 50 lakhs, which was promoted through the managing agency of a Calcutta business man, at one time a Member of this House. I need not mention his name as he is dead, but I must say that through the fault of this managing agent, the Punjabis in particular and the other shareholders in general lost very heavily in his concern. So is the case with certain other companies in the Punjab, where the managing agents, by the use of their subsidiary companies, have played the devil with the money of the shareholders. I need not dwell long on this point because I believe that the Honourable Mr. Sen knows very well how some of the managing agents or the managing directors in the Punjab have misbehaved.

Sir, I would strongly request the Government to establish an Indian Board of Trade. That is a measure which has now become necessary, and it will regulate and control the working of the companies in the future and will thus add to their successful working. Although every effort has been made to safeguard the interests of the shareholders, I should like to ask the Honourable Mr. Sen how he is safeguarding the interests of the shareholders by the non-elimination of those directors who have been convicted of offences under the Indian Companies Act, or on whom misfeasance, fraud or embezzlement has been established. Such people, in some name or other try to become the floaters of new concerns, and every time they rob the shareholders. In future, a safeguard should be put that such directors who have been convicted of any offence under the Indian Companies Act or on whom fraud, embezzlement or misfeasance has been established should not be eligible for directorship of any limited company.

Sir, the managing agents in the past, speaking on the whole, have done well, because in India conditions were such that if the managing agents had not come forward, industries would not have developed to the extent they have developed so far. Sir, I might mention that in India, long-term banking facilities for industries are not easily forthcoming, and so it is essential that the bankers should have persons of financial standing on whose security or personal surety they could advance money for the working capital of the various concerns. Sir, I should like a provision in the present Bill that when the parent companies are linked up with subsidiary companies, they must invite public tenders before they give any job to their subsidiary concerns. In the Punjab, Sir, I am sorry to say that fraud and misuse of subsidiary companies has been committed and through these subsidiary companies the shareholders have lost heavily.

Sir, I would also like to draw the attention of the Government to the necessity of establishing industrial banks who may be able to advance long-term loans to industries. At present, the banks are disinclined to lock up their money on long-term loans and, therefore, in order to give an impetus to the development of industries, it is essential that long term facilities for credit should be provided.

[Rai Bahadur Lala Ram Saran Das.]

Sir, in some of the companies, the original directors go home on long leave and their work is assigned to their alternate or substitute directors. Sir, when a company is floated, the shareholders subscribe to the funds of the company with the knowledge that there is a certain directorate and that certain persons are on its board in whom they repose trust. From experience, I find that this practice of appointment of substitute and alternate directors is on the increase and in certain cases these substitute directors go on for years. I will deal with this matter in detail when the relative amendment comes up for discussion. So, I need not take up the time of the House further on this point.

Sir, Government should take more care to see that the industries flourish and that the competition from foreign countries is controlled. By competition, I mean unhealthy competition and dumping. Although that point has no direct bearing on this Bill, still I should like to invite the attention of Government that some of the principal industries in India are at present suffering from the dumping of goods from Japan and other foreign countries.

Sir, I would also like to bring to the notice of the Government that whenever they put an excise duty on the produce of any industry they should also see that that industry does not suffer any loss. I know that in the case of the match industry the middleman is making more profit than the manufacturer and at present the manufacturer is losing while the Government in excise duty and the middleman are making a decent profit.

THE HONOURABLE THE PRESIDENT: It has a remote connection with this Bill.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: I am simply bringing that in so that companies may be protected in a manner in which they deserve. I will not keep the Council any longer but I will again press upon this House that this Bill being a very useful measure we should pass it with acclamation.

THE HONOURABLE MR. S. C. SEN: Sir, I am really glad to find that there is general unanimity in this Honourable House about the utility of this Bill and as to the great advance which it marks in the existing law, even though we differ as to the degree to which the advance has gone. But I welcome the criticism which has been made generally as to the provisions of the Bill on the floor of this House, specially as it serves to clear the atmosphere. With your leave, I shall shortly answer the points made by my Honourable friends here. The Honourable Mr. Hossain Imam made a few points which I think can be disposed of first. He made a point that the provisions regarding transfer of fully-paid up shares has not gone far enough. I do not know whether my friend is aware of what is known as the cornering of shares. I do not know whether he knows that occasions have arisen when the directors for the purpose of protecting the business against a threatened disruption from an undesirable quarter have had to exercise their right of refusing registration of transfers. What would have happened if discretion was not left to them. Apart from that in what percentage of cases has the general discretionary powers of the directors been abused? That is a point on which my friend has to satisfy the Honourable Members before he can successfully urge that the provisions in the amending Bill should have gone further. Mere apprehensions are not good enough.

Then my friend has said that article 60 of Table A should have been made compulsory. In effect it has been done. My friend has possibly overlooked it, but if he will refer to clause 34 section 79 (2) (d) he will find it is there in substance. Then he referred to the Titaghur Paper Mills scandal. I should have expected my Honourable friend Mr. Parker or Mr. Arthur to give it the lie, but as they have not done it, and as we had to give the lie to it on the floor of the Lower House, I am taking this opportunity of saying that most, if not all, of the allegations contained in the brochure which my Honourable friend was reading from were untrue, and I have had it from the highest authority, the senior partner of Messrs. Bird and Co.

THE HONOURABLE MR. HOSSAIN IMAM: Has it been published?

THE HONOURABLE MR. S. C. SEN: They did not choose to take any notice of a surreptitious publication in which the gentleman in question does not choose to come out in public.

Then, Sir, my friend made certain minor points and, in particular, one in which he pointed to the omission of the column showing "the minimum subscription as stated in the articles" in the form of the statement in lieu of the prospectus. Sir, I have been through the Act and I find that there is a good reason why it has been omitted. It is not an accidental omission but a deliberate one. If my Honourable friend will look at clause 101 as it now stands, he will find that under this clause companies have the option of naming the figure of the minimum subscription in the articles and that is the reason why there is a clause in the statement showing what in the articles is the figure named. If, however, my Honourable friend will now look at the amended section, there is no question of naming any figure in the articles. It now depends upon certain factors. They have to work out the figure and on the basis of that working out the minimum subscription will have to be fixed. It is therefore not possible to give it in the articles. And that is the reason why that column would be most inappropriate and has been removed. Then my friend said something about protected industries giving details to Government in order to enable the Government to choose its policy of tariff. Sir, I confess it is beyond my province to say anything about that, and if my friend has any real suggestions they should be made either to the Commerce or to the Finance Department. That is not a subject really for the Indian Companies Act. The Companies Act is meant for all companies in general and not for particular classes of companies nor is it concerned with the tariff question. The only departure that has been made in the case of banking companies, and the reasons for that have been explained to this Honourable House.

Now, my Honourable friend Sir Phiroze Sethna made certain points and I will shortly indicate our views with regard to them. He said that as to the shareholder's right to speak after his name is registered, this should be left to the articles of association to deal with. I do not see the justification of it. Either the directors have the right to register the transfer or they have not. If they exercise the right to register the transfer and the man is rightly on the register as a shareholder, what justification is there for refusing him exercise of his right of franchise and of speech simply because he might make an inconvenient speech or might go against the existing management. That surely

[Mr. S. C. Sen.]

does not justify the exclusion of his rights, his rights of property as they are called in decided cases. My friend says that a man may purchase shares at the eleventh hour; he can get himself registered and create trouble. But if he is such an undesirable person and the articles of association give the directors almost unlimited power regarding the transfers, the best way is not to transfer his name until the meeting is over but to say that he should be put on the register and then to gag him is something I do not understand. My Honourable friend has also said that in calculating the net profits the managing agents should not be made to deduct depreciation. As my Honourable friend himself explained it is a matter of accounting. If, in the accounts, say, for the purpose of income-tax, my friend is entitled to deduct depreciation, why, for the purpose of calculating his own profits should not the managing agent also deduct this? If I may be pardoned for using the expression, what is sauce for the goose is sauce for the gander. There is no principle absolutely behind the demand that depreciations for the purpose of calculating profits for one particular set of people should be ignored while for the purpose of getting exemption from income-tax it should be included.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Wear and tear is a legitimate charge on the profits.

THE HONOURABLE MR. S. C. SEN: The provision in the Bill is in accord with the views of my Honourable friend Lala Ram Saran Das, that is, that it should be deducted. But I was dealing with the argument of Sir Phiroze Sethna that it should not be deducted.

THE HONOURABLE SIR PHIROZE SETHNA: I will reply when the amendment in regard to depreciation comes before the House.

THE HONOURABLE MR. S. C. SEN: Sir, there is the last point about which I am not in a position to make any definite commitment and that is with regard to the date from which the new law will come into force but I am authorised to say that the convenience and inconvenience of parties will be borne in mind in fixing the date, which really rests with the Governor General in Council.

I cannot help saying a few things about the remarks made by my Honourable friend Mr. Parker. Of course he represents the other extreme view, the view which says that the sanctity of contracts should be sacrosanct, should not be touched, and that the Government has done the greatest blunder in touching the sanctity of contracts. But, Sir, may I remind my Honourable friend that this is not the first instance where this has been done? There is the Debtors Relief Act and where was the protest about this sanctity of contracts when the Governments of all the provinces passed it by which courts granted interest not according to contracts and when mortgages were thrown asunder? Where was the protest?

THE HONOURABLE MR. BIJAY KUMAR BASU (Bengal: Nominated Non-Official): The Murshidabad Administration Act.

THE HONOURABLE MR. S. C. SEN: I am talking of those Acts which have been passed by all the Provincial Councils but the Act referred to by my Honourable friend is also an example.

THE HONOURABLE MR. BIJAY KUMAR BASU: It was passed by this House.

THE HONOURABLE MR. S. C. SEN: Sir, it all depends on the amount of the abuse which has been found and if the amount is considerable and if it is sufficient to evoke action on the part of the Government, it is recognised that Government will be failing in its duty if it does not choose to take steps in the right direction; but I confess that the steps which the Government should take should be the minimum and I cannot say that in this particular instance what the Government has done exceeds the bare minimum. Then, the question comes about the compensations for expropriation. My Honourable friend Mr. Parker complained that it was inserted by the Select Committee, but it was given the go-by in the Lower House. Sir, the matter was fully threshed out in the Assembly. In effect although it was inserted in the Select Committee, the law when analysed was found to amount to this that it was very doubtful whether they could in fact get any compensation at all. In fact it was very gravely doubted as to what would be the quantum of the compensation and as one of the judges said it may be very remote. If by this statute a term of period is cut out, why should the company be made to pay for it? That was the point of view from which it was pressed on behalf of the company. The representatives of the companies said that the Government is satisfied that a good case has been made out for reducing the terms in spite of the contract; the Government has introduced legislation in this behalf. Why should the company be made to pay? What has it done? There was no answer from the point of view of my friends. And on that basis the Government, when that amendment was moved on the floor of the Lower House, had to say that they would not support it.

THE HONOURABLE MR. R. H. PARKER: Government ought to pay.

THE HONOURABLE MR. S. C. SEN: Then, Sir, we were told about the profit and loss account and that certain details should not be given but it should be left to the shareholders to decide as to whether they should be given. My Honourable friend missed the point which is this. The whole idea of making the profit and loss accounts compulsory is to give the shareholders some particulars which will enable them to follow the profits and losses. It will not do merely to say that the balance of income and expenditure is so much and that is the profit or that is the loss. That gives them absolutely no idea and therefore it was necessary to enumerate certain things which must be given. But the most effective answer to my Honourable friend is that what they object to finds a place in the profit and loss account of the accounts as they are now published and instances were shown on the floor of the House where the very items which were objected to on behalf of the Group to which my Honourable friend belongs were disclosed not by Indian companies but by European companies.

THE HONOURABLE MR. R. H. PARKER: That is where they are going to damage the shareholders' interest.

THE HONOURABLE MR. S. C. SEN: If this could be published with impunity in a good many cases, I do not know if there is any ground made out for leaving it to the option of the shareholders in the other cases. The only

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other points about which my Honourable friend has touched in his speech are he has criticised section 105C, which compels directors to issue new shares by offering them in the first instance to the existing shareholders in proportion to their holdings; but may I ask my Honourable friend that if this is such a revolting proposal, why is it in the standard forms in the articles of association, why is it to be found in almost 90 per cent. of the forms of the articles? I would pause for an answer if my Honourable friend—

THE HONOURABLE MR. R. H. PARKER: I very much doubt. It is not in my experience.

THE HONOURABLE MR. S. C. SEN: I may refer my Honourable friend to the standard book on the subject, *Palmer's Company Precedents*. My friend will find that this is one of the standard forms in the articles and I can assure my Honourable friend that I have in my possession at least ten articles where this article is to be found. It has worked satisfactorily. It is intended to be worked satisfactorily and I do not think my friend will find that it does work any hardship. After all, Sir, is it unjust that if a company does issue new shares and there are the existing shareholders who are prepared to put in the capital, why should not they, being already in the company, being already interested in the company, have it first?

THE HONOURABLE SIR DAVID DEVADOSS: They have only the option.

THE HONOURABLE MR. S. C. SEN: They have only the option as my Honourable friend points out and it is not that the company has not the right to dispose it of to outsiders; if the shareholders to whom option is given do not exercise it, the company is at liberty to offer it to outsiders.

THE HONOURABLE MR. BIJAY KUMAR BASU: Right of pre-emption.

THE HONOURABLE MR. S. C. SEN: It is the right to have the first refusal, if I may so call it. Then, my friends have said something about clause 119. My Honourable friend Mr. Parker knows that we have considered their point of view and we do not consider that there is any doubt or any difficulty, but as my Honourable friend has tabled an amendment, we will reply fully when that amendment is taken up for discussion. Beyond these, there have been very few suggestions made which do not require any serious notice at all, but I must confess I must deal with one suggestion made by Sir David Devadoss. He suggests that some provision should be made to compel the declaration of dividend. I do not know if that is feasible?

THE HONOURABLE MR. R. H. PARKER: No.

THE HONOURABLE MR. S. C. SEN: In my opinion it is not and for this reason, Sir. It is first of all a matter of internal arrangement in which no legislation should interfere. In the next place there are a thousand and one things which compel directors not to declare a dividend in a particular year. They may think it is necessary to utilise the profits in extending the business; they may think it necessary to utilise the profit in keeping a reserve. There are many things which they have got to take into account and it is only those who are in direct charge or control of the management of the company to whom

this matter pertains to, and it would be, I think, highly reprehensible to put in a legislation a provision to compel them to do it and thereby possibly to make them forego a principle which they do not approve.

Now, Sir, that is about all the suggestions that have been made. But as I say, I am indeed glad to find that there is general unanimity about the utility of the Bill and of the advance that it has made. I do sincerely hope that this Honourable House will act with the same amount of appreciation in disposing of the amendments and in discarding those which they think are not useful.

THE HONOURABLE MR. BIJAY KUMAR BASU: This House has always done so!

THE HONOURABLE THE PRESIDENT: Motion made:

"That the Bill further to amend the Indian Companies Act, 1913, for certain purposes, as passed by the Legislative Assembly, be taken into consideration."

The Question is:

"That this Motion be adopted."

The Motion was adopted.

The Council then adjourned till Eleven of the Clock on Tuesday, the 13th October, 1936.

APPENDIX.

Directors power refusing transfer fully paid shares abused many cases instance Bharat Insurance holding 14,000 Lahore Electric shares worth above sixty lakhs more than 55 per cent. total capital. Being controlled by other directors holding small number shares. Lahore Electric articles provide one vote each up to thousand shares and one for eight above therefore Bharat wanted transfer its shares in nominees names to increase voting power for safeguarding its interests. Transfer refused by existing Directors to keep their own control. Am managing agent several big concerns but wish to safeguard public interest. Please find some means change law.

DALMIA,

Rohtas Sugar, Limited,

Chairman, Bharat Insurance.

COUNCIL OF STATE.

Tuesday, 13th October, 1936.

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

QUESTIONS AND ANSWERS.

PROMOTION OF CLERKS QUALIFIED FOR THE FIRST DIVISION IN ATTACHED OFFICES.

176. THE HONOURABLE MR. P. N. SAPRU: (a) Is it a fact that in the quota fixed for departmental promotions to the posts of assistants in Attached Offices (scale Rs. 120—350) those qualified for the routine division in the Staff Selection Board's examinations held in 1921 and 1922 are eligible for promotion to the extent of 10 per cent. of the total cadre and that those qualified for the lower division of the Secretariat in the same examinations are eligible for such promotion to the extent of 33½ per cent.? If so, what is the reason for this increased percentage in case of those qualified as clerks, lower division, Secretariat?

(b) Is it a fact that in the quota fixed for departmental promotions to the post of assistant in the Secretariat (scale Rs. 200—500) those declared qualified for the lower division, Secretariat, in the Staff Selection Board examinations held in 1921 and 1922, as also those qualified as assistants in the Attached Offices, in the same examinations are equally eligible for promotion to the extent of 50 per cent.?

(c) Is it a fact that, of the persons indicated in (b) above, assistants in the Attached Offices are qualified for one category higher than clerks, lower division, Secretariat, and would in the normal course be in the scale of Rs. 120—350 with prospects of becoming superintendents in the scale of Rs. 400—600?

(d) If the replies to parts (b) and (c) above be in the affirmative, has any percentage, similar to that in the case of persons employed in Attached Offices referred to in part (a) above, been fixed purely for persons qualified for the upper division of the Attached Offices but employed in the lower division of the Secretariat in the matter of promotion as assistants in the Secretariat?

THE HONOURABLE MR. R. M. MAXWELL: (a) to (d). I would invite the attention of the Honourable Member to the reply given to the Honourable Rai Bahadur Lala Jagdish Prasad's question No. 171, on the 9th October, 1936. I may add that the separate quota of promotion to the assistants' grade in Attached Offices for those qualified for the second division of the Secretariat but working in the lower division of Attached Offices was not fixed

on the ground that they are qualified for one category higher than routine grade clerks, but because the scale of pay of the division for which they are qualified corresponds approximately to that of assistants in Attached Offices. This correspondence does not exist in the case of second division clerks in the Secretariat who are qualified for the first division of Attached Offices.

THE HONOURABLE MR. P. N. SAPRU : Does it add to the qualifications and merits of a lower division clerk employed in the Secretariat to have passed the examination for assistants, Attached Offices ?

THE HONOURABLE THE PRESIDENT : Order, order. That is a matter of opinion.

REGISTRATION OF MAGAZINES IN THE OFFICE OF THE POSTMASTER GENERAL, ASSAM AND BENGAL CIRCLE.

177. THE HONOURABLE MR. MAHMOOD SUHRAWARDY : Will Government state which of the undermentioned monthly magazines are registered in the Office of the Postmaster General of the Bengal and Assam Circle :

(a) *Labour*, the organ of the All-India (including Burma) Postal and Railway Mail Service Union, Bengal Provincial Branch.

(b) *Sramik*, magazine of the Cooch Behar District Postal Union.

(c) *Dakbarta*, magazine of the Jalpaiguri District Postal Union ?

THE HONOURABLE MR. A. G. CLOW : *Labour* and *Dakbarta* are registered and *Sramik* is not.

ARTICLES IN *Dakbarta* AND *Sramik* MAGAZINES ON MALADMINISTRATION OF THE SUPERINTENDENT OF POST OFFICES, JALPAIGURI DIVISION.

178. THE HONOURABLE MR. MAHMOOD SUHRAWARDY : (a) Are Government aware that some issues of *Dakbarta* of 1934 and the March, April and May, 1936 issues of the *Sramik* contained reports regarding maladministration of the Superintendent of Post Offices, Jalpaiguri Division ?

(b) If so, will Government please state what action was taken by them ?

THE HONOURABLE MR. A. G. CLOW : (a) No.

(b) Does not arise.

HOLDING OF INDEPENDENT CHARGE OF POST OFFICES BY JUNIOR CLERKS IN THE POSTAL DIVISIONS OF MIDNAPORE, MYMENSINGH AND JALPAIGURI.

179. THE HONOURABLE MR. MAHMOOD SUHRAWARDY : Are Government aware that there are various cases in the Postal Divisions of Midnapore, Mymensingh and Jalpaiguri of junior clerks holding independent charge in post offices and their seniors working as clerks elsewhere ? What steps do Government propose to take to put a stop to such practice ?

THE HONOURABLE MR. A. G. CLOW : I have no particulars, but am willing to accept the Honourable Member's statement. Such appointments do not involve any supersession and the last part of this question does not arise.

BILLS PASSED BY THE LEGISLATIVE ASSEMBLY LAID ON THE TABLE.

SECRETARY OF THE COUNCIL : Sir, in pursuance of 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 12th October, 1936, namely :

A Bill to implement Article 28 of the Geneva Convention of the 27th day of July, 1929.

A Bill to amend the Indian Rubber Control Act, 1934, for certain purposes.

A Bill to validate certain marriages solemnized in the Civil and Military Station of Bangalore.

A Bill to amend the Indian Tea Control Act, 1933, for certain purposes.

A Bill to provide out of the property of the Indian Red Cross Society a Fund to be administered in Burma by a Burma Red Cross Society, and to terminate in Burma the existing functions of the Indian Red Cross Society.

A Bill further to amend the General Clauses Act, 1897, for a certain purpose, and

A Bill further to amend the Chittagong Port Act, 1914, for certain purposes.

INDIAN COMPANIES (AMENDMENT) BILL—*continued*.

THE HONOURABLE THE PRESIDENT : Honourable Sir Nripendra Sircar, we are very glad that you are feeling better and are able to come to this Council today. I may offer you on behalf of this Council a hearty welcome and I know your presence will be very valuable here today and it will afford encouragement to the Members of this House.

THE HONOURABLE SIR NRIPENDRA SIRCAR (Law Member) : I thank you, Sir, for your kind words.

THE HONOURABLE THE PRESIDENT : We will now proceed with the detailed consideration of the Bill. Clause 2.

THE HONOURABLE MR. MAHMOOD SUHRAWARDY (West Bengal : Muhammadan) : Sir, I move :

"That after clause 2 the following new clause be inserted, namely :

'In section 3 (1) of the said Act, after the words 'High Court' the words 'and the Court of the District Judge' be inserted'."

Sir, I have brought this amendment to safeguard the interests of (a) factories, (b) jute mills, (c) banking companies, and (d) other industrial concerns outside the original jurisdiction of the Calcutta High Court. Sir, experience has shown that litigation, firstly, on the original side has been very expensive

[Mr. Mahmood Suhrawardy.]

and dilatory; secondly, I do not see any sense in restricting the jurisdiction of the Companies Act to the High Court alone. Now, the district judges are competent to deal with cases effectively outside the original jurisdiction of the Calcutta High Court with less trouble and expense.

With these remarks, Sir, I move my amendment for the acceptance of the House.

THE HONOURABLE MR. S. C. SEN (Government of India: Nominated Official): Sir, I oppose this amendment. The reasons are these. Under the Indian Companies Act the jurisdiction given to the courts are very limited. The courts have jurisdiction in four important matters. The first one is the sanctioning of changes in the memorandum of association. The second is in connection with the ratification of the share register. The third is in connection with the winding up, and the fourth is in the matter of sanctioning of arrangements and compromises. All these matters are very important and they involve an intimate knowledge of the technical subject of Company Law. Therefore, Sir, there is a considerable risk in giving jurisdiction to the district courts generally unless my Honourable friend, Mr. Suhrawardy, can satisfy us that the technical side of the law can be dealt with effectively by the district courts. Over and above that, Sir, if I may draw the attention of the Honourable House to the provision in section 3 in the Act itself. Honourable Members will find that the Local Governments are given the power in deserving cases of delegating the powers of the High Courts to the district judges. This is not a dead letter and it has been so done at least in the Province of Bengal, where some five districts so far as I know have already been given these powers.

THE HONOURABLE MR. MAHMOOD SUHRAWARDY: May I know, Sir, which are the five districts?

THE HONOURABLE MR. S. C. SEN: I am not sure but I think they are Dacca, the 24 Parganas, Sylhet and the others I am not able to remember.

THE HONOURABLE MR. MAHMOOD SUHRAWARDY: But not Midnapore. Midnapore and Mymensingh are supposed to be the biggest districts in Bengal.

THE HONOURABLE THE PRESIDENT: Order, order. You are not entitled to make a speech.

THE HONOURABLE MR. S. C. SEN: Sir, the question is the delegation would be given in districts where these matters crop up every day or very frequently. It is no use giving it to a district simply because it is a large district in size. There may not be company matters cropping up there at all. Therefore, Sir, I submit that in this matter which is already provided for it is not necessary and certainly not desirable to have any amendments.

THE HONOURABLE THE PRESIDENT: The Question is that the following amendment be made:

"That after clause 2 the following new clause be added, namely:

'In section 3 (1) of the said Act, after the words 'High Court' the words 'and the Court of the District Judge' be inserted'."

The amendment was negatived.

Clause 2 was added to the Bill.

Clauses 3 to 7 were added to the Bill.

THE HONOURABLE THE PRESIDENT: Clause 8.

THE HONOURABLE MR. R. H. PARKER (Bombay Chamber of Commerce): Sir, I move:

"That in clause 8 of the Bill after the second proviso the following further proviso be added:

'Provided further that Regulation 107 shall not be deemed to form part of the articles of association of any company in and so far as the company in general meeting shall so determine'."

This, Sir, is one of the mandatory sections which I consider deprives the shareholders of what I regard as their reasonable rights. I can see no adequate grounds for insisting on Regulation 107 forming part of the articles of association of a company if the shareholders themselves do not wish it.

I admit that there are many companies which can and many which do in effect comply with the provisions of Regulation 107, but there are also companies which could only do so to the detriment of the interests of the shareholders.

I have no desire to suggest the concealment of information which shareholders ought to receive. My point is purely that in a profit and loss account some information would be of far more benefit to competitors than it could possibly be to the shareholders.

If it is desired to lay down what the profit and loss accounts of companies shall show I think the provision should be on the following lines:

The profit and loss account shall show arranged under the most convenient heads the total income derived from investments, interest on debentures or loans allocations to and from reserves or other funds, the balances transferred from trading account, depreciation, dividends declared and other items of income or expenditure not arising from trading, in particular the expenses of establishment, salaries, and other like matters. Every item of expenditure chargeable against the year's income shall be brought into the account so that a just balance of profit and loss may be laid before the meeting and in cases where any item of expenditure which may in fairness be justified for several years as being incurred in any one year the whole amount of such item shall be stated unless the company in general meeting shall otherwise determine with the addition of the reasons, unless the company in general meeting shall otherwise determine, why only a portion of such expenditure is charged against the income of the year.

Sir, I move.

THE HONOURABLE SIR PHIROZE SETHNA (Bombay: Non-Muhammadan): Mr. President, before this amendment is considered, we would like to know from the Honourable the Law Member if there is not some conflict in some of the clauses? For example, certain clauses in making certain Regulations of Table A compulsory conflict with other clauses of the Bill. For instance, in clause 34, new section 79 (1) (c) makes provision as regards poll

[Sir Phiroze Sethna.]

at a general meeting and says that five members shall be entitled to demand a poll whereas Regulation 56 of Table A requires only three members to demand a poll. I will read these. Section 79 (1) (c) says :

“ Five members present in person or by proxy, or the chairman of the meeting, or any member or members holding not less than one-tenth of the issued capital which carries voting rights shall be entitled to demand a poll, etc.”.

Regulation 56 of Table A reads :

“ At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands, unless a poll is (before or on the declaration of the result of the show of hands) demanded by at least three members, and unless a poll is so demanded, a declaration by the chairman that a resolution has, on a show of hands, been carried, or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book of the proceedings of the company shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, that resolution ”.

These two provisions conflict with one another. Perhaps there may be an explanation, and I hope the Honourable the Law Member or the Honourable Mr. Sen will place it before us.

THE HONOURABLE MR. C. G. ARTHUR (Bengal Chamber of Commerce) : Sir, I rise to support the amendment moved by my Honourable colleague, Mr. Parker, which amendment also stands against my name.

Sir, our main reason for putting forward this amendment is that Regulation 107 as it stands goes far beyond what we believe to be the intention of the Honourable the Law Member. As we understand it, his intention is to secure the compulsory publication of a proper profit and loss account. For example, he wants—and quite rightly wants—to make certain that every profit and loss account in future shall show, arranged under the most convenient heads, the total income derived from investments, interest on loans, balance transferred from trading account, allocation to and from reserves and other funds, depreciation, dividends declared and other items of income and expenditure not arising from trading—in particular the expenses of establishment, salaries and other like matters.

Now, Sir, those whose views I represent would have no objection to the compulsory inclusion of Regulation 107 if that Regulation went no further than that. Unfortunately, as the Regulation is now worded, it may be interpreted to mean that it goes much further in the way of disclosure than is desirable in the interests of shareholders. It should not, I think, be forgotten that when Regulation 107 was originally drafted there could have been no idea in the minds either of the draftsmen or of the legislators of that time that this clause should ever be made compulsory. In such circumstances, therefore, it is natural that close attention should not have been paid to the exact wording of the Regulation.

I had intended at first to table an amendment to Regulation 107 somewhat on the lines I have indicated in the remarks I have just made. I realise, however, that to have done so at this stage might have raised difficulties for the Honourable the Law Member. Had we in this House been able to secure the support of the Honourable Member and of Government for a redraft of Regulation 107, it seems possible that any such redraft might have received

criticism at the hands of the Legislative Assembly and such criticism at this juncture, as I fully realise, might have been embarrassing to Government.

In such circumstances, therefore, I decided not to move an amendment on these lines, though I cannot but feel that it might well have secured the support of the Honourable the Law Member, and I support instead the amendment moved by my Honourable friend Mr. Parker. All that this amendment seeks to achieve is that the shareholders themselves should be allowed to decide whether they desire the existing Regulation 107 to apply in the case of their company or not.

THE HONOURABLE SIR NRIPENDRA SIRCAR (Law Member) : Sir, my Honourable friends of the European Group, by sheer repetition I believe have convinced themselves that there is some foundation for their objection, but really there is none. The objection was taken when opinions were received from the Bombay Chamber of Commerce and from some other bodies, but ever since that time I have begged of them at innumerable conferences, in the Select Committee, and in the other House to tell me what are the difficulties, but except general statements that business will be ruined, the heavens will fall and things of that kind, I have not heard anything which will bear out their fear. Today, Sir, two Honourable Members have spoken on their behalf and we have not heard anything specific as to what the danger is and what is the kind of disclosure which will paralyse industry and ruin business if this amendment is not allowed. As a matter of fact we were pressed very much on this point in the other place. One of the Members of the European Group said, “ Well, if we follow the provision as laid in the Bill it will mean that disclosures will be made which may not be dangerous in connection with other companies but will be extremely dangerous in connection with mining companies because they will show our raising costs ”. Sir, during the third reading stage in the other place I produced for the House and for my European friends one after another a series of reports of mining companies in Bengal and in Burma where they have made disclosures far in excess of what is now required of them. There is absolutely no ground for any fear and I challenge anybody to find out the raising cost from the figures which are produced and from the figures which will be produced if this amendment is defeated. I daresay in the mining regions everybody has a fairly shrewd idea of what the raising cost is and the heavens won't fall if these figures are disclosed—but in fact I am not convinced that there is any danger. I submit that the other argument that if the shareholders like they can insist on this has no substance. We in India know that many of the managing agents hold more than 51 per cent. of the shares and the shareholders in many cases will not be able to carry a resolution against the managing agent. This amendment ought not to be accepted by the House.

As regards the point raised by Sir Phiroze Sethna, there is a complete answer but I propose to reserve that till we come to clause 34.

THE HONOURABLE THE PRESIDENT : The Question is that the following amendment be made :

“ That in clause 8 after the second proviso the following further proviso be added :

‘ Provided further that Regulation 107 shall not be deemed to form part of the articles of association of any company in and so far as the company in general meeting shall so determine ’.”

The amendment was negatived.

Clause 8 was added to the Bill.

Clauses 9 to 15 were added to the Bill.

THE HONOURABLE THE PRESIDENT : Clause 16.

THE HONOURABLE MR. P. N. SAPRU (United Provinces Southern : Non-Muhammadian) : Sir, I move :

"That in clause 16 after sub-section (7) of proposed section 34 the following be added, namely :

'Provided that the company shall have no right to refuse transfer of shares in cases when the right to such transfer has been transmitted by the testamentary disposition or operation of law'."

Sir, the object of this amendment is that the companies should have no right to refuse transfer in cases of heirs and beneficiaries who inherit when the owner of the shares dies. The reasons are obvious. Strictly speaking, the case I have in mind is a case of transmission, but the word "transfer" is a rather wide word and therefore I think it will clarify matters if an amendment of this character is accepted.

THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa : Muhammadian) : Mr. President, this question of the transferability of shares has been agitating the minds of the Indian public for a long time. At present the Governments in the provinces have gone out of their way to give the right of transferability even to tenants who have small holdings, and the stock argument of Government has been that there should not be any bar to the validity of such transfers. Secondly, the Honourable Mr. Sen yesterday in winding up the debate stated what is the fact that this power is exercised very infrequently and by few companies. If, therefore, it is exercised only by a small minority and on very few occasions, that means there would be no harm in allowing transfers. It is only in a few specific cases where this could by any stretch of the imagination be regarded as a hardship. Therefore, I think this modest amendment will not involve any question of principle, because this transmission is such that if the companies refuse to register there is no way out, because those who have received this transmission are not in need of the transfer. And where the operation of law is concerned there I think the discretion of the judiciary would be better if the other party can intervene and stop the due performance of a decree of court.

With these words, Sir, I support this amendment.

THE HONOURABLE MR. S. C. SEN : Sir, I oppose this amendment. In the first place so far as the question of transmission by testamentary disposition or by operation of law is concerned, I think it is not necessary. In the first place this section is really applicable to transfers inter-parties. If I may draw the attention of Honourable Members to section 35 of the existing Act, they will find that it is not necessary for the legal representatives of a deceased shareholder to get themselves registered if they want to dispose of the shares.

Why then is this clause at all necessary? My friend's apprehension is that otherwise the shares may not be disposed of. There is no ground for such an apprehension. If you look at clause 35, it says :

"The transfer of a share or other interest of a deceased member of a company made by his legal representative shall, although the legal representative is not a member, be as valid as if he had been a member at the time of the execution of the transfer."

Therefore the right to transfer shares at the instance of the legal representatives, although they are not on the register, is there preserved. A legal representative can transfer or assign his shares although he may not be on the register himself. That, Sir, disposes of the first point.

As regards the second point, let us see what my Honourable friend wants. A decree declaring the rights of a person to certain shares is passed. The decree holder is at best only in the position of a transferee. He gets no better status. How can he say merely by reason of the fact that his title has been declared, get an automatic right to have his name registered. In the case of an ordinary transferee the directors have the discretion to accept or refuse registration. Why should a person whose title is declared by a decree be given the right to force the directors to give up the discretionary power they possess. There is no ground for differentiating between the two. I therefore oppose the amendment.

THE HONOURABLE THE PRESIDENT : The Question is that the following amendment be made :

"That in clause 16 after sub-section (7) of proposed section 34 the following be added, namely :

'Provided that the company shall have no right to refuse transfer of shares in cases when the right to such transfer has been transmitted by the testamentary disposition or operation of law'."

The amendment was negatived.

Clause 16 was added to the Bill.

THE HONOURABLE THE PRESIDENT : Clause 17.

THE HONOURABLE SIR PHIROZE SETHNA : Sir, I move :

"That in sub-clause (b) of clause 17 for the words 'ten days' the following be substituted, namely :

'ten days exclusive of Sundays and holidays and days on which the transfer books of the company are closed'."

I think this is a reasonable request that we make. Ten days are not merely enough. It may be that the offices are closed on account of Easter or Christmas for four or five days. If my amendment is accepted, it will satisfy all.

THE HONOURABLE SIR NRIPENDRA SIRCAR : Sir, the only objection on the part of the Government to accept this amendment is by reason of the use of the word "holidays". I do not know where this would lead us.

THE HONOURABLE SIR PHIROZE SETHNA : May I say, Sir, "bank holidays"?

THE HONOURABLE SIR NRIPENDRA SIRCAR : Instead of using Sundays and holidays, if my Honourable friend moves an amendment as follows, the Government will have no objection to accept the amendment :

"ten days exclusive of non-working days and days on which the transfer books of the company are closed."

THE HONOURABLE SIR PHIROZE SETHNA : Sir, I accept the suggestion.

THE HONOURABLE THE PRESIDENT : The Question is that the following amendment be made :

"That in sub-clause (b) of clause 17 for the words 'ten days' the following be substituted, namely :

'ten days exclusive of non-working days and days on which the transfer books of the company are closed'."

The amendment was adopted.

Clause 17, as amended, was added to the Bill.

Clauses 18 to 30 were added to the Bill.

THE HONOURABLE THE PRESIDENT : Clause 31.

THE HONOURABLE MR. P. N. SAPRU : Sir, I move :

"That in clause 31 in sub-section (3) of the proposed section 76 after the words 'if default is made as aforesaid' the following be inserted, namely :

'or if the proceedings of a general meeting are unduly prolonged without the consent of the meeting'."

I may invite attention to sub-clause (3) of clause 31. The sub-clause will read as follows if my amendment is accepted :

"If default is made as aforesaid, or if the proceedings of a general meeting are unduly prolonged without the consent of the meeting, the Court may, on the application of any member of the company, call or direct the calling of a general meeting of the company".

Now, Sir, experience shows that sometimes obstructive tactics are adopted by shareholders and the chairman is sometimes too weak to stop those tactics. It is necessary in these cases when obstructive tactics are adopted that there should be a right given to the shareholders to go to the court and get directions that the meeting shall not be unduly prolonged. That is the object of my amendment. I want that some right should be given to the court to see that meetings are conducted properly and obstructive tactics are not adopted by shareholders who are interested in adopting those obstructive tactics. Chairholders of meetings sometimes prove weak in dealing with obstruction of shareholders and that is why some such safeguard as is suggested in this amendment is necessary.

THE HONOURABLE SIR NRIPENDRA SIRCAR : Sir, this amendment as well as some others in the name of my Honourable friend, Mr. Sapru, attempt to give meticulous directions as to what should be done if the meeting is not properly conducted. But no power on earth can prevent a meeting being improperly conducted if the shareholders make up their minds to do so and there is no object in giving these minute directions, and I submit, Sir, that the matter must be really left to the good sense of the shareholders and to the power that the chairman has under the ordinary law and Company law.

THE HONOURABLE THE PRESIDENT : The Question is that the following amendment be made :

"That in clause 31 in sub-section (3) of the proposed section 76 after the words 'if default is made as aforesaid' the following be inserted, namely :

'or if the proceedings of a general meeting are unduly prolonged without the consent of the meeting'."

The amendment was negatived.

Clause 31 was added to the Bill.

Clauses 32 and 33 were added to the Bill.

THE HONOURABLE THE PRESIDENT : Clause 34.

THE HONOURABLE MR. P. N. SAPRU : Sir, I move :

"That in clause 34 after clause (c) of the proposed section 79(1) the following be inserted, namely :

'The poll shall be taken unless otherwise agreed to by the meeting, in a manner that will enable the business of the meeting to be concluded within ten days from the date on which the meeting was first held'."

Sir, the proposal is that the poll shall be taken in a manner so that the business of the meeting might be concluded within ten days from the date on which the meeting first began. The object again is that meetings are not prolonged and if a poll is demanded it should be taken within a reasonable time. Sometimes it takes months for a poll to be taken. A time limit should be fixed within which the poll must be finished. Sir, that is the object of my amendment.

THE HONOURABLE MR. S. C. SEN : Sir, I oppose this amendment. This amendment is really on a par with the two amendments which stood previously in the name of my Honourable friend, Mr. Sapru. The remarks which the Honourable Sir Nripendra Sircar made as regards the two previous matters apply equally to this. We have known of no case ; at least no complaints have been made by any of the public bodies about any delay, undue or otherwise, in the taking of polls. The difficulties are really imaginary. We have not had any facts and figures which show that the power of taking polls has ever been abused. In the next place it is impossible to specify any limit of time. On the materials before us there are no reasons to believe that polls are not taken speedily and that they are delayed for months. It seems to me there is no point in this amendment. It is unnecessary and I oppose.

THE HONOURABLE THE PRESIDENT : The Question is that the following amendment be made :

"That in clause 34 after clause (c) of the proposed section 79(1) the following be inserted, namely :

'The poll shall be taken unless otherwise agreed to by the meeting, in a manner that will enable the business of the meeting to be concluded within ten days from the date on which the meeting was first held'."

The amendment was negatived.

THE HONOURABLE SIR PHIROZE SETHNA : I thought the Honourable the Law Member was going to offer an explanation in regard to clause 34, as he said he would do when I spoke on Mr. Parker's amendment on clause 8.

THE HONOURABLE MR. S. C. SEN: I beg to submit that there is no inconsistency between the two matters. If my Honourable friend, Sir Phiroze Sethna, will look at clause 7 all that it says is that clause 56 will be deemed to form part of the articles of a company. The result is even if there is no specific provision, clause 56 will be deemed to be part of the articles. Let us now look at clause 34 which my Honourable friend says is inconsistent. The opening words of clause 34, section 79 (1) are these:

"The following provisions shall have effect with respect to meetings of a company other than a private company not being a subsidiary of a public company and the procedure thereat, notwithstanding any provision made in the articles of the company in this behalf".

Therefore, the position is this, Sir, that under this section although there is such a provision in the article, the article will be over-ridden. What clause 7 does is merely to incorporate article 56 of Table A as part of the articles. There is no inconsistency and there is no necessity for this amendment.

THE HONOURABLE MR. HOSSAIN IMAM: Do we take it, Sir, that the provisions of article 56 are over-ridden by this clause?

THE HONOURABLE MR. S. C. SEN: To a limited extent undoubtedly it over-rides the provisions of the article.

THE HONOURABLE MR. HOSSAIN IMAM: Does that in effect mean that there is no necessity for incorporating article 56 in the Bill because if we have over-ridden it and the provision in this sub-section of clause 34 is more stringent, then why this difference? Government must make up their minds once for all as to what they want.

THE HONOURABLE MR. S. C. SEN: Article 56 of Table A says:

"A resolution put to the vote of the meeting shall be decided by a show of hands" and so on.

There are many other matters than the demanding of the poll and they are untouched. It is only the demanding of the poll which is over-ridden by the clause—not the other matters.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab: Non-Muhammadan): Sir, I rise to move the amendment which stands in my name:

"That in clause 34 for clause (d) of sub-section (2) of proposed section 79 the following clause be substituted, namely:

"(d) every shareholder of a company incorporated under this Act, or under the Indian Companies Act, 1866 or 1882, or any other enactment for the time being in force, when the company was incorporated, shall at a general meeting, have one vote for each share held by him, subject to a maximum of 25 per cent. of the total number of shares issued by the company, or one vote for each share up to a maximum limit of 100 and one vote for every ten shares over that number whichever is less."

Sir, experience has proved that when a company or a shareholder owns a large number of shares in any limited company sometimes the power is misused.

Sir, my amendment has the support of the Northern India Chamber of Commerce. In the Punjab, Sir, I suppose most of the Honourable Members know that in certain companies who own a large block of shares in a company the funds of the company have been ruined for want of vote control by the other shareholders. Now, Sir, some cases are pending in the Lahore High Court and other courts. To avoid that misuse of the power, I propose this amendment. It is not a new one. In the Reserve Bank of India Act we find a similar section curtailing the power.

THE HONOURABLE THE PRESIDENT: You cannot apply that. The object of the provision in the Reserve Bank of India Act was to prevent shares from accumulating in one hand.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: That may be so, Sir. I did not say that that was the reason. What I meant was, that my proposal is not a novel one. It is a proposal which experience has shown there is necessity for. And from what we see in the Punjab, we ought to have some safeguard in this direction so that the majority of the shareholders may not be able to be controlled by a company or person owning a big block of shares. Sir, this amendment deserves support and I hope the Honourable House will accept it.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, there are at least two objections to the amendment moved by my Honourable friend. He thinks that if the amendment is carried the oppression of the fraud which may be created by a person holding a large block of shares will disappear. Nothing of the kind. Because I may assure my Honourable friend that Company Law does not recognise Trust shares which may be put in the names of nominees. If I hold 5,000 shares there is nothing to prevent my keeping 1,000 in my name and the other 4,000 in the name of my relatives or friends. The whole object and the other 4,000 in the name of my relatives or friends. The whole object would be defeated in that case. My second objection, which is still more important, is this. Why is it that companies offer extra voting rights to certain classes of shareholders? It is one of the means of luring capital. If the time arrives when it finds it cannot attract capital, it offers extra voting rights, and it is really destroying the whole structure of the present Company Law if companies are not allowed to issue shares with these differing rights. I submit, Sir, this amendment is absolutely useless.

THE HONOURABLE THE PRESIDENT: The Question is that the following amendment be made:

"That in clause 34 of clause (d) for sub-section (2) of proposed section 79 the following clause be substituted, namely:

"(d) every shareholder of a company incorporated under this Act, or under the Indian Companies Act, 1866 or 1882, or any other enactment for the time being in force, when the company was incorporated, shall at a general meeting have one vote for each share held by him, subject to a maximum of 25 per cent. of the total number of shares issued by the company, or one vote for each share up to a maximum limit of 100 and one vote for every ten shares over that number whichever is less."

The amendment was negatived.

THE HONOURABLE MR. P. N. SAPRU : Sir, I move :

"That in clause 34 to clause (e) of sub-section (2) of the proposed section 79, the following be added, namely :

'or by an attorney'."

Now, Sir, we know shareholders can be represented by proxies. But a proxy must be a shareholder. Now, Sir, the suggestion that I make is that the proxy may be an attorney, that is to say, a solicitor, and that attorney or solicitor need not be a member of the company. I see, Sir, no reason why a shareholder should not be allowed the right of representation through an attorney. If he has no confidence in any shareholder and if he cannot therefore make any shareholder a proxy, he should be allowed the right of representation through a solicitor or attorney. That is the object of my amendment and the second amendment is only of a consequential nature.

THE HONOURABLE MR. S. C. SEN : Sir, I oppose this amendment. In the first place, there is nothing in clause 34 which prevents a shareholder from appointing or giving a general power of attorney to his attorney to attend meetings. That is done every day. That is not barred by this clause. Therefore, Sir, I do not quite understand what my Honourable friend wants. The shareholders have the right to appoint an attorney at present, and under the law, as it will be he will have the right to vote either by proxy or by the holder of a general power of attorney.

THE HONOURABLE MR. P. N. SAPRU : The proxy must be a shareholder ; the proxy cannot be a person who is not a shareholder.

THE HONOURABLE MR. S. C. SEN : You can authorise any man by means of a power of attorney to attend and vote for you at a meeting.

THE HONOURABLE MR. P. N. SAPRU : Is it suggested that the power is already there ?

THE HONOURABLE MR. S. C. SEN : Yes.

THE HONOURABLE THE PRESIDENT : Anybody can give a power of attorney to any person to represent him at the meeting.

THE HONOURABLE MR. P. N. SAPRU : The person who represents him need not be a shareholder ?

THE HONOURABLE THE PRESIDENT : No. He need not be a shareholder.

THE HONOURABLE MR. P. N. SAPRU : I will then ask your permission, Sir, to withdraw the amendment.

The amendment was, by leave of the Council, withdrawn.
Clause 34 was added to the Bill.

Clauses 35 and 36 were added to the Bill.

THE HONOURABLE THE PRESIDENT : Clause 37.

THE HONOURABLE SIR PHIROZE SETHNA : Sir, I beg to move :

"That in clause 37 in the proposed sub-section (5) of section 83 for the words 'after seven days', where they occur for the first time, the words 'fourteen days' be substituted."

I submit, Sir, that on occasions, seven days may not be considered sufficient. For example, there may be the Easter holidays or the Christmas holidays. But, more than that, the reports of annual general meetings of large companies are very long and it does take time to prepare them. Besides, the time taken by the office itself, they are very often submitted to the lawyers, and, as we know, lawyers are never prompt in returning them after approving of them.

THE HONOURABLE SIR NRIPENDRA SIRCAR : It depends on what you pay them !

THE HONOURABLE SIR PHIROZE SETHNA : All cannot afford to pay the fees which the Honourable the Law Member might claim ! But even in the case of large companies where they pay very handsome fees to their solicitors, these solicitors are not generally known to be very prompt in giving their replies. Moreover, Sir, the report of the meeting may have to be submitted to every director. That also will involve time. As a rule, however, they are submitted only to the chairman and it may be that the chairman is away from the place where the meeting was held for days together. So, for all these reasons, seven days is not sufficient and that is why, Sir, I move my amendment.

THE HONOURABLE MR. S. C. SEN : Sir, I am afraid we cannot accept this amendment. What is provided in sub-clause (5) of clause 37 of the proposed Bill is that any shareholder can, after seven days of the holding of the general meeting, apply for and obtain copies of the minutes of the proceedings. As you are aware, Sir, and as Honourable Members are aware, the minutes of the proceedings are generally jotted down at the meeting itself. It only means transcribing them into the minute book and getting it signed by the chairman. It is only on very rare occasions that it requires the scrutiny of lawyers. But, as the Honourable the Law Member has pointed out, it is not impossible to get them to do it within seven days. Therefore, there is no point in the contention, that seven days is not sufficient. The other point that it has got to be submitted to all the directors for their approval is a novel proposal. The only man who is concerned with the minutes and who is responsible for the correctness thereof is the chairman and it is his signature that is required. He will be present himself and it ought to be possible to get everything right within seven days. The extension asked for is therefore not reasonable.

THE HONOURABLE THE PRESIDENT : The Question is that the following amendment be made :

"That in clause 37 in the proposed sub-section (5) of section 83 for the words 'after seven days', where they occur for the first time, the words 'fourteen days' be substituted."

The amendment was negatived.

Clause 37 was added to the Bill.

Clause 38 was added to the Bill.

THE HONOURABLE THE PRESIDENT : Clause 39.

THE HONOURABLE SIR PHIROZE SETHNA : Sir, I beg to move :

"That in clause 39 for the proposed sub-section (2) of section 83B, the following sub-section be substituted, namely :

'(2) Notwithstanding anything contained in the articles of a company other than a private company the directors, if any, appointed by the managing agent shall not exceed in number one-third of the whole number of directors, and at least one-third of the whole number of directors shall be appointed by the company in general meeting'."

Sir, as I observed in the speech I made yesterday, this clause has led to some confusion and, as I may repeat, even such important newspapers as the *Times of India* and the *Statesman* have interpreted it differently from the manner in which the Honourable the Law Member interprets it. It is only with the idea that a clause may be inserted in the Act which will not lead to litigation that I have brought forward this amendment. I hope the Honourable the Law Member will be able to clear up this point to the satisfaction of the public. Regulation 78 in effect means that one-third of the board shall retire each year, but this clause says that two-thirds of the board shall be subject to retirement by rotation. This leads to confusion, and to avoid the same I trust the Honourable the Law Member will put matters right in any manner he likes.

THE HONOURABLE SIR NRIPENDRA SIRCAR : Sir, if my Honourable friend will turn not only to Regulation 78 but also to Regulations 79, 80 and 81, he will probably find that there is no difficulty. Under 78, Sir, the whole of the directors shall retire from office at the first ordinary meeting, and in every subsequent year, one-third shall retire. There is no necessity under the provisions of this Bill that two-thirds should retire in the same year. That is not wanted. One-third shall retire. Two-thirds are liable to retire by rotation. This is quite consistent with one-third retiring each year.

The next point is this. As regards the first portion of the amendment that not more than one-third of the whole number of directors shall be appointed by the managing agents, that has been provided for in the Bill. That is elect? I submit, Sir, whatever the views of others may be, there is no difficulty, because under Regulations 78 and 79, who are the directors in respect of whose vacancies the shareholders are asked to appoint successors? Under Regulation 79, the directors to retire in every year shall be those who have been longest in office since their last election, but as between persons who became directors on the same day those to retire shall (unless they otherwise agree among themselves) be determined by lot.

The point to be remembered is that while two-thirds of the directors shall be persons, who are liable to retire, but section 83B (2) is silent as to how vacancies are to be filled up. The section does not constitute the shareholders the appointing authority. The right of shareholders to elect directors is to be found in the Regulations of Table A, and in those Regulations only. And 81 says that a company at the general meeting at which a director retires

may fill up the vacated office by electing a person thereto. Therefore the retirement of elected directors are filled by the shareholders. Now, under the amendment which was carried in the other place, which has come

12 Noon.

to be known as Dr. Khare's amendment, it is quite true, as I have already said, two-thirds of the directors have got to retire by rotation. The provision, i.e., section 83B(2) does not lay down that in case of those who retire by rotation, their vacancies should be filled by the shareholders. Therefore, what is the position? Under the Bill as it stands the position is that one-third is the maximum number to be nominated by the managing agents. As regards the others the Bill gives no right to fill up the vacancy caused by the retirement of a director who was not an elected director. A director nominated by the managing agent not being an elected director in his case the vacancy cannot be filled up by shareholders. I submit, Sir, in those circumstances what is the necessity of putting in that at least one-third of the whole number of directors shall be appointed by the company. I think our object is gained by limiting the number of directors to be nominated by the managing agents and by fixing the maximum at one-third. I am quite aware that there have been differences of opinion, and it is bad enough when we are sometimes told that learned Judges in High Courts have differed, but we have now the additional terror that the *Times of India* differs from the *Statesman*. That, Sir, however, does not disturb my sleep. I do not see any necessity for this amendment.

THE HONOURABLE THE PRESIDENT : The Question is that the following amendment be made :

"That in clause 39 of the Bill for the proposed sub-section (2) of section 83B, the following sub-section be substituted, namely :

'(2) Notwithstanding anything contained in the articles of a company other than a private company the directors, if any, appointed by the managing agent shall not exceed in number one-third of the whole number of directors, and at least one-third of the whole number of directors shall be appointed by the company in general meeting'."

The amendment was negatived.

Clause 39 was added to the Bill.

Clauses 40 and 41 were added to the Bill.

THE HONOURABLE THE PRESIDENT : Clause 42.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Sir, I move:

"That in clause 42 after sub-section (2) of the proposed new section 86A, the following proviso be inserted, namely :

'Provided that no person who has been convicted by a court of law of any offence under the Indian Companies Act or who has committed any misfeasance or fraud or embezzlement shall be eligible as a director'."

Sir, this is a clause which is very essential in the interests of the shareholders. We find that people who have been convicted of offences under the Companies Act or who commit misfeasance are often elected as directors by their friends when new companies are promoted or are added to the boards of existing concerns. I think for the safety of the shareholders such persons should not be eligible to stand as directors. I hope this amendment will be accepted by the Council.

THE HONOURABLE MR. S. C. SEN : So far as the principle underlying this amendment is concerned we are in sympathy with it, but the place where my Honourable friend wants it to be put is not the proper place. The drafting is

[Mr. S. C. Sen.]

not right either. If you look into section 86A, sub-section (1) deals with an undischarged insolvent and prevents him from acting as a director. The amendment in question is meant to be a proviso to sub-section (2) which reads :

"In this section the expression 'company' includes a company incorporated outside British India which has an established place of business within British India".

So that it would be a complete misfit. But, if my Honourable friend wants that this should be a substantive sub-section, then it could be done if the draft is altered. Otherwise I do not think we can accept it.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Let it be put as a substantive clause.

THE HONOURABLE THE PRESIDENT : Order, order. The Question is that the amendment proposed by the Honourable Rai Bahadur Lala Ram Saran Das be made.

The amendment was negatived.

THE HONOURABLE SIR PHIROZE SETHNA : Sir, I move :

"That in clause 42 in both the provisos to section 86B for the word 'district', where ever it occurs, the word 'town' be substituted."

The word "district" causes some confusion and I will not be surprised if the Honourable Mr. Sen has an explanation to offer which will put right the meaning of the word.

THE HONOURABLE SIR NRIPENDRA SIRCAR : I was going to suggest something after pointing out that we cannot possibly accept the substitution of the word "town" for "district". In Calcutta, for instance, many of the big managing agents live either in Ballygunge or Alipore, and it would be incongruous if all the time they should be living there, that their work should be carried on by alternate directors. But I see the point. There may be some confusion as regards presidency-towns, if we use the word "district." Therefore, if the Chair permits, Mr. Sen will move an amendment which will be in the nature of an explanation, and I think that will meet my friend's point.

THE HONOURABLE THE PRESIDENT : Where do you wish to insert this amendment ?

THE HONOURABLE SIR NRIPENDRA SIRCAR : At the end of the provisos to section 86B.

THE HONOURABLE THE PRESIDENT : Then it will be better to go through the other amendments first.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Sir, I move :

"That in clause 42 after the second proviso to the proposed new section 86B, the following further proviso be added :

'Provided always that should any director appointing an alternate or a substitute director be absent from meetings of the board for more than six months, the appointment of any such alternate or substitute director by him shall thereupon cease and determine'."

Sir, this is a very modest amendment. When any company is floated or is running, the shareholders appoint certain directors in whom they repose confidence and in the case of alternate directors that is lost. Alternate or substitute directors could not occupy the position for long periods.

Sir, I move.

THE HONOURABLE MR. S. C. SEN : Sir, I oppose this amendment. I am afraid there is a confusion of ideas underlying this amendment. In the first instance, once a director appoints an alternate or substitute director he ceases to be a director for the time being. His alternate or substitute director is the director who is functioning. Therefore how can he a man who has ceased to be a director, cease to be a director again ? There is, therefore, a clear confusion of ideas in this matter. If my Honourable friend means that if any director is himself absent from meetings for six months he should vacate the office, then he is curtailing the powers which are already given in section 86G at page 18 of the Bill. He will find that under clause (f) of section 86G if he absents for three months he vacates the office. What my Honourable friend wants would be to extend the time to six months. Sir, I therefore oppose.

THE HONOURABLE SIR PHIROZE SETHNA : On a point of information, Sir. With regard to this three months' time, when is the three months period supposed to commence, from the date when the director says that he is going away for three months or from the date he actually leaves ?

THE HONOURABLE MR. S. C. SEN : So far as the query made by my Honourable friend Sir Phiroze Sethna is concerned, that surely does not arise on this amendment at all. If a man wants to go away for three months, he can appoint an alternate or substitute director. That is the provision. There is no difficulty there.

THE HONOURABLE THE PRESIDENT : When do the functions of the substitute director begin ? From the date the original director leaves ?

THE HONOURABLE MR. S. C. SEN : It is for the director who wants to appoint an alternate or substitute director to say from which date he will cease, and his substitute will act.

THE HONOURABLE THE PRESIDENT : The Question is that the amendment proposed by the Honourable Rai Bahadur Lala Ram Saran Das be made.

The amendment was negatived.

THE HONOURABLE MR. S. C. SEN : Sir, I beg to move :

"In clause 42 to proposed section 86B the following be added :

'Explanation.—For the purposes of the provisos to this section, the presidency-towns of Calcutta and Madras shall be deemed to be part of the 24 Parganas and Chingleput districts respectively, and the presidency-town of Bombay shall be deemed to be part of Bombay Suburban and Thana districts'."

The object is to meet the point raised by my Honourable friend Sir Phiroze Sethna and it would clear up the difficulty.

The amendment was adopted.

THE HONOURABLE SIR PHIROZE SETHNA : Sir, I move :

"That in clause 42 in the proposed section 86E after the words 'managing director' the words 'managing agent' be inserted."

[Sir Phiroze Sethna.]

Sir, I make a suggestion which if accepted would avoid the Explanation at the bottom of that clause. It is only for that reason that I have suggested this amendment.

THE HONOURABLE MR. S. C. SEN : Sir, it is conceded by the Honourable mover, Sir Phiroze Sethna, that this amendment is unnecessary if the Explanation which is already there is retained. Therefore, I see no point in moving this amendment which involves expunging an Explanation and inserting another word in another place.

THE HONOURABLE SIR PHIROZE SETHNA : Is it not better to do it ? Why offer an Explanation when one extra word alone in the clause will make it quite clear ?

THE HONOURABLE MR. S. C. SEN : Opinions differ, Sir.
The amendment was negatived.

THE HONOURABLE MR. P. N. SAPRU : Sir, I move :

"That in clause 42 to the proposed section 86F (1) the following be added, namely :

'a director so removed shall not be re-appointed a director by the board of directors'."

Sir, under section 86F(1) it is open to a company to remove by its ordinary resolution a director and what I suggest in my amendment is that a director who has been so removed by an ordinary resolution of the company should not be re-eligible for election by the board of directors. It should not be open to the board of directors to undo what the meeting has done. Sir, that is my amendment and I think it is a very reasonable and fair amendment and I hope it will be accepted by the Government. I know, Sir, that the board of directors are not likely to act irresponsibly, but it is in order to provide against such a possible contingency that I have suggested this amendment.

THE HONOURABLE MR. S. C. SEN : Sir, so far as this amendment is concerned, I do not think it is necessary. If I may draw the attention of my Honourable friend Mr. Sapru to section 86F(1) :

"The company may by extraordinary resolution remove any director, whose period of office is liable to determination at any time by retirement of directors in rotation, before in his stead".

Therefore what really is intended is that the same person cannot be appointed. This is clear from the words "another person". Besides, Sir, this contingency is not likely to arise.

THE HONOURABLE MR. P. N. SAPRU : It is likely. A vacancy on the board of directors might arise later and then it would be open to the board of directors to appoint a director who had been removed by the company. It is that contingency that I want to guard against.

THE HONOURABLE MR. S. C. SEN : Having regard to the apprehension expressed by my Honourable friend, although it is not likely to occur, we have no objection to accept the amendment.

The amendment was adopted.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Sir, I move :

"That in clause 42 after clause (h) of sub-section (1) of the proposed new section 86G, the following be added, namely :

'(i) if he fails to attend in person the meetings of the board of directors for a continuous period of six months his seat on the board as a director shall *ipso facto* cease and determine'."

Sir, as my Honourable friend Mr. Sen has explained, the power already given under clause (f) should be limited by this. Sir, I want to restrict that power because a director who has been absent for more than six months should *ipso facto* cease to be a director. Shareholders elect directors who agree to work and in whom they repose trust. If they absent themselves for long periods, it is proper that an absence of more than six months will result in their ceasing as directors. This will lead to full efficiency of the board.

THE HONOURABLE MR. S. C. SEN : Sir, I regret I have to oppose this amendment and for this reason, Sir. This amendment is wholly inconsistent with the provisions of section 86B which we have just passed. Under section 86B, Sir, we have authorised a person who wants to be absent for more than three months to appoint a substitute director. If he does so, Sir, how can he again forfeit his seat by being absent personally for six months. The two things are absolutely inconsistent.

The amendment was negatived.

Clause 42, as amended, was added to the Bill.

Clause 43 was added to the Bill.

THE HONOURABLE THE PRESIDENT : Clause 44.

THE HONOURABLE MR. R. H. PARKER (Bombay Chamber of Commerce) : Sir, I move :

"That in clause 44 of the Bill in the proposed sub-section (2) of section 87A for all the words after the words 'shall not continue to hold office after the expiry of twenty years' the following be substituted, namely :

'may, unless he shall have been re-appointed after the commencement of the said Act be removed from office by a special resolution of the company, after the expiration of twenty years from the commencement of the said Act'."

Sir, I have already expressed the view that it is not fair either to the shareholders or the managing agents that the law should provide for the termination of the period of office of the managing agent without the approval of the shareholders. To interfere with an existing contract is, in my opinion, a very serious thing to do. It is true that it has been done before when contracts are found to be against public policy, but this is only the case when a harsh bargain is driven against a person in great need or difficulty or against the ignorant and the helpless : it can hardly be maintained that shareholders as a body are needy or helpless persons.

I would remind the Honourable Members of this House that the Select Committee in the other place provided for compensation on termination under this clause, and I suggest that the members of the Select Committee must be regarded as the Members of the Lower House who were most expert and most

[Mr. R. H. Parker.]

suitable to consider this particular subject. Although I myself think that the provisions suggested were unsatisfactory, it is clear that they were of the opinion that compensation ought to be made.

Although I am completely in favour of freedom for the parties to make their own arrangements in matters of this kind, if the Legislature is determined upon limiting the duration of managing agents' agreements, I would regard the proposal as being of a comparatively innocuous nature if it were confined to new companies. I cannot willingly consent to any provision which treats existing contracts in the manner proposed.

I ask Honourable Members to realise the position in which companies and managing agents will find themselves if this provision becomes law. Whether they like it or whether they do not, their contracts will cease 20 years after this law comes into effect. Even if it is for the benefit of both the parties for the managing agents to be re-appointed on the same terms it will be necessary for a special resolution of the company to be obtained in many cases.

The managing agent has very often in the past been the father and mother of the company and if he knows that he is to cease to occupy that position at a definite date he cannot conceivably be expected to take the same paternal or maternal interest very often involving his own credit and money in the future of the concern.

The number of companies which have survived difficult times owing to the support of their managing agents is great. There are sometimes unfortunate stages in the life of an undertaking when to the ordinary outsider such as a banker, prospects are hopeless and money is unattainable, but those who have a real inside knowledge of the position can very often satisfy themselves that in circumstances such as these that managing agents have pledged their credit or advanced their money to enable undertakings to pull through their times of difficulty and emerge into times of success.

I do not wish to make any special plea for managing agents but I do wish to draw attention to the fact that even if a managing agent's remuneration from a particular company may sometimes appear to be excessive, it has to be borne in mind that in many cases they have spent considerable sums on other concerns which have been failures. They are in a position somewhat akin to that of finance houses who finance various undertakings at different times, some of which are successful, some of which fail, and very often on the average the results are financially but little better than the return on Government securities. Let us avoid, if we possibly can, doing anything to discourage managing agents from investigating and supporting new ventures.

Honourable Members will remember that the Indian Industrial Commission reported that

"The managing agency system has a far greater list of successes to its credit than can be shown by ordinary company management under individual managing directors".

The report went on to say:

"We are much impressed by the strong evidence of the high financial prestige possessed by the better class of agency firms and the readiness of the investing public to follow their lead, a position only reached, we recognise, by a policy extending over many years of efficient management, cautious finance and watchful attention to the interests of their clients' enterprises".

The amendment which I move merely gives the shareholders the power to decide the matter and in my submission it is only just and right that this should be so.

I have made it plain for my part that I do not think it right that the Legislature should interfere in existing contracts of this kind but if this is insisted upon it seems to me to be only in conformity with the underlying principles of the Bill which we are considering that no more should be done than give the shareholders the right to consider the position and come to their own decision.

Sir, I move.

THE HONOURABLE MR. C. G. ARTHUR (Bengal Chamber of Commerce): Sir, as clause 87 (a) (2) is framed, the managing agent statutorily ceases to hold office at the expiration of 20 years from the commencement of the Act, and it is possible that the company may find itself with no proper form of management until a majority of the shareholders can make up their minds. In principle, it is considered that the right of a company to choose its own management and, if it adopts that form of management, to appoint its managing agents for what period it thinks fit should not be fettered. In the case of a future appointment for a term of years it should be made clear that the managing agents may continue to hold office after the fixed term has expired until they are removed or there is a fresh appointment. In commercial opinion no case has been made which justifies the Legislature terminating, even at a future date, managing agency contracts of great importance.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, I think this amendment ought not to be accepted. The history of the 20 years which has been fixed in the Bill must be fresh in the minds of everybody. In view of the opinions which have been received and the discussions which have taken place Government, after taking into account all considerations, pro and con, came to the conclusion that 20 years ought to be allowed. I think the representatives of the managing agents, whether here or elsewhere, do not realise this and, if I may say so, they are not sufficiently grateful for having got the 20 years. As a matter of fact, Sir, I do not know where they would have been if Government had not taken up the strong attitude that if the 20 years is reduced, they would rather drop the Bill, not because they have any special tender concern for the managing agents but because they thought it was right. While, on the one hand, we have been very firm that the 20 years ought not to be reduced, we are equally firm that the 20 years is not to be extended. Now, Sir, what is the result of this amendment? After 20 years, the managing agents will not go out, unless there is a special resolution, and if the managing agents hold, say, 40 per cent. of the shares, then they will never go out. A book which has been so often quoted in newspapers and in the other place—Mr. Lokanathan's book—gives a table showing the holdings of blocks of shares of managing agents. While it is quite true that in jute and

[Sir Nripendra Sircar.]

some other concerns in Bengal the holdings are sometimes so low as 18 or 20 or 25 per cent., in some others the holdings are very high and often more than 50 per cent., and these managing agents will have a permanent tenure. They will never be turned out. A special resolution can never be passed against them.

Then, Sir, as regards this bogey of this interregnum, *i.e.*, what will happen if these useful managing agents retire automatically? What will happen to the company? It is said the company will be ruined. Well, Sir, the company has got 20 years to look ahead. They can make up their mind in the 19th year or the 18th year as to what will happen to the company. Secondly, Sir, under Regulation 71 which is now compulsorily included, the moment the managing agents go out, there is the statutory liability of the directors to conduct the business. So, we need not fear that if the managing agents go out, there will be no one in charge of the business of the company. Further, if they are good managing agents they are likely to be re-appointed. Sir, I think this amendment ought to be opposed.

The amendment was negatived.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Sir, I rise to move the following amendment:

"That in clause 44 to sub-section (2) of the proposed new section 87A, the following proviso be added, namely:

'Provided however that the managing agent of a company who has a contract for the management of a company on the basis of commission on production and is contrary to the basis of remuneration based on net profits as defined in proposed section 87C shall not continue to hold office after one year of the commencement of the Indian Companies (Amendment) Act, 1936, unless within that period the same is altered as is required in section 87C.'

Sir, this is a very reasonable request and in case Government consider that my time limit is too short, I am prepared to extend it to two or three years.

Sir, I move.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, Government will oppose this on the ground, as has been already pointed out, that this abuse—if I may use the word—of commission on the basis of production is limited to a very small number of companies. I gave the figures in another place. Speaking off-hand, Sir, although it exists outside Ahmedabad, the charge has really been brought against Ahmedabad. Sir, taking Ahmedabad, the issued capital is Rs. 4 crores for all the mills taken together, while, taking all companies in British India the issued capital of all the companies is more than Rs. 100 crores, Ahmedabad represents only a small fraction. Then again, out of the 78 Ahmedabad mills (if my Honourable friend will study the history of each mill which is now found in a very convenient form in a book which has been issued, he will find that) out of 78, possibly in 25 or 26 this complaint can be made that commission is taken on a production basis. There again, Sir, it is only one-third of one-twenty-fifth, that we are striving to get at. Out of those 25 or 26 mills in respect of which it can be

said that they are taking commission on a production basis, the history of the majority of them shows that their shareholders have done remarkably well. Dividends of 11, 12, 15 and 17 per cent. have been given and 7 per cent. even in slump times and some of them have paid back the capital several times over. For such a minute fraction we do not desire a departure from the general law which has been laid down for all managing agents.

The amendment was negatived.

THE HONOURABLE MR. HOSSAIN IMAM: Mr. President, I rise to move:

"That in clause 44 after sub-section (2) of the proposed section 87A, the following proviso be inserted, namely:

'Provided this clause shall not apply to those managing agents who have not paid at least 15 per cent. in all in seven years ending 1935. Managing agents of such companies shall be dismissed one year after this Act comes into operation and they shall not be eligible for re-election.'

You will remember, Sir, that I had given notice of no amendments, because I was hopeless of being able to carry any amendments in this place which does not meet with the approval of the Government. I was asked by an Honourable Member—a nominated Member—why I was so disparaging of this House. Therefore, Sir, I brought forward this amendment which wants to separate the black sheep from the white sheep.

THE HONOURABLE SIR DAVID DEVADOSS: You mean the sheep from the goats!

THE HONOURABLE MR. HOSSAIN IMAM: This, I may say, wants to separate the sharks from the other harmless fishes—because after all they are all fishes. The test I have put in may be objected to on the ground that it is not a sure basis. If the company in a total period of seven years is not able to declare a return of even 15 per cent., that means there is something wrong with the company. In most groups, whether textile, jute, coal or the sugar industry, you find that there are prosperous concerns as well as the unprosperous concerns. Under efficient management almost all the companies are giving a return. It is only the shady firms which do not make any return. The Honourable the Law Member just now pointed out that the Ahmedabad mills, in spite of paying heavy commission on the basis of sales, are able to declare a sufficient dividend of 7 or 12 or 15 per cent. If a concern is well managed, in spite of exorbitant demands of the managing agents it can go on and be a success. But the question is, why should those companies which have not been a success in the period of seven years in the hands of their managing agents be compelled to carry on under the same agency. Why should bad managing agents get the benefit which their good brothers have earned. We do not object to an extension of 20 years being given to those managing agents who have qualified for extension. But there is no reason why every kind of managing agent should receive the same treatment. I should be quite prepared to accept any better test which the Government can find to separate the black sheep from the rest. If there is no differentiation between the good and the bad the Indian public will think them all identical. Why I brought this amendment up was that we should give a

[Mr. Hossain Imam.]

chance to the better managing firms to take up these agencies and throw out the others. If a company is not giving any dividends its managing agents ought to be moved out. At present the company however would have to pay them compensation to get out as they are a permanent fixture. And unless you have a law under which they can be removed there can be no prosperity for these companies. I have not brought this amendment in any spirit of opposition. I simply wish to give this Bill a good shape, and with these words, Sir, I move this amendment.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, my Honourable friend stated that, feeling hopeless, he did not give notice of amendments. If this amendment is his best production, then the House is to be congratulated that he has not given notice of any other amendment. I beg to submit that this is an absurd proposition, and for this reason. If a company has not paid 15 per cent. during the period 1929 to 1935 then what he wants is that the managing agents should go. Sir, when we lawyers, having no experience of business, proceed on idealistic lines we are bound to make fools of ourselves. Take the tea companies of Bengal and Assam. There has been a slump for five or six years. How can it be expected that any company under any managing agent, however good, will give a return of 15 per cent. within the period 1929—1935. My friend has got a very simple method of finding out which is good and which is bad. If you give 15 per cent. in six years, you are good. If you happen to be unable to do that, you are bad. But the various circumstances which reflect on the power of any company under the best heaven-sent managing agents to give any dividends are too numerous, and my Honourable friend has not considered any of them. Sir, we know of, and I gave many instances in the other House, managing agents who have struggled not for seven but for ten years without being able to declare any dividends. But those companies, by reason of the finance supplied by managing agents and by reason of the trouble taken by them, have at last become successful concerns. My Honourable friend's idea seems to be so grotesque that this House ought not to be detained any longer with it.

The amendment was negatived.

THE HONOURABLE SIR PHIROZE SETHNA: Sir, I move:

"That in clause 44 to sub-section (4) of section 87A, the following be added, namely:

'and shall not prejudice the right of the managing agent to recover any compensation which would have been payable by the company to the managing agent for the premature termination of his contract of management had such termination resulted from the action of the company itself'."

I might remind the House that the Select Committee had this clause and to my mind there has not been sufficient or any justification for dropping it. Take the case of a company started, say, in 1930, and the managing agents had a contract for 35 years. Then, after this Act passes, it will be allowed to continue for the next 20 years, which will carry them to 1956. But their contract being for 35 years they could have gone on to 1965.

There would, therefore, according to them, compensation be due to them for nine years. I know in the other place the Honourable the Law Member stated that in such a case the courts do not award compensation, or if they do, of very trifling amounts, because it would be difficult to foresee whether the same managing agents would in the subsequent nine years be able to earn commission at the same rate or more or less. Whatever that may be, my point is, that there is that contract. Whether he gets anything or not is his lookout; but if he wants to contest his claim there is no reason why he should be denied permission for doing so by the Act as it is now framed. It is therefore in fairness to such managing agents that I do move this amendment, which I repeat is in keeping with what the Select Committee decided upon at one time.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, there are two objections to the amendment. The first is one which has been indicated by the Honourable mover, Sir Phiroze Sethna. The courts have ruled that where a managing agent is engaged for 20 years and is wrongfully dismissed, say, at the end of five years, the courts allow him practically nothing for the 15 years which he has lost. The judgment of Lord Justice James has always been followed. Recently the Madras High Court followed it. The reasoning of the decisions is that it is quite true I have engaged you for 20 years. I have however given you no undertaking of what would be my volume of business. I can reduce it and if I reduce it to zero and if you earn nothing, you cannot complain. Whatever that may be that has been consistently followed. It is only a couple of years ago that in Madras an insurance agent who was entitled to 2 per cent. on the premium on the policies which he would secure was dismissed some years before the period fixed for him. He was given nothing on the basis of the commission which he would have probably earned. Therefore, Sir, what can they get? They can get very little. The next item is, office allowance; to this the answer is, "My friend, you have no office to keep, you have been dismissed, why not dismiss the typists and put an end to the lease of your house? They can get nothing there". While, on the one hand, they will get very little and it is really a sentimental objection, on the other hand, the ordinary shareholders and the company will be afraid of getting rid of a managing agent if they know that it will involve litigation; litigation which, it must be admitted, must be a protracted one with doubtful result. Nobody would be able to predict as to what would be the result of the litigation. This will be hanging over the heads of the shareholders and rather than indulge in litigation which may be taken right up to the Judicial Committee, they would continue the managing agency. That is the first objection. The second objection is this. Compensation is allowed if there is wrongful dismissal. Sir, it is rather incongruous to suggest that on the one hand the dismissal is right, it is not wrongful because it is done by the operation of the statute, and, at the same time, to allow compensation on the footing that they have been wrongfully dismissed. Sir, this matter has been very carefully considered by Government and they are unable to accept the amendment.

The amendment was negatived.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Sir, I rise to move :

"That in clause 44 in sub-clause (a) of the proposed new section 87B after the words 'remove a managing agent' the words 'for fraud or breach of trust or gross negligence or mismanagement' be inserted."

Sir, my amendment is a reasonable one. In case any company wants to remove the managing director for fraud, or breach of trust or gross negligence it should have the same power as it has to remove a managing director if he is convicted of an offence under the Companies Act. This is a reasonable amendment and it ought to have the support of this House.

THE HONOURABLE SIR NRIPENDRA SIRCAR : Sir, if my Honourable friend thinks it is a reasonable amendment, it is possibly under a misapprehension as to the law applicable to the subject. Under Common Law, General Law, whatever it is called, the master has the right to remove the servant, not only for the three things, namely, fraud, breach of trust, gross neglect or mismanagement, but for other reasons too, for instance, incompetence. It is not intended by section 87B to take away the right of a master to dismiss a servant on any ground which is available to him under the General Law. What section 87B does is quite different. Therefore, there is not only no necessity for this amendment, but it will be a mischievous amendment—I mean no disrespect—exhaustively, for which the managing agent can be removed. Government possibly cannot accept this amendment which will lead to no good result.

The amendment was negatived.

THE HONOURABLE MR. R. H. PARKER : Sir, I move :

"That in clause 44 of the Bill in the proposed sub-section (3) of section 87C the word 'depreciation' be omitted."

Sir, the necessity of moving this amendment arises out of the fact that depreciation is to a certain extent a matter of opinion; that opinion must frequently be the opinion of the managing agent as being best acquainted with the company's affairs and if depreciation is to be a charge against profits before arriving at the sum upon which a managing agent's remuneration is to be calculated he is placed in a position where his own interests and the interests of the shareholders are in conflict. If he does his duty by the shareholders he reduces his own income, and I suggest that it is much fairer to both the shareholders and the managing agents not to place either of them in this position.

If the proposed provision becomes law I doubt not that there will be many cases where the shareholders will desire to re-appoint the managing agents at the end of the period of 20 years, and I would remind Honourable Members that they will only be able to re-appoint them on the same terms as before in most cases by a special resolution. Now a special resolution, as Honourable Members are aware, requires a majority of 75 per cent. of those present and entitled to vote and I do suggest that it is quite unfair to allow a minority of shareholders to make it impossible to re-engage the services of managing agents on terms on which they have been employed for many years before.

Sir, I move.

THE HONOURABLE SIR PHIROZE SETHNA : Sir, I support this amendment. Here, again, the Select Committee did not include depreciation in the matter of arriving at the net profits and in determining the commission to be paid to the managing agents. Take a concrete case. Suppose a company makes a profit of Rs. 2 lakhs and according to the Income-tax Act the managing agent is allowed to deduct $2\frac{1}{2}$ per cent. on the value of buildings which might be worth Rs. 5 lakhs, which would mean Rs. 12,500. On machinery if it is worth Rs. 15 lakhs, he is allowed to deduct 5 per cent. which would mean Rs. 75,000. Because you include depreciation Rs. 85,000 will have to be deducted from the profits of Rs. 2 lakhs. The managing agent, therefore, will not get 10 per cent. on Rs. 2 lakhs, or Rs. 20,000 as originally intended, but 10 per cent. on only Rs. 1,12,500, or Rs. 11,250, which makes an enormous difference in his income. This condition does not exist in the present Act and yet all managing agents have always tried to set apart as much as they possibly can for depreciation in the interests of the company itself. Therefore, there is no necessity to my mind of enforcing this rule of deducting depreciation. What will be the consequence? The consequence will be that agents will not depreciate to the extent that they ought to. But more than that, when a new company is floated and according to this Act depreciation will have to be deducted, the managing agent will rightly not be content with a percentage of 10 per cent. which is according to the prevailing practice, but he will insist on $12\frac{1}{2}$ or even 15 per cent.

THE HONOURABLE THE PRESIDENT : He will be entitled to the minimum amount of commission under the Act.

THE HONOURABLE SIR PHIROZE SETHNA : That is so. That does not affect the question so much. The point is, that when the managing agent goes to the public and says in his prospectus that he will charge a managing commission of $12\frac{1}{2}$ or 15 per cent. the result will be that his capital will not be subscribed by the public to the extent that it is today when agents charge only 10 per cent., and India wants more companies, wants industries to be encouraged and this is one way of discouraging the formation of new companies. And I would therefore suggest to the Honourable Member to leave out depreciation as has been done in the past and leave it to the managing agents to deduct what they think is right for depreciation and I hope therefore that this amendment will receive support.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Sir, I rise to oppose this amendment. Sir, net profit means profit accrued after deducting all legitimate expenses. Where there is any depreciation it is right to charge it before we calculate the net profit. Supposing a company makes Rs. 1 lakh as gross profit and in depreciation Rs. $1\frac{1}{4}$ lakhs is due. It means we are paying commission on profits to the managing agents when the company is actually losing and there are no profits. Therefore, Sir, I would very much like that depreciation should be calculated when coming to the net profits but in case the managing agents in future are not satisfied with 10 per cent. commission on net profits after deduction of the depreciation, they would be justified in asking for 15 per cent. commission or more. Sir, that it is quite reasonable and fair that net profit should mean the actual profit and not a supposed profit.

THE HONOURABLE MR. HOSSAIN IMAM : On a point of information, Sir. Will the excise duty be deducted on sugar and steel ?

THE HONOURABLE SIR NRIPENDRA SIRCAR : Sir, I have not heard from my Honourable friend, Sir Phiroze Sethna, one word of justification for his amendment. Why should depreciation not be deducted ? His argument is, that if you do this, then, when a company is promoted, in the prospectuses, instead of the managing agents stating that they will take 10 per cent. they will ask for 12 per cent. Well, I think that is more honest. I do not see any harm in that if the shareholders are willing to give him 12 per cent.

THE HONOURABLE SIR PHIROZE SETHNA : As a rule they will not be willing because it is the straightforward practice.

THE HONOURABLE SIR NRIPENDRA SIRCAR : If they are not willing, then that particular company will not be floated.

THE HONOURABLE SIR PHIROZE SETHNA : It is to prevent that that I made my suggestion.

THE HONOURABLE SIR NRIPENDRA SIRCAR : The 10 per cent. is a mere camouflage. He is really getting 12 per cent. because he is not deducting depreciation which ought to be deducted on principle.

THE HONOURABLE SIR PHIROZE SETHNA : Why did not the Select Committee think so ?

THE HONOURABLE SIR NRIPENDRA SIRCAR : Well, if you are coming to the Select Committee, the House has not accepted all the proposals of the Select Committee and I do not think my Honourable friend will accept all that was suggested by the Select Committee. Some of it would be rather inconvenient. Neither this House nor the Government is bound to accept every decision of the Select Committee. It comes back to this that depreciation in principle ought to be deducted. I have not heard one word to the contrary. It is because it is not deducted that this camouflage is permitted. Therefore, the managing agent goes to the shareholders and says I am getting only 10 per cent. I do not think the Honourable Member has produced any argument in support of his amendment.

THE HONOURABLE MR. HOSSAIN IMAM : The Honourable Member has not answered my question whether excise duty is covered or not ?

THE HONOURABLE SIR NRIPENDRA SIRCAR : Well, Sir, whatever is covered is to be found here. What it means it says here.

The amendment was negatived.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Sir, I move :

"That in clause 44 after the proposed new section 87H, the following new section be added, namely :

' 87HH. Nothing in this Act or in the articles of association of any company shall prejudice the rights of the company to remove the managing agent according to General Law '."

Sir, this is a very reasonable amendment and the Honourable the Law Member has told us today that General Law will be applicable in all cases.

Therefore, Sir, I hope the Honourable Member as he said on the other amendment will see his way to accept the amendment.

THE HONOURABLE SIR NRIPENDRA SIRCAR : Sir, as I said a few minutes ago, a company has got the right to remove managing agents under the General Law on certain grounds. Therefore, this is wholly unnecessary. If we have got to accept amendments simply because they are reasonable even when they are unnecessary, instead of 116 we shall have 516 clauses.

The amendment was negatived.

Clause 44 was added to the Bill.

Clause 45 was added to the Bill.

THE HONOURABLE THE PRESIDENT : Clause 46.

THE HONOURABLE MR. R. H. PARKER : Sir, I move :

"That sub-clause (b) of clause 46 of the Bill be omitted."

Sir, I regard this provision of the Bill as very harmful to the interests of shareholders. It will mean that there can be no secrecy as to the policy of a particular company and that in practice anyone who likes can find out all sorts of matters which ought only to be known to the executive, and that he will be able to use the information for his own benefit to the detriment of the interests of the shareholders.

Why should any individual who is not substantially interested financially in a company be in a position to obtain information for his own benefit and to the detriment of those who are substantially interested ? I foresee that we shall have formed in the bigger cities companies entitled "Unlimited information regarding companies limited" who will hold the minimum number of shares necessary to every company and supply information at a price to those who desire to obtain it.

I submit that we are considering an infringement of the proper rights of the individual.

Sir, I move.

THE HONOURABLE SIR NRIPENDRA SIRCAR : All attention which is possible, has been paid to this clause. My Honourable friend's argument comes to this. Supposing a mischievous person or a busybody, who holds one share, goes on inspecting and finds out facts, not for any *bona fide* purpose but for improper purposes. That is conceivable. But, on the other hand, where is my Honourable friend going to draw the line ? If the right is not given to the shareholder—supposing a shareholder holds 10,000 shares. Has he no substantial interest ? Why should he not inspect ? While I admit the possibility of this right being misused, on the other hand, it is impossible to draw the line between a shareholder and another shareholder. If we accept the amendment, no shareholder, whatever the amount of his holding, will be able to inspect. But, Sir, while opposing this amendment, I am prepared to say this, that if we do find that in actual practice after the Act has come into operation this right has been abused, and inspections have been taken by members for improper purposes, and such inspections have caused harassment, or have been detrimental to companies, we shall consider the

[Sir Nripendra Sircar.]

position later on. But, at the present moment, Sir, I oppose the amendment.

THE HONOURABLE MR. C. G. ARTHUR: May I speak on this, Sir?

THE HONOURABLE THE PRESIDENT: You cannot speak at this stage. You have lost your opportunity.

The amendment was negatived.

THE HONOURABLE MR. R. H. PARKER: Sir, I move:

"That in clause 46 in the proposed sub-section (4) of section 91A after the words 'Every officer of the company who' the words 'knowingly or wilfully' be inserted."

Sir, sub-section (4) of section 91A in clause 46 provides that every officer—

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, it will shorten proceedings if I inform my Honourable friend that Government have no objection to accept this amendment.

THE HONOURABLE MR. R. H. PARKER: Thank you, Sir.

The amendment was adopted.

Clause 46, as amended, was added to the Bill.

THE HONOURABLE THE PRESIDENT: Clause 47.

THE HONOURABLE SIR PHIROZE SETHNA: Sir, I beg to move:

"That in clause 47 for sub-clause (a) the following be substituted, namely:

'In sub-section (1) of section 91B after the word 'interested' the words 'and unless otherwise provided by the articles of association his presence shall not count for the purpose of forming a quorum at the time of such vote' be inserted'."

Sir, in England, there is no statutory provision like section 91B but this provision is usually made in the articles and if such provision exists in the articles as it does in the statute here, courts have held that an interested director cannot form part of a quorum. Section 91B here copies the article in English companies and therefore if the articles do not otherwise provide, an interested director cannot join in a quorum but if the articles expressly so provide, then an interested director can count for quorum. There is a difference of opinion in this matter between the Honourable the Law Member and others, and I may be permitted to quote the opinion of an eminent Counsel in Bombay, a former Advocate General, Sir J. B. Kanga. He writes:

"I am of opinion that under the existing law if the articles provide that a director interested is to be counted for the purpose of a quorum that would be a good clause for the purpose of holding that there is a quorum notwithstanding section 91B of the Companies Act—"

THE HONOURABLE SIR NRIPENDRA SIRCAR: I have not expressed a different opinion.

THE HONOURABLE SIR PHIROZE SETHNA: I stand corrected.

"Section 91B only states that an interested director shall not vote and his vote shall not be counted. It does not provide that for forming a quorum his presence should not be taken into consideration. The disability is the disability to vote and not the

disability to be present at the meeting for the purpose of a quorum. If the articles do not provide that a director notwithstanding his interest may form a quorum then under the general rule he cannot be counted for the purpose of a quorum."

I trust, Sir, my amendment will be accepted.

THE HONOURABLE SIR NRIPENDRA SIRCAR: Sir, there is no question of law involved in this. The question is, what the House is going to decide? Is it desirable that a person who is interested, who cannot vote, should form part of the quorum? Take, for instance, three directors meet. That is a quorum, consisting of three. Two of them cannot discuss the matter. They are not interested in voting. They remain like statues and the third man proposes, seconds and carries, a resolution. That is the state of things we want to prevent.

The amendment was negatived.

Clause 47 was added to the Bill.

THE HONOURABLE THE PRESIDENT: This will be a convenient time to adjourn.

The Council then adjourned for Lunch till a Quarter to Three of the Clock.

The Council re-assembled after Lunch at a Quarter to Three of the Clock, the Honourable the President in the Chair.

Clauses 48 to 54 were added to the Bill.

THE HONOURABLE THE PRESIDENT: Clause 55.

THE HONOURABLE MR. S. C. SEN: Sir, I move:

"That for clause 55 the following be substituted:

'55. In section 101 of the said Act—

(a) for sub-sections (1) and (2) the following sub-sections shall be substituted, namely:

'(1) No allotment shall be made of any share capital of a company offered to the public for subscription unless the amount stated in the prospectus as the minimum amount which in the opinion of the directors must be raised by the issue of share capital in order to provide the sums or, if any part thereof is to be defrayed in any other manner, the balance of the sum required to be provided in respect of the matters specified in sub-section (2) has been subscribed, and the sum of at least five per cent. thereof has been paid to or received in cash by the company.

(2) The matters for which provision for the raising of a minimum amount of share capital must be made by the directors are the following, namely:

- (a) the purchase price of any property purchased or to be purchased which is to be defrayed in whole or in part out of the proceeds of the issue,
- (b) any preliminary expenses payable by the company and any commission so payable to any person in consideration of his agreeing to subscribe for or of his procuring or agreeing to procure subscriptions for any shares in the company,
- (c) the repayment of any moneys borrowed by the company in respect of any of the foregoing matter, and
- (d) working capital.

[Mr. S. C. Sen.]

(2A) The amount referred to in sub-section (1) as the amount stated in the prospectus shall be reckoned exclusively of any amount payable otherwise than in cash and is in this Act referred to as 'the minimum subscription.'

(2B) All moneys received from applicants for shares shall be deposited and kept in a scheduled Bank as defined in the Reserve Bank of India Act, 1934, until returned in accordance with the provisions of sub-section (4) or until the certificate to commence business is obtained under section 103.

(2C) In the event of any contravention of the provisions of sub-section (2B) every promoter, director or other person knowingly responsible for such contravention shall be liable to a fine not exceeding five hundred rupees; and

(b) in sub-section (4) for the word 'twenty' the word 'eighty', for the word 'thirty' the word 'ninety' and for the word 'thirtieth' the word 'ninetieth' respectively shall be substituted."

If I may draw the attention of Honourable Members to clause 55 of the Bill as it now stands it will be seen that the amendment I propose is merely a drafting amendment. The opening words of this clause at present are "For sub-sections (1) and (2) of section 101 of the said Act the following sub-sections shall be substituted, namely: ". Then sub-clause (2) on page 29 says, "In sub-section (4) for the word 'twenty' the word 'eighty' and for the words 'thirty' and so on. This latter clause does not fit in with the opening words, and that is the reason why this drafting amendment is necessary. We want to change the opening words of this clause and divide the whole section into two parts.

Sir, I move.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA (United Provinces Central: Non-Muhammadan): Sir, I have an amendment to this clause and if this is adopted, then my amendment will be an amendment to this.

THE HONOURABLE MR. HOSSAIN IMAM: As this is a substitute Motion, I think the other amendments should be moved first as this is a more comprehensive Motion.

THE HONOURABLE MR. S. C. SEN: Sir, I think it would be better if you put my amendment to the vote, then you will have clause 55 in order. You can then consider the amendments.

THE HONOURABLE THE PRESIDENT: That is the proper thing.

The Question is that the amendment moved by the Honourable Mr. Sen be made.

The amendment was adopted.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: Sir, I move:

"That in clause 55 in the proposed sub-section (1) of section 101 for the words 'No allotment shall be made of any share capital of a company offered to the public for subscription' the words 'No certificate to commence business shall be granted to a company' be substituted."

My object is that money invested by shareholders when a company is being promoted should be better secured. We see every day how companies are registered and before they commence work they are brought into liquidation, and when that happens the shareholders have to pay the charges of registration and preliminary expenses and so on. So, if a company before commencing its business gets a certificate from the Registrar I think the interest of the shareholders would be better safeguarded, and therefore I move.

THE HONOURABLE MR. S. C. SEN: I oppose this amendment. I have not been quite able to follow the reasons which led my Honourable friend Mr. Mehrotra to move this Motion. Under clause 55 the promoters are debarred from proceeding to allotment of shares unless the minimum subscription as defined in the section is obtained. Now, what my Honourable friend wants evidently is that they may be at liberty to go on allotting shares although they may not be able to commence business. I do not find any utility for this. The allotment of shares is meant to enable the company to commence business, but if they cannot commence business what is the utility of allotting shares and wasting time and money on such a useless procedure.

Sir, I oppose.

The amendment was negatived.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: Sir, I beg to move:

"That in clause 55 in the proposed sub-section (1) after the word 'unless' occurring in the third line the word 'half' be inserted."

The object is the same as I stated before and as that amendment has not been accepted, if this is accepted, allotment will not commence unless half the capital of the company is secured.

I hope this amendment will be accepted by the House.

THE HONOURABLE MR. S. C. SEN: Sir, I am afraid I have again got to oppose this amendment. Under section 103 no company can commence business unless the whole of the minimum subscription has been subscribed. What is the point in proceeding to allot when half the minimum subscription is secured. The company may not get the other half; and may not commence business at all. I submit that this is absolutely useless.

The amendment was negatived.

Clause 55, as amended, was added to the Bill.

Clauses 56, 57 and 58 were added to the Bill.

THE HONOURABLE THE PRESIDENT: Clause 59.

THE HONOURABLE MR. R. H. PARKER: Sir, I move:

"That in clause 59 of the Bill the proposed section 105C be omitted."

'Sir, section 105C in clause 59 of the Bill provides that when the directors decide to increase the capital of the company by the issue of further shares they are bound to offer the shares in the first instance to existing shareholders.

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COUNCIL OF STATE.

[13TH OCT. 1936.]

[Mr. R. H. Parker.]

I would like in the first place to draw the attention of the House to the provisions of the new section 153B in clause 84 of the Bill. This clause is similar to the provision in the new English Act and recognises schemes which would not be possible in many cases if the proposed section 105C, which we are now considering, became law.

Those who have practical experience of company matters will, I feel sure, agree with me that many arrangements which have been beneficial to shareholders in the past could not have been brought about if the provisions of the proposed section 105C had been law.

The Honourable Mr. Sen yesterday did not deal with this point in his reply and he referred me to *Palmer's Company Precedents* and I agree that Palmer is a great authority on the subject; on the other hand, Palmer was drafting a section for those who wanted, not for those who did not want it; and I submit that is not an answer to the case.

I think it is most important in the interests of the shareholders that the directors should have power to issue shares to any individual or to the shareholders of another company. I also think it is in the interests of the general public who in this case do happen to be affected because many of these arrangements are with a view to economy which in due course is reflected in costs of production.

Sir, I move.

THE HONOURABLE MR. S. C. SEN: Sir, I have already indicated the views of the Government in regard to this matter and I will not proceed to repeat it today. My Honourable friend Mr. Parker has referred me to the provisions of clause 84 of the Bill and he has referred me to section 79. He says there will be an inconsistency if this clause is passed into law. Sir, I am afraid I do not agree with him there. If we look at clause 105C, this clause merely provides that where directors decide to increase the capital of the company by the issue of further shares of the company, they should do certain things. I have been referred to clause 84. That has got nothing to do with the increase of capital. Clause 84 deals with arrangements while section 105C refers to the case where a company wants to increase its capital by the issue of further shares. Then again what does this clause after all say? It says that if the existing shareholders are prepared to find the money which the company wants, they will have the first right to do so and take up the shares offered. On what principle can there be any objection to this? The existing shareholders if they are prepared to find the money, they already having the interest of the company, should be the first persons who should be allowed to do it and that is all that this section requires. If the shareholders are not forthcoming and if they do not want to put in the money which the company wants, it leaves the directors discretion to offer the shares to outsiders. I think a provision to this end and in the form in which it will be brought up in the next amendment which stands in my name is only just and proper and I oppose the amendment.

The amendment was negatived.

THE HONOURABLE MR. S. C. SEN: Sir, I move:

"That in clause 59 for the proposed section 105C, the following be substituted, namely:

'105C. Where the directors decide to increase the capital of the company by the issue of further shares such shares shall be offered to the members in proportion to the existing shares held by each member (irrespective of class) and such offer shall be made by notice specifying the number of shares to which the member is entitled, and limiting a time within which the offer if not accepted, will be deemed to be declined; and after the expiration of such time, or on receipt of an intimation from the member to whom such notice is given, that he declines to accept the shares offered, the directors may dispose of the same in such manner as they think most beneficial to the company.'

My reasons for moving this amendment are that in clause 105C as it now stands, the result of the words "of the same class held by them" is to make the allotment of a specified class of shares limited to the holders of that class of shares only. It was pointed out on the floor of the Lower House that there are cases where managing agents (and there is at least one in the United Provinces and one in Bengal), have issued shares with preferential voting rights which are held by them or their nominees. Now, it may happen that the company may issue shares of the same class as those held by the managing agents for the purpose of obtaining capital *bonâ fide*. If the clause remains as it is then it is only the managing agents and their nominees who will be entitled to get the shares. No others would be entitled to get them. That was not the view which the Government took and that is the reason why we want to make it clear by the amendment. In the suggested clause you will find that it gives the right to all the shareholders in proportion to their existing holdings to obtain shares.

Sir, I move.

THE HONOURABLE SIR PHIROZE SETHNA: Sir, I am very glad that the Honourable Mr. Sen has decided to drop the words "of the same class", which is covered by amendment No. 52. I would, however, like to ask Mr. Sen what exactly he means by saying that shares shall be offered to the members in proportion to the existing shares held by each member. Now, shares are of different descriptions. They may be ordinary shares, they may be preference shares, they may be deferred shares. I should like to know therefore whether he attaches any importance to the denomination of the shares. For example, ordinary shares may be of Rs. 10 each, preference shares may be of Rs. 100 each and deferred shares of Rs. 1,000 each. Does the Honourable Mr. Sen contemplate giving the man a right to take shares in the new capital issued in accordance with the number of shares he holds?

THE HONOURABLE MR. S. C. SEN: Sir, the intention of the section referred to by my Honourable friend is to give them in proportion to the amount contributed by them to the capital.

THE HONOURABLE MR. HOSSAIN IMAM: Is that clear from the verdict?

THE HONOURABLE MR. S. C. SEN : We should say so, Sir.

THE HONOURABLE MR. R. H. PARKER : Sir, I wish to oppose this section on grounds which I will not set out at any considerable length but

3-5 P.M.

I would like to say that Mr. Sen has still left me dissatisfied and I want to make it plain that my point was not that the company were wanting money but they were wanting to issue their shares as consideration for assets purchased. That is where you fail to allow me to carry some of the arrangements I want to carry through.

The amendment was adopted.

Clause 59, as amended, was added to the Bill.

Clause 60 was added to the Bill.

Clauses 61 to 70 were added to the Bill.

THE HONOURABLE THE PRESIDENT : Clause 71.

THE HONOURABLE MR. R. H. PARKER : Sir, I move :

"That in clause 71 of the Bill in the proposed sub-section (3) of section 132 for the words 'The profit and loss account' the words ' Unless otherwise determined by the company in general meeting the profit and loss account ' be substituted."

Sir, I have already expressed my views on another clause as to the lines on which the law should deal with the question of the contents of a Profit and Loss Account. I have already pointed out that it is frequently not in the interests of shareholders that certain information should be published, but my main point is this, Sir, that I do not think the shareholders ought to be allowed to decide that information which this section requires the Profit and Loss Account to give shall not be published.

The Honourable the Law Member this morning suggested that no one had given any details of what particular items they were thinking of in relation to this question. My party had in mind the cost of production and details of trading which might very frequently be very helpful to opponents or competitors.

There are many cases where the publication of the remuneration of a managing agent would be utterly misleading. I am thinking in particular of the payment in respect of office allowance : the sum may be a large one or a small one but very frequently it is mainly or completely expended by the managing agent in providing the accommodation, staff, etc., which under the agreement he is bound to provide.

Misleading information is apt to damage the credit of a company and thus the interests of its shareholders. It is quite possible for the prospective shareholder, the share broker or others who may be watching the affairs of a company to draw the conclusion that the managing agents are receiving such a large sum that the company cannot be regarded as sound, inadequate regard being given to the fact that a very large proportion of what appears to be the remuneration of the managing agent is in fact mere ordinary office expenses.

This is another case where I regard the Bill as infringing unduly on the liberty of the subject.

Sir, I move.

THE HONOURABLE MR. C. G. ARTHUR : The amendment is put forward in order that the shareholders may decide as to what they consider should be published with regard to the remuneration paid to managing agents and directors. If in the view of shareholders it is not in the interests of the company that this information should be made public in the Profit and Loss Account, provision should be made in the Bill for them to so decide. Without adding the words of the amendment to the section, shareholders' discretion in this matter is removed by law, and it is my view, Sir, that shareholders' rights should not be restricted in this manner.

THE HONOURABLE MR. S. C. SEN : Sir, I oppose this amendment. I do not know what justification there is for making such a violent assumption—that the shareholders would not require the information referred to although they have been crying themselves hoarse to know the remuneration paid to the managing agents. From the materials which the Government had before them, which was received subsequent to the circulation of the Bill so far as the shareholders are concerned, they were unanimous in insisting on the disclosure of the managing agents' remuneration, and I do not know, Sir, from where Mr. Parker got his information that the shareholders would not want to know what they have been fighting for all this time.

THE HONOURABLE MR. R. H. PARKER : I know one case, Sir.

THE HONOURABLE MR. S. C. SEN : Sir, I know of no case where the shareholders were so docile that they want all these informations to be left severely alone. From the materials we have got we know that they have all along asked for the disclosure of the remuneration of the managing agents and that is the reason, Sir, why in the Bill we have insisted that at least this portion of the information should be given.

Now, Sir, my Honourable friend says that the figures given under "remuneration" might be misleading. Sir, there is nothing to prevent the managing agent from saying in a note that so much was his remuneration out of which so much had to be paid for office rent and other expenses. If they want to mislead others, no one can prevent it but there is nothing in the Act to prevent them from giving the truth. But that they should not disclose their remuneration if they can cajole the shareholders into saying so is something that this House cannot accept. Sir, a similar motion was moved in the Lower House and it was thrown out without a division and I think this House will also do the same.

The amendment was negatived.

Clause 71 was added to the Bill.

Clauses 72 to 105 were added to the Bill.

THE HONOURABLE THE PRESIDENT : Clause 106.

THE HONOURABLE MR. A. G. CLOW (Industries and Labour Secretary): Sir, I move :

"That in sub-clause (b) of clause 106 for the proposed new clause (d) of section 230, the following be substituted, namely :

'(d) compensation payable under the Workmen's Compensation Act, 1923, in respect of the death or disablement of any officer or employee of the company'."

The clause as it stands recognises the right of workmen's compensation claims to priority in winding up proceedings but unfortunately owing to the wording adopted this preference is limited to claims actually payable to officers or employees, that is, to persons who are alive. It thus excludes payments to their dependants on account of the death of any officer or employee of the company. I am sure that this Council will agree that these claims are equally deserving and I trust that it will adopt the wider wording which I propose.

THE HONOURABLE MR. S. C. SEN : Sir, we realise that this is a thing which was omitted from consideration and we accept the amendment.

The amendment was adopted.

Clause 106, as amended, was added to the Bill.

Clauses 107 to 116 were added to the Bill.

THE HONOURABLE THE PRESIDENT : Clause 117.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : Sir, I beg to move :

"That for sub-clause (a) of clause 117 the following be substituted :

'(a) for sub-section (3) and the proviso thereto the following shall be substituted, namely :

'(3) Every company to which this section applies shall in every calendar year make out a balance sheet in such form, and containing such particulars and including such documents, as under the provisions of this Act it would, if it had been a company within the meaning of this Act, have been required to make out and lay before the company in general meeting and deliver for registration a copy of that balance sheet to the registrar of the province in which the company has its principal place of business ; and if any such balance sheet is not written in the English language, the company shall annex to it a certified translation thereof'."

Sir, the object of the amendment is that the shareholders should be in possession of every information and the balance sheet placed before them should not hide anything. We have already accepted just now an amendment of the Honourable Mr. Sen by which he also wants that the remuneration of the managing agents and other things should be shown in the profit and loss account. My object is practically the same that nothing should be hidden from the shareholders and they must be in a position to know the true state of affairs of the company. I hope it will be accepted by the Government.

THE HONOURABLE MR. S. C. SEN : Sir, I am afraid I have got to oppose this amendment. My reasons are these. This amendment is for the purpose of compelling all foreign companies to file a balance sheet in the form in which Indian companies would have to file them. Now, if you look at Form F, the form to be followed by Indian companies you will find that there are

many things which need not apply to foreign companies. They may not be of any use to us in India. Then, again, there may not be any shareholder of the company in India for whose benefit those disclosures might be required. It has also been pointed out by foreign companies which have large fields of business in India like the Lloyds Bank, the National City Bank of New York and the Standard Oil Company that if they have got to comply with Form F in all its details, it would mean months and months of labour and a terrible waste of money and labour with no substantial benefit to anybody. As an alternative, Sir, we have, in the draft Bill inserted Form H, to which I would draw your attention. This Form is sought to be made away with by this amendment, although all the information which should legitimately be required for any person who may come in contact with these foreign companies is provided there in Form H. No case has been made out why the foreign companies, who may not have any shareholder in India, should be compelled to file a balance sheet containing useless informations. It will not only be inconvenient but in some cases impossible for them to comply with Form F, which is designed specially for Indian companies and in the view of this Government should not be insisted upon.

Sir, I oppose the amendment.

The amendment was negatived.

Clause 117 was added to the Bill.

THE HONOURABLE THE PRESIDENT : Clause 118.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : Sir, I beg to move :

"That in clause 118 after sub-section (2) of the proposed new section 277BB the following be inserted as sub-section (3) and the subsequent sub-sections be re-numbered accordingly :

'(3) Any person acting in contravention of this section shall be liable to a fine not exceeding rupees five hundred'."

Sir, sub-section (1) of section 277BB runs :

"It shall not be lawful for any person to go from house to house offering shares of a company incorporated outside India for subscription or purchase to the public or any member of the public".

It stops there. It does not mention any penalty if the sub-section is contravened. If the matter goes to court, the court will also be in the difficult position as to what penalty to impose. If any person contravenes this sub-section inadvertently, he also will not be in a position to know what penalty he will have to pay. So, Sir, the clause is incomplete. I have suggested the same penalty that my Honourable friend Mr. Sen has proposed in clause 55. There he also proposed that every promoter, director, or other person in India responsible for such contravention shall be liable to a fine not exceeding Rs. 500. I have proposed the same penalty, and if my amendment is accepted, this clause will be complete. Otherwise, it will be incomplete and people will not know what penalty will be for contravention of this clause.

THE HONOURABLE MR. S. C. SEN : Sir, as the amendment now stands, we cannot accept it. We admit that it will be better if this section was completed by putting in a penalty clause. Government was not in favour of this clause at all, and the Select Committee omitted it. But in the Lower House, it was adopted. Sir, if my Honourable friend Mr. Mehrotra will agree to the fine being limited to "not exceeding rupees one hundred" we can accept the amendment; otherwise, we will have to oppose it.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : Sir, I accept the amendment.

THE HONOURABLE THE PRESIDENT : The Question is that the amendment moved by the Honourable Rai Bahadur Lala Mathura Prasad Mehrotra be adopted with the substitution of the word "one" for "five".

The amendment was adopted.

Clause 118, as amended, was added to the Bill.

THE HONOURABLE THE PRESIDENT : Clause 119.

THE HONOURABLE MR. R. H. PARKER : Sir, I move :

"That in clause 119 of the Bill in the proposed section 277L for the words 'accepting deposits of money on current account or otherwise' the following be substituted, namely :

'Managing, holding, selling and realising all property moveable and immoveable which may come into the possession of the company in satisfaction or part satisfaction of any of its claims'."

As I have already explained, I fear that in the form in which this now stands a banking company lending money on the security of more than 50 per cent. of the shares of a company would be in jeopardy, as the moment it found it necessary to become the holder of the shares it would be contravening the law as under other provisions of the Bill the other company would automatically become a subsidiary company of the lender.

I believe that this is not the intention of Government, but I have given very careful consideration to the wording of the proposed section 277L and I am confirmed in my view by legal opinion.

Section 277L provides that a banking company shall not form or hold shares in any subsidiary company except a subsidiary company of its own, formed for the purpose of undertaking and executing trusts, undertaking the administration of estates as executor, trustee or otherwise, and (and I emphasise the words "and" which means that the foregoing provisions are mandatory) such other purposes set forth in section 277E as are incidental to the business of accepting deposits of money on current account or otherwise. In other words a banking company could not regard as security more than 50 per cent. of the shares of any company unless that company were formed for the purpose of undertaking and executing trusts, undertaking the administration of estates as executor, trustee or otherwise.

Now, it is quite obvious that very few companies are formed for this purpose and that in practice no bank could safely advance money on the security of more than 50 per cent. of the shares of most companies. This, I submit, is an undesirable restriction on banking companies and a denial to the holders of shares in companies of ordinary banking facilities.

The reference at the end of section 277L to "such other purposes set forth in section 277E as are incidental to the acceptance of deposits of money on current account or otherwise" does not in my belief help. I have already referred to the fact that the first part of the section is mandatory and that in most cases it would mean that more than 50 per cent. of the shares of a company could not be held by a banking company and the other purposes set forth in section 277E are limited to those which are incidental to the business of accepting deposits of money on current account or otherwise.

I submit that the *ejusdem generis* rule applies and that this must mean the purposes are limited only to those set out at the beginning of section 277E, viz., the acceptance of deposits of money on current account or otherwise and not to the additional forms of business set out in sub-sections (1) to (17) of that section.

I feel convinced that no Member of the Legislature desired this to result from the proposed provision. The amendment which I move merely provides for a banking company to be able to manage, hold, sell and realise all property moveable and immoveable which may come into the possession of the banking company in satisfaction or part satisfaction of any of its claims.

Sir, I move.

THE HONOURABLE MR. S. C. SEN : Sir, if we were convinced that this section would really cause any inconvenience to any banking company the Government would have gladly reconsidered the provision. But we are not convinced that there will be in fact any inconvenience, and I must give my reasons for that to enable Honourable Members to follow me. I would draw the attention of the House to the provisions of section 277E and to the long list of things which a banking company can embark on in addition to its principal business. Under clause 7 of this list a banking company can legitimately acquire by purchase, lease, exchange, hire or otherwise any property moveable or immoveable and any rights or privileges which the company may think necessary or convenient to acquire. And I would specially draw attention to the next part of this clause which runs thus :

"Or the acquisition of which in the opinion of the company is likely to facilitate the realisation of any securities held by the company or to prevent or diminish any apprehended loss or liability".

Therefore if the company thinks that it is necessary to order to recover any loan that it should hold any shares which it holds as security, it can do so.

Now, Sir, it is said that section 277L is an exception to this right. We have considered this matter and it is in our opinion impossible to suggest that there is anything in section 277L which prevents a company in cases covered by clause 7 from acquiring and holding shares, to the extent of 50 per cent. But what is more, in my view, it is made quite clear by the last words of the section.

"such other purposes set forth in section 277E as are incidental to the business of accepting deposits of money on current account or otherwise".

In the opening part of section 277E the principal business of a bank is defined, and clauses 1 to 17 are the incidental things which a banking company can do

[Mr. S. C. Sen.]

and which it is empowered to do under the provisions of this section. The words in the last four lines of section 277L make it clear that all the purposes mentioned in the 17 clauses of 277E are covered so long as the company whose shares are held is one which carries on business covered or permitted by section 277E, clauses 1 to 17. There is no bar to a company holding those shares if by reason of necessity it is forced to do so.

There is another matter which in my view makes it also quite clear. If Honourable Members will look at the definition of a subsidiary company they will find that the term "subsidiary" is a relative term. It is only applicable *vis-a-vis* the holding company. As regards an outsider the company is not a subsidiary company. It is only treated as subsidiary to the holding company and to no other. Therefore this reference to shares of a subsidiary company do not at all present any difficulty such as my Honourable friend Mr. Parker has in view. Sir, we have considered this matter. In our view there is no real apprehension. If there was any real difficulty we would have gladly accepted suggestions which would have cleared it up. As it is, in our opinion there is none and there is nothing to clear. Therefore this amendment is opposed.

The amendment was negatived.

Clause 119 was added to the Bill.

Class 120 was added to the Bill.

THE HONOURABLE THE PRESIDENT : Clause 121.

THE HONOURABLE MR. S. C. SEN : Sir, I move :

"That in clause 121 for sub-section (2) of the proposed section 282B the following be substituted, namely :

'(2) Where a provident fund has been constituted by a company for its employees or any class of its employees, all moneys contributed to such fund (whether by the company or by the employees) or accruing by way of interest or otherwise to such fund after the commencement of the Indian Companies (Amendment) Act, 1936, shall be invested and shall be invested only in securities mentioned or referred to in clauses (a) to (e) of section 20 of the Indian Trusts Act, 1882, and all moneys belonging to such fund at the commencement of the said Act which are not so invested shall be invested in such securities by annual instalments not exceeding ten in number and not less in amount in any year than one-tenth of the whole amount of such money.'

Sir, If you look at clause 121 of the Bill and the sub-clause to section 282 as it now stands, you will find that it is limited in its operation to the investment of moneys put in any provident fund by the employees themselves. It does not refer to the contribution made by the employers or the company. Now, Sir, on the floor of the Lower House the Honourable Leader of the House there gave an undertaking that he would have an amendment moved in this House to include the investment of contributions made by the employers also and to make the provision applicable not only to the contributions made after the commencement of the Act but also from before and that he would have an amendment moved which would make it compulsory for the company

to invest their existing funds in trust securities in the course of ten years. In pursuance of that undertaking the present amendment has been tabled. The result of this amendment will be that if this amendment is accepted all contributions made by the employees and employers after the passing of this Act will have to be forthwith invested in trust securities and all the existing funds will have to be invested in such securities in the course of ten years by instalments of 10 per cent. every year.

Sir, I move.

THE HONOURABLE MR. R. H. PARKER (Bombay Chamber of Commerce) : Sir, I wish this proposal were a practical one. I feel that the result would really be that you would find many people would have to give up provident funds altogether and that you would have less money for your employees than you are getting now. The theory that the money ought to be put into Government securities is an excellent one and I am in favour of it, but I do not believe it is practicable, and the worst of the whole thing is the provision that contributions made in the past by both parties should within the next ten years be put into Government securities. It is bad enough to insist with regard to future contributions, but as to the past I am sorry I must oppose the provision.

THE HONOURABLE MR. P. N. SAPRU (United Provinces Southern : Non-Muhammadan) : Sir, the Honourable Mr. Parker has told us that it is impracticable to invest provident funds in Government securities, but he has not stated why it is impracticable to do so. He has said that one result of this amendment will be that joint stock companies will give up having provident funds, but he has not told us why they will give up provident funds if this amendment is carried. It is only right that provident funds should be invested in securities which are safer than any other securities. The interests of employees is involved and I therefore support the amendment of the Honourable Mr. Sen.

THE HONOURABLE MR. HOSSAIN IMAM : Sir, may I ask a question ? This is a condition to be imposed on the Indian companies. Are the Government prepared to show the way and follow it themselves so far as their own provident funds are concerned ?

THE HONOURABLE MR. S. C. SEN : That Question does not arise.

THE HONOURABLE THE PRESIDENT : The Question is that the amendment moved by the Honourable Mr. Sen be adopted.

The amendment was adopted.

THE HONOURABLE MR. S. C. SEN : Sir, I move :

"That in clause 121 in the proposed section 282B, sub-sections (3) and (4) shall be renumbered as sub-sections (4) and (5) and the following shall be inserted as sub-section (3) :

'(3) Notwithstanding anything to the contrary in the rules of any fund to which sub-section (2) applies or in any contract between a company and its employees, no employee shall be entitled to receive in respect of such portion of the amount to his credit in such fund as is invested in accordance with the provisions of sub-section (2) interest at a rate exceeding the rate of interest yielded by such investment.'

[Mr. S. C. Sen.]

This is a consequential amendment and I think even the Honourable Mr. Parker will admit that this is for the benefit of the company and not for the benefit of the employees. Sir, in the previous amendment it was provided that all provident funds should be invested not in Government securities alone, as some of my friends thought, but in one of the many kinds of investments mentioned in clause 20 of the Indian Trusts Act, one of them being mortgages on immovable properties. Therefore there was no point in saying that it was only to force them to invest in Government securities. The reason why the previous clause was adopted was that the Government thought that as compared to the getting of higher interest with a chance of losing the capital and the employees might like the law to have the capital safeguarded with a lesser rate of interest. As a corollary to that, the Government consider that it is only just and proper that where the provident fund rules say that the employees should be given interest at a higher rate, the company should not be made to suffer, and that the employees should get such interest as the company would earn in respect of this investment and that is the reason why this amendment is being moved. It is really for the benefit of those whom my Honourable friend Mr. Parker represents.

The amendment was adopted.

Clause 121, as amended, was added to the Bill.

Clauses 122 and 123 were added to the Bill.

THE HONOURABLE THE PRESIDENT: Clause 124.

THE HONOURABLE MR. S. C. SEN: Sir, I move:

"That in clause 124 in the proposed Form 'F' in the sub-heading 'Investments' under the heading of 'Property and Assets' before the word 'Distinguishing' the following words shall be inserted, namely:

'Showing nature of investments and mode of valuation, e.g., cost or market value and'."

Sir, this is intended to rectify an omission really, in printing Form "F", in the Bill in the first instance as the result of which certain words which appeared in the original Form "F" and which were never intended to be left out were in fact left out. There was a tragedy over this point in the other House. An amendment was moved by one of the Honourable Members there and the Government and the supporters of the amendment who were in an absolute majority all shouted "Aye" but unfortunately the President declared it otherwise and declared that the "Noes" had it. The result was that the attempt to correct the wrong failed. Sir, it is really a Motion to insert the words which have been accidentally omitted.

The amendment was adopted.

THE HONOURABLE SIR PHIROZE SETHNA: Sir, I beg to move:

"That in clause 124 in sub-clause (b) in the proposed new Form H in Note (1) (a) after the words 'loans made' the words 'to or' be inserted."

Sir, I have brought forward this amendment in the belief that these words were perhaps accidentally omitted. In form H information is required to be supplied in or in addition to the information contained in the balance-sheet of a company referred to in Part X, and what is required is shown under Liabilities and Assets. Under "Liabilities and Assets" in No. 5 is shown "Loans (a) secured, stating the nature of the Society; (b) unsecured". In Note (1) it is said:

"There shall not be required to be shown in the case of a company the ordinary business of which includes the lending of money, loans made by the company in the ordinary course of its business."

I contend, Sir, that perhaps the words "to or" were intended to go in after "loans" and accidentally left out and therefore I put forward this innocent amendment.

THE HONOURABLE MR. S. C. SEN: Sir, I regret I have to oppose this amendment. If I may draw the attention of the Honourable Members of this House to Form H, they will see that the omission is not accidental nor is the amendment as innocent as has been painted by my Honourable friend. Sir, what by Honourable friend wants to do is to add the innocent words "to or" in Note (1) but if Honourable Members of this House will read the clause after the insertion of the proposed words they will find that the result will be that the insertion of the proposed words they will find that the result will be that Items 5 and 6 at page 79 will never be disclosed. That is to say, Sir, one portion of the most material information required, namely, the liabilities to which the company is subject, will never be disclosed. If that is called an innocent accidental omission I do not know what a deliberate omission is. The amendment is neither innocent nor is the omission of the words intended to be added accidental and as I intimated to my Honourable friends we cannot allow companies under this guise to evade the effect of clause 56. That is what the effect of adding these words will be.

Sir, I oppose this amendment.

The amendment was negatived.

Clause 124, as amended, was added to the Bill.

THE HONOURABLE MR. S. C. SEN: Sir, I beg to move:

"That necessary corrections of the numbering and lettering of the sections inserted by the Bill be carried out together with consequential corrections of cross references."

Sir, this is a most formal amendment. It is necessary to order just to correct the numbering of the sections as the result of the various amendments which have been carried.

Sir, I move.

The amendment was adopted.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. S. C. SEN: Sir, I move:

"That the Bill to amend the Indian Companies Act, 1913, for certain purposes, as passed by the Legislative Assembly and as amended by this Honourable House, be passed."

[Mr. S. C. Sen.]

Sir, we have now reached the last stage in the progress of this Bill and I must express my gratitude to the Members of this Honourable House on the way in which they have taken to this Bill. Sir, this House, which is noted for the sobriety of its judgments, has lived up to its reputation and has dealt with the Bill in the most efficient manner. Sir, I do not think I need add anything beyond saying that the Bill has taken much less time here than we anticipated, although it has been criticised from all legitimate points of view.

Sir, I move.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan) : Sir, I had no idea of speaking at this stage of the Bill. But there are certain important matters which have forced me to do so. Sir, at present we find that those directors who have been convicted either under the Indian Companies Act or who have committed breach of faith, embezzlement or misfeasance, are eligible for election as directors. When I moved my amendment, the Honourable Mr. Sen, if I rightly understood him said, that he was in sympathy with it but that he wanted instead of a proviso an independent clause. Sir, this action of Government in rejecting my amendment shows that Government wants to support those directors who have committed fraud or misfeasance or have been guilty of an offence under the Companies Act. The rejection of my amendment will lead to a continuance of the mischief and fraud that has prevailed in the past. Sir, I appeal again to the Government not to be a party to fraud and patronise those directors who commit fraud.

Then, Sir, I moved another amendment to the effect that nothing in this Act or in the articles of association of any company shall prejudice the rights of the company to remove the managing agent according to General Law. The Honourable the Law Member, if I understood him rightly, himself said that General Law was applicable while he was speaking on my other amendment, but he did not like to accept this because he said that it will mean that he will have to insert a few hundred other clauses. With due deference to him, I do not understand why this modest and reasonable request was rejected. When he himself says that the General Law applies, why should he not make it quiet clear in the Act?

Sir, I will not speak about the other amendments, but as these amendments if accepted will prevent fraud, misfeasance, breaches of trust and offences under the Indian Companies Act, I hope Government will see their way to embody them in the Statute.

Sir, on the whole this new Bill is a great improvement on the existing one and I congratulate the Honourable Sir Nripendra Sircar and the Honourable Mr. Sen in bringing this Bill on to the Statute-book.

With these words, Sir, I again request Government to strongly reconsider the two amendments which I have now urged and to incorporate them in the Bill when it goes to the other House, if they cannot include them in this House at this stage.

THE HONOURABLE MR. BIJAY KUMAR BASU (Bengal : Nominated Non-Official) : Sir, I feel a sort of legitimate pride, if I may say so, on hearing

the chorus of praise and congratulations heaped on two devoted heads, (1) the Law Member and (2) my friend the Honourable Mr. Sen. My reasons for feeling the pride which I call a legitimate pride are that both come from the same province as myself—

THE HONOURABLE SIR DAVID DEVADOSS (Nominated : Indian Christians) : Birds of a feather !

THE HONOURABLE MR. BIJAY KUMAR BASU : Secondly, they were both practitioners of the Calcutta High Court, and thirdly, Sir,—last though not least, Mr. Sen belongs to the same profession to which I have the honour to belong. I already see the countenances of my Bengal colleagues beaming and I am sure they see their reflected glory on my countenance. Sir, the piloting of this Bill in the other place as well as here had been—if I may be permitted to use the expression—a marvellous achievement of Sir Nripendra Sircar (Applause) not because this is a complicated Bill which had to be worked in detail, but because there were such varied interests and sometimes conflicting interests involved which had to be focussed and brought into line to get a clear passage of the Bill in the other House. That, I call a marvellous achievement for the Law Member. He has done it with tact ; he has done it with the energy and dexterity of a very experienced parliamentarian. In the debates, as I read the proceedings of the other House, there was no heat generated although some of the matters were very controversial. There was a sort of pleasantry going on between the Opposition and the Government benches. The whole thing was so smoothly done that it is a matter in which we all could join to congratulate him on the tact and the diplomacy which Sir Nripendra Sircar showed in the passage of the Bill.

As regards the Bill itself, I must confess that I am neither a company promoter nor a share speculator nor a large investor in shares, nor have I any partnership or interest in any managing agency firm.

THE HONOURABLE MR. P. N. SAPRU (United Provinces Southern : Non-Muhammadan) : Are you a director ?

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA (United Provinces Central : Non-Muhammadan) : Are you a shareholder ?

THE HONOURABLE MR. BIJAY KUMAR BASU : A shareholder, of course. But my view will not be tainted, if I may say so, with any of these interests. My view on this Bill will be that of an orthodox lawyer and nothing else.

AN HONOURABLE MEMBER : Who is the unorthodox ?

THE HONOURABLE MR. P. N. SAPRU : Will the Bill multiply litigation ?

THE HONOURABLE MR. BIJAY KUMAR BASU : If it does, it will greatly benefit the lawyer.

THE HONOURABLE THE PRESIDENT : Please do not listen to them. You proceed.

THE HONOURABLE MR. BIJAY KUMAR BASU : It is very difficult to go on if there is interruption, and if there is interruption, I feel tempted to reply.

THE HONOURABLE THE PRESIDENT: Then it is your fault. (Laughter.)

THE HONOURABLE MR. BIJAY KUMAR BASU: The Bill was called for for a very long time and it has not come a day too soon. Portions of the Bill which go to amend the existing Act were found in various instances to be absolutely necessary and they have been incorporated in this measure and passed today. The two new features of the Bill are the provisions about the managing agency system and the provisions about the banking companies. As regards the managing agency system there was very great divergence of opinion. Some people—a very large number perhaps—wanted the managing agents to vanish altogether, while others who are managing agents or persons interested in managing agencies or persons interested in better management of companies thought that the managing agency system must remain. There was a tug of war; and as the Law Member said in the other House, he tried to strike a golden mean. I am sure the golden mean has been struck despite the observations made by my Honourable friends, Mr. Parker and Mr. Arthur. The difficulty, so far as the managing agents were concerned, that was felt by the public interested in companies—the shareholders—was they thought that the managing agents were taking too much. That was the whole crux of the problem. There was a very trite expression in 19th Century England that “in matters of commerce the fault of the Dutch was offering too little and taking too much”. That was the real difficulty with the managing agents, and I think that after this Bill has been passed into law, the managing agents will find that after all they have not been so badly treated as they apprehended when the Bill was on the anvil. It is not possible by the action of any legislature—by any law—to make dishonest men honest. It is beyond the powers of any law. If that were possible, the existence of the Indian Penal Code on the Statute-book would have prevented thieves from committing thefts or murderers from committing murders. But nothing of the kind has happened. (An Honourable Member: “There are Pleaders also!”) They do not commit murders! They only help murderers to escape! Here also, with the aid of the lawyers, however stringent the laws we make, the offenders will escape. As has been well said, “laws are like cobwebs, they catch small flies but they allow the hornets and wasps to break through”! There have been complaints about the period of tenure granted to managing agents. That has been discussed almost threadbare, and I am sure, as was pointed out both by Mr. Sen and by the Law Member during the discussion on the amendments, that no good managing agent has anything to fear as to the stringency of this law, because it is to the interest of the shareholders to retain those managing agents who have proved their worth. If they find that the managing agents are giving them good money they would not think of determining their contract, because after all self interest is the one thing one looks after better than anything else, and the self-interest of the shareholders will not allow good managing agents to go out of the business. There are cases of managing agents whom my friend Mr. Hussain Imam refers to as the black sheep. Well, they will be turned out after 20 years if they cannot be turned out earlier. You can rest assured that, whatever the machinations of managing agents, the shareholders in their own interests whenever they have the chance will turn them out. So one way or the other, the term fixed for managing agencies in

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the Bill will really serve the purpose of protecting the unwary shareholder and also bring fraudulent managing agents to justice.

Then, Sir, the other new feature introduced by this Bill into the Companies Act is the law as regards banking companies. As you will remember, it was the recommendation of the Central Banking Inquiry Committee that banking company legislation should be brought forward. It was not possible to bring that legislation separately, so in the amendment of the Companies Act here those provisions have been incorporated, and I think, as at the present moment banking companies are developing in India, this amendment will be of very great use in the future.

Sir, I join with others once more in my congratulation to my friend Mr. Sen on his having piloted this Bill in this House in such an efficient way.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: Sir, my friend Mr. Sen while moving the third reading of the Bill has commented upon the speedy way in which the House has finished it and he called us sober. We are not only thankful to him but feel elated at the compliment he has paid this evening to this House. But as he has only recently joined us he perhaps does not know the reasons why unexpected things happen, and why the Bill which he expected would take a long time has been passed in a couple of days. The constitution of the House is such that nothing can be passed in it which is not agreeable to the Treasury benches, and that has lessened the enthusiasm of many members in regard to the putting forward of amendments and pressing them to a vote.

THE HONOURABLE THE PRESIDENT: There were over 65 amendments put forward.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: But what was the result, Sir? Only those amendments which were accepted by the Government passed through. The others were either not moved or were moved and failed.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN (West Punjab Muhammadan): Why did you not call for a division?

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: I am afraid if a division had been called my friend would not have voted with us.

Now, I come to the Bill itself. I entirely agree with my friend Mr. Basu that the Bill is a compromise between the shareholders and the managing agents, and I am one of those who believe that for the industrial development of the country the managing agency system is necessary. (An Honourable Member: “You are a managing agent?”) I can assure my Honourable friend I am not. It is because we have seen the fate of many companies which have failed on account of the lack of capital, and in many cases it is due to the money of the managing agents that they were saved. But I am one of those who believe that the powers of the managing agents should be limited and a check should be imposed upon them as far as possible. An effort in this direction has been made. It may be that it has not gone far enough and it may be that other checks may require to be introduced later on, but the Bill

[Rai Bahadur Lala Mathura Prasad Mehrotra.]

is certainly an improvement on the present position and shareholders will be elated to know that they will be in a position to know the exact status of a company and what the managing agents are doing. And so the managing agents will not only think twice but many times before they do things contrary to the wishes of shareholders or to keep away things from them which they ought to know.

Sir, some very useful amendments were tabled both in the other House and in this House but the Treasury benches did not see their way to accept them. I would however request the Government, after seeing the difficulties and drawbacks of the Bill in actual working, to bring an amending Bill in due course to incorporate the useful suggestions which have at present been thrown out in both the Houses.

Sir, in conclusion, I join my friends in congratulating the Honourable the Law Member and my friend Mr. Sen for the labour they have put in and the way in which they have tried to accommodate both the view points in this Bill.

With these words, Sir, I support the Motion.

THE HONOURABLE MR. V. V. KALIKAR (Central Provinces : General): Sir, I rise to congratulate my Honourable friends, Mr. Sen and the Honourable the Law Member, but my congratulations are not formal. Really it was a marvellous achievement on their part to pilot the Bill in the other House. I do not call it a marvellous achievement to pilot it in this House, situated as we are. Whatever the Treasury benches want done they can always get done here.

Sir, I rose to speak on the third reading only with the intention of confining myself to the defeat of the amendment of my Leader the Honourable Lala Ram Saran Das. His amendment was necessary and an innocent one and it was required for the smooth working of the company. What was stated in the amendment was that directors who are convicted under the Companies Act or Ordinary morality, ordinary common sense, require that such persons should not be given charge of companies. Sir, I fail to understand the attitude of Government on this point. As I said yesterday, I am not one of those who hold extreme views on this Bill, but I certainly feel very much grieved to see that a very useful and innocent amendment has not been accepted by the Government. Sir, it has been said—and I regret to find that it has been stated by a very prominent Solicitor of Calcutta—that law was not made to make men honest or that laws do not make men honest. According to me, Sir, the intention of the framers of the law is to make them honest. If the men do not turn honest, that is not their fault. The intention was there that the men who are to be governed by the law should be honest. I submit, Sir, that if this particular amendment had been accepted by the Government they would have made the working of the company more smooth and that would have been in the interests of the investing public. I, however, congratulate the framers of the Bill in meeting half-way the wishes of the public and I hope that in the future working of this Bill they will come to know the difficulties and they will again make an attempt to improve the Bill as necessity arises.

THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa : Muhammadan): Mr. President, the Bill is about to be passed. We have received the congratulations of the Honourable Mr. Sen, but the world knows in what sense those congratulations are taken. They cannot blind us to the realities. My Honourable colleague, Mr. Basu, pointed out that the business of the lawyers is to protect the public, but I am sure that in this Bill there are a sufficient number of loopholes. The hurried way in which this Bill has been placed before us will enable the lawyers to find a veritable paradise in this measure. The Bill has been brought before this Council at the tail end of the session. The number of amendments which had been made in this measure during the Select Committee stage and during its passage in the Assembly have made some of its provisions anomalous. The Honourable Mr. Sen tried to explain that though regulation 56 and clause 34 of the present Bill do not tally, one over-rides the other. If it is going to be so, then it was necessary that only a part of that section should have been adopted, for in regulation 56 the main thing is only the taking of votes and that has been overridden by clause 36. Again, in another section, section 44, 87C (3), I asked about the excise duty. What has happened to that? Now, the Honourable the Law Member was insisting that there should be honesty in the managing agency commission business, whatever they charge. May I ask him whether it is honest profit or dishonest profit that is charged? There is an enormous amount of excise duty to be paid out of profits. It is right that 50 per cent. of the profits which are paid to the Government should be the basis of managing agency commission?

THE HONOURABLE THE PRESIDENT: I do not think you have read that section correctly. It includes in my opinion any duty that is paid.

THE HONOURABLE MR. HOSSAIN IMAM: I have taken the advice of the Legislative Department. A responsible officer of the Legislative Department told me that it is not correct.

THE HONOURABLE THE PRESIDENT: The words "revenue duty" are there.

THE HONOURABLE MR. HOSSAIN IMAM: It is the result of hurriedly passing this measure.

Now, Sir, some of my Honourable friends are genuinely under the impression that the Government are trying to improve the managing agency system of the companies. They need not be under any misapprehension. The old companies have been given a lease of life for 20 years and the companies which will be formed in future have also been exempted from all the trammels that have been imposed by the proviso put at the end of section 87D. The managing agents who are there before the issue of prospectuses will not be liable to any of the rules and regulations which have been passed by us. Sir, it may be thought that I am making a sweeping assertion, but the High Courts will give you rulings whether it is a fact or not. The Government have realised and have admitted that there are black sheep among the managing agents; otherwise there was no necessity of bringing in this Act to checkmate the managing

[Mr. Hossain Imam.]

agency system. If it were a good thing, as the Honourable Mr. Parker and his Group have been advocating, there was no necessity of a Bill of this nature, but the Government have not tried to differentiate between the good and the bad managing agents. Either they believe that they are all so bad that they do not want to separate the evil ones because they will only have a few good ones left and therefore they do not wish to put their hands into this matter; or, Sir, they are under the impression that the managing agency system is so strongly entrenched and its influence is so wide that no interests can stand against it. Sir, the managing agency system is supported by the Government of India because it has a strong resemblance to the structure of its own machinery. The managing agent is in the position of the Secretary of State. The directors are in the position of the Government of India, while the shareholders have been relegated to the position of a Second Chamber, who have rights but no power of enforcing them. In the same manner, the shareholders must be told to do this and not to touch that. The managing agents can rest assured that they have not only been saved but they have been given a free period of 20 years during which they need not worry. It is possible, Sir, that, if this Act had been passed at a later stage when we had a more responsible form of government, more drastic measures may have been brought. But now, the belief that Government have already done something will act as an opiate and put to sleep all the watch dogs that were out. The Bill, Sir, has given certain powers but it is lacking in thoroughness, and, as I said, the draft measure was much better than the Bill as it has come to us.

THE HONOURABLE MR. P. N. SAPRU: Sir, we have now reached, as the Honourable Mr. Sen said, the last stage of our discussion and our congratulations are due to the Honourable Mr. Sen on the very able manner in which he has piloted the Bill through this House. Sir, Mr. Sen has shown himself to be, if I may say so, a very skilful parliamentarian.

Sir, the Bill, as I said in my speech at the consideration stage, represents a vast improvement over the present Companies Act. Sir, I am not going into questions which we discussed at the consideration stage. The Bill goes back from this House substantially in the same form in which it came to this House. There were a number of amendments moved by us. A few of them were accepted by the Honourable Mr. Sen but I was sorry, Sir, about one amendment which was not accepted by the Honourable Mr. Sen. That amendment, Sir, was moved by my leader, the Honourable Lala Ram Saran Das, and was not accepted by the Law Member. (*An Honourable Member*: "By Mr. Sen.") Mr. Sen and the Law Member have the same voice. The amendment, Sir, which I have in mind was about directors. The Honourable Lala Ram Saran Das suggested that no person who had been convicted in a court of law of any offence, or who had committed any misfeasance or fraud, should be eligible as a director. I think, Sir, there could be no objection, as indeed the Law Member himself recognised, to an amendment of this character and it is rather regrettable that the Benches opposite did not accept this amendment which was moved by the Honourable Rai Bahadur Lala Ram Saran Das. In the interests of purity of administration of companies, this amendment was

necessary. Then, Sir, we were sorry also that another amendment of our Leader was not accepted and that was in regard to the managing agency.

"Nothing in this Act or in the articles or association of any company shall prejudice the rights of the company to remove the managing agent according to general law."

That was the amendment moved by the Honourable Lala Ram Saran Das, and the argument advanced by the Honourable the Law Member was that it was unnecessary. Well, Sir, nothing would have been lost if this amendment had been accepted. It would have made the legal position clear. I do not know, Sir, that the legal position is as clear as the Honourable the Law Member tried to make it out to be. At any rate, Sir, the amendment of the Honourable the Leader of the Opposition would have made the legal position absolutely clear.

Then, Sir, coming to my own amendments, I am thankful to Mr. Sen for having accepted one of them. But I was rather sorry that he was not prepared to accept certain amendments which I moved in regard to the conduct of meetings. Sir, experience shows that sometimes obstructive tactics are employed in order to prolong the deliberations at meetings and experience also shows that chairmen at these meetings are not always impartial. They are sometimes weak in dealing with obstructive shareholders and therefore, Sir, the general effect of my amendments would have been to place certain restrictions upon the conduct of these meetings, restrictions which would have been in the interests of shareholders, restrictions which would have increased the power of shareholders. Sir, there have been amendments which have to some extent also improved the Bill and I must refer to the amendment of Mr. Sen in regard to the provident fund and to the amendment of the Honourable Mr. Clow in regard to the Workmens Compensation Act. Sir, the Bill, as I said, goes back to the Lower House substantially in the form in which it came to us. It represents an improvement on the Companies Law.

There is just one remark I would like to make before I close, and that is that I would like it to be put into force as early as possible. Sir, many companies are being floated in order to evade the rather stringent provisions of the new Bill and therefore, Sir, there should not be much delay in enforcing this Bill. Sir, the Bill should be enforced as early as possible. I hope, Sir, that the Honourable Mr. Sen and the Honourable the Law Member will try and see that the Bill is put into force at as early a date as possible. As soon as His Excellency's assent has been obtained, it should be put into force. There should be no delay as suggested by the Honourable Sir Phiroze Sethna. Sir, these are all the observations I wished to make and I would like again to congratulate the Honourable Mr. Sen and the Honourable the Law Member to the excellent work that they have done. It is a great piece of constructive legislation in which we have been engaged and though our contribution has been rather small, yet we feel some pride in having had a share in this legislation which is a thoroughly good piece of legislation.

Sir, these are all the remarks which I have to make at this stage.

THE HONOURABLE MR. R. H. PARKER (Bombay Chamber of Commerce): Sir, I feel myself that we should, from my point of view, have had a better Bill

[Mr. R. H. Parker.]

if I had been allowed to choose the amendments which the Government were going to accept instead of the Honourable Mr. Sen. Nevertheless, I have to admit that he has helped a lot.

Yesterday, the Honourable Sir David Devadoss referred to an unfortunate experience of his, or of his friends, where the directors refused to pay any dividend despite the fact they were making profits and he suggested that the cure for that was that they should be forced to pay dividends whenever they made profits. I would like him and others to remember that that would be very dangerous. There are times when they make a profit but it is not necessarily in the form of cash. They may have liabilities to meet. It might force them to borrow money or to try to borrow money and that might do the company a lot of harm. The real answer to this question is, I think, that you must invest only in companies whose directors are really working in the interests of the share holders. That is the only safe way.

My Honourable friend Mr. Sapru wanted the Bill to become law soon. I think there is a very great practical difficulty. The result of this Bill must mean that a great number of companies will have to have their articles of association completely overhauled and a great deal of work will have to be done in this connection. I do not think you can expect them to do this in the very near future. I would remind Honourable Members that the 1913 Act was passed in March, 1912, and it came into effect only on the 1st of April, 1913.

There is one other important point which I mentioned in my speech on consideration and I am sorry that no Member from the Government benches has referred to it. I feel myself that it is quite possible that Government would have taken a somewhat different view on some of the amendments which were put forward had there not been the risk to which I referred yesterday that this Bill might in the result lapse. I hope Government will seriously consider this and take great care that we do not find ourselves in this position again.

THE HONOURABLE KHAN BAHADUR DR. SIR NASARVANJI CHOKSY (Bombay: Nominated Non-Official): Sir, I associate myself with the Honourable Members who have congratulated the Honourable the Law Member and Mr. Sen on the ability and thoroughness with which they have piloted this Bill through both the Houses. Sir, the sole origin of industrialisation in Western India and Bombay has been due to the system of managing agents. It was the managing agents who were the pioneers and promoters of the mill industry over 70 years ago in the Bombay Presidency. It must be admitted that all managing agents are not exactly alike. As my Honourable friend Mr. Hossain Imam said, there may have been black sheep. Probably there are. But that is no reason why we should condemn the whole system. They have been of great usefulness in the promotion of industrialisation in this country. In former times, when the system was first introduced in Bombay, managing agents used to derive commission on the basis of production. Whether they sold their products at loss or at profit, they were entitled to their commission on the production of cotton mills at the rate of half an anna per pound. It was Mr. Jamshedji Tata who originated the present system of commission of 10 per cent. on profits. That has resulted in considerable changes in the organisation and methods

of administration of these mills. But, Sir, there is another side to the question. The managing agents undertake very great responsibilities, and time after time, year after year, they have to stake their personal security and property in order to borrow money from the banks to keep their mills going. Not only that. If one were to scan the annual reports of most of the mills in Bombay it will be found that there has been so much recurring loss that the managing agents gave up the entire or a good proportion of their commission. If all this were to be summed up it would amount to crores of rupees—a fact that must stagger most of the speakers who have condemned the system. It may be that in several instances they have not been honest, but they have had to pay the penalty of their dishonesty. That has led to the salutary provisions made in the Bill for safeguarding the provident funds for the benefit of employees. There occurred an instance some time back wherein Rs. 14 lakhs of the provident fund was misused or misapplied. And thus the provision that has been made for the security of the employees is indeed in the right and proper direction.

Sir, if my Honourable friend Mr. Hossain Imam wishes to radically change the whole system of industrial expansion, let him visit Japan. There he will see how the Japanese mills are conducted. He will be surprised to know that there is no managing agency there, but there are managing directors. Each director is a specialist of repute and is attached to a particular branch which he looks after in a vast organisation. He is a highly paid officer with great responsibilities.

THE HONOURABLE MR. HOSSAIN IMAM: Adopt it.

THE HONOURABLE KHAN BAHADUR DR. SIR NASARVANJI CHOKSY: Such are the bases upon which the Japanese mill industry has been built up apart from the economy through the employment of female labour and other concomitants. On the whole, Sir, this Bill is a distinct advance upon the existing Act. It may not be flawless, for no Bill can be perfect. But I do believe that after a few years if its working we shall be able to find out the lacunae and loopholes and perhaps my Honourable friend Mr. Hossain Imam will be filling those up with his usual acumen.

Sir, I have great pleasure in supporting the passage of this Bill.

THE HONOURABLE MR. S. C. SEN: Sir, I only wish to refer to some of the remarks which have been made by the Honourable the Leader of the Opposition. I wish it were possible on this side of the House to accommodate my friends opposite in a greater way than we have been able to do. But where we have not been able to do so I can assure the House that it is not with a sense of obstruction but in view of the fact that we are not convinced that it is necessary to incorporate those amendments in the Bill. Sir, I can assure my Honourable friends opposite that if, as a result of the working of this Bill, it is found that there are defects such as my Honourable friends tried to bring to our notice, the Government will undoubtedly take notice of the suggestions if and when an amending Act is taken in hand.

THE HONOURABLE MR. HOSSAIN IMAM: And referred to a Joint Select Committee, Sir.

THE HONOURABLE THE PRESIDENT: Honourable Members, before I put this final Motion to the vote of the House, I feel I would be failing in my duty if I did not associate myself with you all in the tribute of praise which you have given to Sir Nripendra Sircar and to Mr. Sen. When I first came to know that this important and complex Bill was entrusted to the Honourable Sir Nripendra Sircar I came to the conclusion that it was the right thing done by the Government of India. We all know the forensic reputation of Sir Nripendra Sircar and by steering this most difficult and complex measure through both the Houses, Sir Nripendra Sircar has added to his many laurels and to his reputation for profound legal knowledge. (Applause.) I must also congratulate Mr. Sen on this occasion. (Applause.) The whole brunt of this work, as every one knows, has fallen on Mr. Sen. For months previous to the Bill being placed before the Council, he did most difficult spade work. In fact, we can give him the compliment of having framed this Bill and put it in proper shape. Not only has he done this, but especially in this House he has piloted the Bill with remarkable skill and knowledge of law. He has convinced many of us here that he is not only a rising parliamentarian but a great and skilful debater. I compliment him again on his knowledge of the company law and the successful manner in which he has piloted a most difficult Bill through the House. (Applause.)

The Question is:

"That the Bill further to amend the Indian Companies Act, 1913, for certain purposes, as passed by the Legislative Assembly and as amended by this House, be passed."

The Motion was adopted.

BILL PASSED BY THE LEGISLATIVE ASSEMBLY LAID ON THE TABLE.

SECRETARY OF THE COUNCIL: Sir, in pursuance of rule 25 of the Indian Legislative Rules, I lay on the table copies of the Bill further to amend the Code of Civil Procedure, 1908, for certain purposes (Amendment of section 51, etc.), which was passed by the Legislative Assembly at its meeting held on the 13th October, 1936.

THE HONOURABLE MR. HOSSAIN IMAM: Sir, is it lawful to lay a Bill on the table of the House on the same day on which it is passed in the other House? Under the Standing Order I think it is not permitted.

THE HONOURABLE THE PRESIDENT: The Standing Order may be waived and the practice has been followed in this House. I only want to save the time and suit the convenience of Honourable Members.

STATEMENT OF BUSINESS.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Leader of the House): Sir, I wish to make a statement as regards the business which has yet to be transacted by Honourable Members. They are all very anxious, I know to finish the business as soon as possible. There is nothing which can be

placed before them tomorrow, so the House will meet now on Thursday, and the business that will be for consideration is, first, the Bill to amend the Indian Tea Cess Act, 1903, which was laid on the table of the House yesterday. Then there are, Sir, eight Bills which have been laid on the table this morning, and they can be discussed if you, Sir, are pleased to give a direction that the usual period of notice is curtailed. I think it is the general wish of Honourable Members that such a procedure should be adopted in the special circumstances in which we have been placed. Therefore the business will be the discussion of these nine Bills, one of which was laid on the table yesterday and eight were laid on the table today.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: I think every one of us is anxious to go away and therefore we will not raise any objection to the period of notice being suspended.

THE HONOURABLE THE PRESIDENT: There is no question of objection. The matter rests in my discretion.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: You generally take our wishes into account, Sir.

THE HONOURABLE THE PRESIDENT: As suggested by the Honourable Leader of the House, I agree to take all these Bills for discussion on the 15th October, the day after tomorrow, especially as all Honourable Members are very anxious to go away. I may however point out that, as far as amendments are concerned, I will give every possible latitude and will receive them till 10 o'clock on the morning of the 15th instant, provided two copies are made of every amendment, one copy being supplied to the Secretary and one sent to me direct.

The Council then adjourned till Eleven of the Clock on Thursday, the 15th October, 1936.

COUNCIL OF STATE.

Thursday, 15th October, 1936.

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

SHORT NOTICE QUESTION AND ANSWER.

RECOMMENDATIONS OF THE WHEELER COMMITTEE.

180. THE HONOURABLE MR. MAHMOOD SUHRAWARDY: Will the Government of India be pleased to state with reference to my question No. 177 and my supplementary question thereto on the subject of the number of Indian Civil Service officers employed in the Government of India Secretariat, asked on the 17th April, 1936, whether they have now considered the recommendations of the Wheeler Committee Report? If so, when do they propose to give effect to the recommendations embodied therein?

THE HONOURABLE MR. R. M. MAXWELL: The recommendations of the Wheeler Committee are still under consideration.

INDIAN TEA CESS (AMENDMENT) BILL.

THE HONOURABLE MR. H. DOW (Commerce Secretary): Sir, I move:

"That the Bill further to amend the Indian Tea Cess Act, 1903, for certain purposes, as passed by the Legislative Assembly, be taken into consideration."

Sir, the Bill before us makes four simple changes. In the first instance, the name "Tea Cess Committee" is to be altered to the "Indian Tea Market Expansion Board." That gives a better indication of the real purpose of the Committee and will convey to the public the object on which the cess is being spent. Last year the Tea Cess Act was amended in order to make it possible to levy a maximum of 12 annas per 100 lbs. of tea exported. At the time that Bill was under consideration there was a certain amount of criticism to the effect that the Bill needed many other changes, and that an early opportunity should be taken to introduce those, and to a very large extent this Bill represents the attempt of Government to implement the assurances which were then given. The point to which perhaps most attention has been given in public discussion of the Bill is the liberalisation of the constitution of the Committee. The old Committee consisted of 20 members of whom actually there were three Indians. Of these three only one of whom was necessarily an Indian, because appointed by Indian growers, but other interests on the Committee themselves nominated two other Indians, so that there were usually three. If we take the basis on which the cess is

[Mr. H. Dow.]

contributed into consideration, Indian representation, on a cess-paying basis, would be about four out of a Committee of 25. In the Bill as it has come before us the total number of the Committee has been raised to 27 of whom there will be eight Indian members, and it has been further provided that on the Executive Committee of the Tea Market Expansion Board there shall be at least three Indians. I think the whole House will agree that that is a very liberal representation.

The next main feature of the Bill is the raising of the maximum of the cess from 12 annas to Rs. 1-8-0 per 100 lbs. of tea exported. If Honourable Members will cast their minds back to 1932 when the tea industry was in a very bad way indeed owing to low prices, they will remember that three main methods have been applied to remedy matters. The first was by restriction of the exportable allotment: that was done by another Act with which we shall be dealing today. In the second place there has been an effort on the part of the tea industry itself to improve matters by working a voluntary scheme of restriction of production. The third method—and the method which I think is least open to exception on any grounds—is that of propaganda to increase the consumption of tea, and the Tea Cess Committee have for the last few years been conducting a campaign in many countries. They foresee power to raise the maximum amount of the cess to Rs. 1-8-0. I should say that this proposal has the support of over 95 per cent. of the industry, including the vast majority both of European growers and of Indian growers.

The only other proposal of any importance is in clause 6 where the Committee are enabled to borrow up to the extent of Rs. 5 lakhs for a period of not more than six months. The reason for this is a very simple one. The income from the tea cess comes in seasonally, and the expenditure is a thing which goes on more or less throughout the whole year. It is therefore proposed to allow the Committee, on the security of the tea cess itself, to borrow the amount of Rs. 5 lakhs by way of temporary accommodation. I do not think there is any other point of importance on which I need detain the House.

Sir, I move.

THE HONOURABLE MR. C. G. ARTHUR (Bengal Chamber of Commerce): Sir, I shall not take up the time of the House with any historical or descriptive observations. I shall content myself with furnishing a few facts on the basis of which I hope the House will accept, without hesitation, the Bill which is now before us.

Tea cess is not a tax imposed by Government on the tea industry; it is a voluntary levy which Government collects through the Customs Department on exported tea.

The funds thus raised are used for promoting the sale and increasing the consumption of Indian tea both in India and in other countries. This obligation is embodied in the existing Act, section 5 (2), and is made more explicit by section 6 (a) of the present Bill.

This Bill embodies the wishes of 95 per cent. of the tea industry as the Honourable Mr. Dow said. The remaining minority, whose actual replies I have in my hand, expressed no disagreement with the objects of the levy; the only criticism made by a small section of Indian producers was that they did not consider that the time had come to raise the rate of cess above one rupee.

This Bill, when passed, will not automatically bring about an increase in the rate of tea cess. A referendum will be issued to all producers before any recommendation is made to the Governor General in terms of section 3, and such recommendation will only be accepted if it is supported by an overwhelming majority.

In June, 1935, an unofficial body, called the International Tea Market Expansion Board, was brought into being in London by the Agreement of the Indian Tea Cess Committee, the Ceylon Tea Propaganda Board and the Amsterdam Tea Association, for the purpose of co-ordinating and supervising propaganda campaigns in all countries other than the countries of production. This Board acts as the Agent of the Indian Tea Cess Committee and the other two parent bodies; it is composed of nine members, three representing each parent body. This Board has no power to spend the Tea Cess Fund unless the Indian Tea Cess Committee—or, as it will henceforth be known, the Indian Tea Market Expansion Board—gives it such authority. All schemes and estimates for campaigns throughout the world will be submitted to the new Board, which this Bill proposes to constitute in Calcutta; and to the extent to which they sanction the proposals it will be necessary to raise cess in 1937. The present estimates are that if all the campaign programmes drawn up for 1937 find favour with the new Board some Rs. 38 lakhs will be required for 1937 from India; to raise this amount it will be necessary to increase the rate of tea cess from its present level of 12 annas to Rs. 1-4-0 per 100 lbs. of exported tea.

Two of the biggest campaigns, namely, the United States of America, and the campaign in India, are definitely expanding schemes, and if the encouraging results which 1936 is giving are continued it will be necessary, in due course, to raise still higher the actual rate at which tea cess will be recovered. Therefore it was deemed expedient to provide a reasonable margin in this Bill so as to obviate the necessity of approaching the Legislature again after so short a period and at a time when it is bound to be fully occupied with other business. It has taken two years to get this Bill, in its complete shape, up to its present stage. In April, 1935 an emergency measure was passed merely raising the rate of cess to 12 annas, so as to give the industry the finance it needed while the present Bill was being prepared.

The composition of the Board and of the Executive Committee contained in section 4 of this Bill was arrived at by agreement in the Lower House amongst all parties, and such a decision may reasonably hope to receive, in this House, a similarly unanimous acceptance.

Honourable Members are doubtless aware that the Bill was sponsored in the Assembly by that distinguished retired Indian Civil Servant, Mr. J. A. Milligan, and I have little doubt that it was due to his expert exposition of the terms of the Bill that the Assembly passed it as an agreed

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[Mr. C. G. Arthur.]

measure without a division. Sir, those engaged in the tea industry, Indian and European alike, have abundant faith in Mr. Milligan, and it is fortunate for them that they should have so able an ambassador to induce the world to drink more tea, and I feel sure the good wishes of Honourable Members go with Mr. Milligan when he starts out next week for America to continue his propaganda on behalf of this most important Indian industry.

Sir, I support the Motion.

The Motion was adopted.

Clause 2 was added to the Bill.

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

Clauses 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. H. DOW : Sir, I move :

"That the Bill, as passed by the Legislative Assembly, be passed."

The Motion was adopted.

GENEVA CONVENTION IMPLEMENTING BILL.

THE HONOURABLE MR. J. BARTLEY (Government of India : Nominated Official) : Sir, I move :

"That the Bill to implement Article 28 of the Geneva Convention of the 27th day of July, 1929, as passed by the Legislative Assembly, be taken into consideration."

A Convention held in Geneva in 1906 and dealing with the activities of the Red Cross Society contained a stipulation that the signatories to the Convention would take steps to prohibit or limit the use of the emblem of a red cross on a white ground to the Red Cross Society itself. That object was achieved by the passing of the English statute—the Geneva Convention Act, 1911, which applied to India. In 1929 a further Convention, which is referred to in the Preamble to the Bill which is before the House, was concluded at Geneva dealing with the amelioration of the condition of the wounded and sick in armies in the field. Article 28 of that Convention imposed upon the signatories to that Convention the obligation to adopt or propose to their legislatures the measures necessary to prevent at all times the use of the emblem or designation of the Red Cross or Geneva Cross and imitations thereof; and secondly, by reason of the compliment paid to Switzerland by the adoption of the inverted federal colours, that is to say, the red cross on a white ground, the signatories were bound to prohibit the use by private individuals or associations, firms or companies, of the arms of the Swiss Confederation, or marks constituting an imitation, whether as trade marks or as parts of such marks, and the use of the white cross on a red ground which are the Swiss federal colours. It was further stipulated that this was to be done within five years after the Convention came into force. The Convention

came into force, I think, on the 23rd day of December, 1931, so that we are bound to implement that pledge before the 23rd day of December of this year. It was conceived, I think, that this would actually be done by legislation in the Home Parliament. The Home Parliament, however, has not yet passed the necessary legislation and it falls to us to implement the pledge. It is competent for the Indian Legislature to do what is required, and the present Bill contains provisions which supplement the Geneva Convention Act of 1911 in one small respect,—that is to say, the present Bill contains a prohibition of the use of any imitation of the red cross,—and further provides for the prohibition of the use of the white cross or imitations thereof. The statement of objects and reasons in the Bill indicates one matter to which I should like to draw the attention of the House. It states that the use for commercial or any other purposes whatsoever of the white cross is prohibited. That is a slight exaggeration of the actual terms of the Convention. Honourable Members will find that in clause 3 of the Bill, words have been omitted by an amendment carried in the Lower House and the clause now merely prohibits the use, for the purpose of trade or business, of the emblem of the red cross.

There are two safeguards in the Bill against the danger of any undue hardship. The first is the provision contained in clause 5 which requires that before any prosecution can be launched under the Act, the previous sanction of the Governor General in Council or the Local Government should be obtained. The second safeguard is contained in clause 6, which was introduced into the Bill in the Lower House by an amendment. That clause provides that where a sign or emblem the use of which is prohibited under the Bill has been lawfully used by any person at the time when the Act comes into force, the Act shall not operate to penalise any one who continues such use until a period of two years has expired. This will give any persons who may at present be using these symbols which are now prohibited an opportunity within two years of taking steps to replace them.

Sir, I move.

The Motion was adopted.

Clauses 2 to 6 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. J. BARTLEY : Sir, I move :

"That the Bill, as passed by the Legislative Assembly, be passed."

The Motion was adopted.

INDIAN RUBBER CONTROL (AMENDMENT) BILL.

THE HONOURABLE MR. H. DOW (Commerce Secretary) : Sir, I move :

"That the Bill to amend the Indian Rubber Control Act, 1934, for certain purposes, as passed by the Legislative Assembly, be taken into consideration."

[Mr. H. Dow.]

Sir, the Indian Rubber Control Act was passed in September, 1934, but it has not yet been found possible to bring that Act into operation owing to the fact that it was necessary to frame detailed rules and bye-laws under the Act. This has entailed a good deal of correspondence with the Indian Rubber Licensing Committee and with the Burma Government, and, through them, with the Burma Licensing Committee. These rules and bye-laws are now ready and it was intended to bring them into operation at once. We found ourselves, however, up against a legal difficulty. Under section 13 of the Indian Rubber Control Act, the export allotment can only be made annually, that is to say, the whole allotment for the year has to be notified at once. In actual practice, the International Rubber Regulation Committee have found it convenient to declare these allotments sometimes for two months at a time, sometimes for three months and occasionally for six months. It is therefore proposed to amend section 13 of this Act in order to make it possible for the Indian allotment to be declared for part of a year at a time, following the declarations made by the International Rubber Regulation Committee.

The only other small change is in the definition of "rubber" and consequential amendments to other definitions arising from it. That again is to bring the Indian practice in line with that adopted by the International Rubber Regulation Committee.

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. H. DOW: Sir, I move:

"That the Bill, as passed by the Legislative Assembly, be passed."

The Motion was adopted.

BANGALORE MARRIAGE VALIDATION BILL.

THE HONOURABLE MR. J. BARTLEY (Government of India: Nominated Official): Sir, I move:

"That the Bill to validate certain marriages solemnized in the Civil and Military Station of Bangalore, as passed by the Legislative Assembly, be taken into consideration."

It is unnecessary for me, Sir, to say very much in making this Motion because the facts are stated in the preamble to the Bill which is before the Honourable Members. In a genuine misapprehension this gentleman, Mr. Walter James McDonald Redwood, solemnized certain marriages which he was not specifically authorised to solemnize. There are three licences granted to persons for the solemnization of marriages under the Indian Christian Marriage Act of 1872. One only was issued to this gentleman and he was of opinion that for the marriages it was likely he would be called upon to solemnize this one licence would

suffice. Without realising that he was not licensed to solemnize marriages of the nature referred to in the first paragraph of the preamble, he solemnized certain marriages in the year 1929. This Bill is intended to validate his action.

Sir, I move.

THE HONOURABLE SIR DAVID DEVADOSS (Nominated: Indian Christians): Sir, I have much pleasure in supporting this Bill. When a licence is granted to a minister for solemnization of marriages he does not very often look into it to see how far his jurisdiction extends. But the point is not that. The point is, when a bride and bridegroom stand before a minister they do not ask the minister to show them the licence under which he is empowered to solemnize marriages; and therefore when a minister, *bona fide* thinking he has power to solemnize marriages, does solemnize marriages, the people who are married by him should not suffer nor their progeny. Therefore this Bill seeks to remedy a hardship which was caused not intentionally by anybody but unintentionally. Then, as regards the minister himself, anybody who knows Bangalore would know that there are a number of British subjects living in the Cantonment Station, and when they see a minister solemnizing marriages between two people who are subjects of Mysore might very well think he could solemnize their marriages also. And that is how it was done, not with any intention of evading the law or as a fraud. This minister *bona fide* thought he could solemnize marriages of people of British domicile and not of Mysore domicile alone.

With these words, Sir, I have much pleasure in supporting this Bill.

~~The Motion was adopted.~~

Clauses 2 and 3 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. J. BARTLEY: Sir, I move:

"That the Bill, as passed by the Legislative Assembly, be passed."

The Motion was adopted.

INDIAN TEA CONTROL (AMENDMENT) BILL.

THE HONOURABLE MR. H. DOW (Commerce Secretary): Sir, I move:

"That the Bill to amend the Indian Tea Control Act, 1933, for certain purposes, as passed by the Legislative Assembly, be taken into consideration."

The scheme of control which was introduced by the Act of 1933 will terminate on the 31st March, 1938. The separation of Burma will take effect from the 1st April, 1937. This Bill is entirely consequent on the separation of Burma and is designed to give effect to the existing scheme of tea control in Burma during the year from the 1st April, 1937 to the end of March, 1938.

[Mr. H. Dow.]

It provides for the setting up of a separate licensing authority in Burma and for the declaration of a separate overseas allotment. That is the sole purpose of this Bill.

Sir, I move.

The Motion was adopted.

Clauses 2 to 10 were added to the Bill.

Clauses 11 to 17 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. H. DOW: Sir, I move:

"That the Bill, as passed by the Legislative Assembly, be passed."

The Motion was adopted.

RED CROSS SOCIETY (ALLOCATION OF PROPERTY) BILL.

THE HONOURABLE MR. J. BARTLEY (Government of India: Nominated Official): Sir, I move:

"That the Bill to provide out of the property of the Indian Red Cross Society a Fund to be administered in Burma by a Burma Red Cross Society, and to terminate in Burma the existing functions of the Indian Red Cross Society, as passed by the Legislative Assembly, be taken into consideration."

After the Great War the balance of the sums subscribed by the public for humanitarian purposes and unexpended at the cessation of hostilities was vested in the Indian Red Cross Society by the Act of that name, the Indian Red Cross Society Act, 1920. A branch of this Society known as the Indian Red Cross Society, Burma Branch Committee, discharged the functions of the Society in Burma. Those functions are well known to all the Honourable Members. With the approaching severance of Burma from British India it is proposed that Burma will have its own Red Cross Society. The share contributed by the people of Burma to these funds which were vested in the Indian Red Cross Society was 7 per cent. of the whole. That is the amount which it is now proposed to make over to the Burma Red Cross Society. The amount originally was Rs. 62,41,000, which Honourable Members will find set forth in the statement of objects and reasons. It was subsequently ascertained that by appreciation of investments and so on the sum had increased and whereas calculating on the figure contained in the statement of objects and reasons the Burma Society should receive Rs. 4,37,000, it was subsequently found that Burma was really entitled to Rs. 5,24,800, and this sum will accordingly be transferred. The funds are not Government money; they are the property of the Society. The parent body and the Burma Branch are agreed that this is just and equitable. The settlement has of course no

RED CROSS SOCIETY (ALLOCATION OF PROPERTY) BILL.

relation to the financial readjustment that is being arrived at between Burma and India as regards official moneys.

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. BARTLEY: Sir, I move:

"That the Bill, as passed by the Legislative Assembly, be passed."

The Motion was adopted.

GENERAL CLAUSES (AMENDMENT) BILL.

THE HONOURABLE MR. J. BARTLEY (Government of India: Nominated Official): Sir, I move:

"That the Bill further to amend the General Clauses Act, 1897, for a certain purpose, as passed by the Legislative Assembly, be taken into consideration."

I need add nothing to the statement which is contained in the statement of objects and reasons in explanation of this very simple Bill, except to say that the proposal has been under consideration for four years, having originated in 1932. The draft was circulated to Local Governments, nearly all of whom consulted their High Courts. The proposal received universal commendation, but certain valuable suggestions reached us and these have been incorporated in the draft.

I move, Sir.

The Motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. J. BARTLEY: Sir, I move:

"That the Bill, as passed by the Legislative Assembly, be passed."

The Motion was adopted.

CHITTAGONG PORT (AMENDMENT) BILL.

THE HONOURABLE MR. H. DOW (Commerce Secretary): Sir, I move:

"That the Bill further to amend the Chittagong Port Act, 1914, for certain purposes, as passed by the Legislative Assembly, be taken into consideration."

[Mr. H. Dow.]

Sir, the Chittagong Port Act was passed in 1914 at the time when Chittagong was a minor port. When in 1928 Chittagong was declared a major port, the Act was merely amended so as to transfer the statutory powers under the Act from the Bengal Government to the Governor General in Council. Since that time various small matters have cropped up in which it has been found desirable to make amendments in the Act, but none of them were of sufficient importance to make it worth while to bring a Bill especially for that purpose. There are a large number of major ports, each working under its own Act, and very naturally from time to time we discover things that are done better under one Act than under another, and we try as far as possible as opportunity offers to bring as much uniformity into the working of these ports as possible. We have now collected what we consider a sufficient number of minor matters to make it worth while to bring this Bill before the Legislature. The principal change that the Bill seeks to make is to render it possible for the Port Commissioners to grant gratuities and compassionate allowances to the relatives of officers or servants who die in the service. It is already possible for the Commissioners to make grants to the retiring officers themselves. The second thing that the Bill seeks to do is to enable the Port Commissioners to establish a welfare fund for the direct or indirect benefit of the Commissioners' employees. There are one or two minor things. It enables the Port Commissioners to keep temporary balances in banks outside Chittagong, and there is a provision making compulsory the levy of the duty on jute exports from Chittagong which is now being levied without Government having power to compel the levy.

Sir, I move.

The Motion was adopted.

Clauses 2 to 9 were added to the Bill.

Clause 10 was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. H. DOW: Sir, I move:

"That the Bill, as passed by the Legislative Assembly, be passed."

The Motion was adopted.

CODE OF CIVIL PROCEDURE (AMENDMENT) BILL.

(Amendment of section 51, etc.)

THE HONOURABLE MR. A. G. CLOW (Industries and Labour Secretary):
Sir, I move:

"That the Bill further to amend the Code of Civil Procedure, 1908, for certain purposes, as passed by the Legislative Assembly, be taken into consideration."

This is the last Bill on our agenda paper but most Honourable Members will agree that it is probably the most important that we have had to consider

today. It owes its inception to a recommendation made by the Royal Commission on Labour which was in the following terms:

"We recommend that at least so far as industrial workers in receipt of wages or salary amounting to less than Rs. 100 a month are concerned, arrest and imprisonment for debt be abolished except where the debtor has been proved to be both able and unwilling to pay."

I do not think I am revealing any secret—in fact those who have studied the actual Report of the Labour Commission will have been able to gather this for themselves—when I say that the limitation to industrial workers which they suggested was not based on any fondness for the principle of imprisonment for debt as applied to other debtors. It was due rather to their anxiety not to go beyond the actual terms of reference to them. It will be generally agreed that the arguments for or against imprisonment for debt are equally applicable to practically all classes of debtors, and, as Honourable Members will observe, the Bill is quite general in its terms.

Now, although this Bill traces its immediate origin to the Labour Commission, it has a long—some would say too long a—history behind it. More than 50 years have passed since the Government of India took up the question of abolishing imprisonment for the debtor who is genuinely unable to pay. They consulted Local Governments during the early "eighties" and they resolved in 1886, in spite of considerable differences of opinion among the public, to proceed with legislation for the purpose. The leading advocate of the principle in those days was that distinguished lawyer, Sir Courtenay Ilbert, who was then the Law Member of the Government of India, and the long statement of objects and reasons which he appended to the Bill of 1886 is a remarkable example of lucid forensic exposition and deserves to be rescued from the dusty volumes in which it lies. I wish I could quote from it extensively but I must resist the temptation, and I shall only quote two or three sentences which come at the beginning of the 28th paragraph of that statement. These are as follows:

"There are in the opinion of the Government of India two principles which ought to be observed in every law of debtor and creditor. The courts ought not to give effect to any pledge by a debtor either of his person or of the bare necessities of life. The debtor ought not to be allowed, by his own action, supplemented by the action of the courts, either to deprive himself of his personal liberty, or to reduce himself to starvation. If he cannot obtain credit except on one or other of these securities, it is better that he should not obtain credit at all."

I quote these words because they seem to me to express as briefly as possible the general principle underlying this Bill. It is a principle which has secured fairly general acceptance throughout the world, and in the course of the various discussions that have taken place since these words were penned I have seen no convincing reply to the affirmations which Sir Courtenay Ilbert then made.

But, in spite of his eloquent advocacy, the Bill evoked keen controversy and it became evident that public opinion was not prepared to go as far as the Government of India desired. In the result, the Bill was greatly modified and it was passed into law in a changed form as the Debtors Act of 1888 which is substantially reproduced in the Code of Civil Procedure as we have it today. The two main changes then made were that imprisonment for debt was abolished in the case of women, and that in the case of other debtors the

[Mr. A. G. Clow.]

Act gave the courts a discretion, which they had not enjoyed before that date, to refuse to issue a warrant of arrest at the wish of the decree-holder. It also gave them power to order the release of other debtors who were unable to pay. The hope seems to have been entertained by some at that time that these changes would result in an almost complete abolition of the detention in jail of debtors who were honest and unable to pay.

But as the years passed, that hope was not realised by any means generally and, in some provinces at least, a different view was definitely held of the intention of the law, and it continued to be quite a frequent practice to send debtors to jail without the preliminary inquiry which the Code permits but does not make obligatory. Now, in this country, where I think it has been said that a creditor's difficulties are only beginning when he has secured a decree, the power of imprisonment proved itself effective for bringing out money where it had not been forthcoming before, and the conclusion was too readily reached that that money was money which was being wrongfully withheld. The only systematic inquiry on this point was made by a judge who afterwards adorned the Madras High Court, and it showed that in the majority of cases, if the court had held the preliminary inquiry which it was within their power to hold, the debtor would not have been sent to jail at all. I think this is supported by the general experience of officers who have met these debtors actually in jail.

The fact is that, in addition to the quite legitimate desire of creditors to bring pressure on debtors who are concealing their assets and who are perfectly able to pay, there are three other motives which have led creditors to press for the imprisonment of debtors. One of these is to secure payment from assets which are protected by the Code as it stands; and in this respect I think Honourable Members will agree that the law at present rather tends to take away with one hand what it gives with the other. After giving protection to certain assets which are necessary for the debtor to carry on his life, it also places the court in a position to say that unless he is prepared to surrender these assets he may have to go to prison for six weeks or six months. The second motive is the desire to bring pressure to bear on friends and relatives who are naturally unwilling to see the debtor in jail. And the third motive, which I think is operative in a certain number of cases, is enmity and the desire for revenge on a debtor who, the creditor feels, has defrauded him or whom he may dislike for other reasons.

Now, the Bill seeks to secure in brief that the debtor who is not merely unwilling to pay but who is unable to pay otherwise than by sacrificing the necessities of life shall not be put in prison. Its main provision makes it obligatory on the court to hold the inquiry which the court can, if it thinks fit hold at present, and it limits the power to order imprisonment to those specific cases which Honourable Members will find mentioned in clause 2. I hope they will agree that this clause adequately covers the case of dishonest or recalcitrant debtors. It is no part of the object of this measure to protect debtors of that kind.

I do not think I need say any more in explanation of the clauses of the Bill which are fairly simple and straightforward. It is symptomatic of the change that has taken place in public opinion, that the principle has commended itself to almost all shades of thought in this country. I trust it will command itself equally to this House.

THE HONOURABLE SIR DAVID DEVADOSS (Nominated Indian Christians) : Sir, I have much pleasure in supporting this Bill. Students of English literature would know that there was a time when English prisons were full of civil debtors and they were not released for a long time; many of them died or became too ill to enjoy life afterwards. At present, in England, civil debtors are not sent to jail as in India. So, the present Bill brings the law in India into line with the English law. Under this Bill, a debtor is not entirely freed from the liability to imprisonment. If the court finds that the debtor has been withholding property or has been behaving as mentioned in sub-clauses (b) and (c), then it has power to send a man to jail for six months. No doubt the period has been limited to six months. In some cases, persons are sent to jail, as the Honourable Mr. Clow has observed, out of mere vindictiveness. Sir, I can speak with some confidence of Madras—these Marwaris, as we call them, or money-lenders go about lending money to public servants who get a pay of Rs. 35 or Rs. 40 or Rs. 100, without any security. Their only security is a threat of sending them to jail. In the first place, these people ought not to be allowed to trade upon the simplicity of some of these public servants and then threaten them with imprisonment. The fear of imprisonment, as the Honourable Mr. Clow has rightly observed, induces not only relations and friends but also other people to come to the help of the debtor. Such a state of things is not at all conducive to the benefit of society. A creditor is always protected if he takes care to see that the debtor has some means of repaying the loan. If he takes a chance of lending to a man who has no property and who simply has his person to go upon, it is not proper that the creditor should arrest the person and put him in jail. The result of that is that persons who have got property, and who are able to pay, always resist the arrest. I can mention a number of instances with which as a member of the Bar I had to deal. In one case, they actually shot the officer of the court who went with the plaintiff to arrest the man. The object was simply to prevent the arrest. The man had plenty of money; he could easily have paid the debt. It is only in such cases that arrests are resisted. In other cases, where the person is unable to pay, he goes to jail. Nobody gets any advantage. The creditor has to pay for his sustenance in the jail and the poor man is deprived of his means of livelihood and his family suffers. That being so, except in cases where the court is satisfied that the debtor is withholding property or is behaving improperly, or after a suit has been filed has made away with the property, the man should not be sent to jail. It is only in these cases that he should be sent to jail. It is only in cases of actual dishonesty or actual fraud that a man should be punished, not when he is actually unable to pay. In circumstances over which he can have no control, the man ought not to be sent to jail.

With these words, Sir, I have much pleasure in supporting the Motion of the Honourable Mr. Clow.

*THE HONOURABLE MR. P. N. SAPRU (United Provinces Southern Non-Muhammadan): Sir, I have great pleasure in supporting the Bill which has been introduced by the Honourable Mr. Clow. Sir, the Bill is a step in the right direction. It will protect honest debtors. Detention in civil prison will be reserved hereafter only for those debtors who prove to be recalcitrant or fraudulent. It makes it obligatory on the court to inquire whether the debtor has the means to pay. It is discretionary with the court now to inquire whether he has or has not the means to pay. This discretionary power of the court has been taken away. Sir, I would have liked sub-clause (i) of clause 2 to case of those who are likely to abscond or leave the local limits of the jurisdiction of the court. Sir, it would have been better if this proviso had not been included in the Bill, for a creditor is likely to make an affidavit that the debtor is likely to abscond or leave the local limits of the jurisdiction of the court and if the debtor is not present, the court may be misled by the affidavit of the creditor.

THE HONOURABLE MR. BIJAY KUMAR BASU (Bengal: Nominated Non-Official): False affidavit?

THE HONOURABLE MR. P. N. SAPRU: The court will have no material before it on which to find out whether it is false or not. If the debtor is not present there, the court will naturally assume the affidavit to be true. So, I do not quite like this proviso. I think the Bill would have been better without this proviso. On the more general question of imprisonment for debts, my own view is that it is a relic of barbaric times. Sir, a creditor advances money on security of property or leases. By putting the debtor in prison we are depriving him of the means of paying the debt. If you deprive the debtor of his liberty, then you also deprive him of the means of paying the debt. Therefore, Sir, it is a relic of barbaric times and I think the sooner imprisonment for debt is abolished, the better for the jurisprudence of this country. This is a Bill in the right direction, as I have already said, and I have much pleasure in supporting it.

*THE HONOURABLE SAYIED MOHAMED PADSHAH SAHIB BAHADUR (Madras: Muhammadan): Sir, I also give my support to this Bill. As has been observed by the Honourable Members who have preceded me, this is a reform which is long overdue. Experience has shown that the permission given to the courts to make this inquiry and see whether the debtor is actually unable to pay the debts to his creditor is a thing which is more often not held by the court at all. Since most of the courts in this country are over-worked, they are anxious not to add to their work, and in their anxiety to dispose of cases before them the courts without holding any such inquiry order the detention of the debtor in jail. Sir, my Honourable friend Mr. Sapru was perfectly justified in saying that there is no justification whatever for any creditor to demand the arrest and detention in jail of a person to whom the former has advanced a loan. If any money-lender advances a loan to anybody, it is for the purpose of getting it back with some profit. He would not advance a loan with a view to deprive a debtor of his liberty, and any honest creditor who is anxious only to get back his money, I presume with some profit, will

* Not corrected by the Honourable Member.

advance the money only when he knows the debtor is in a position to pay it back. But, if knowing, as has been observed by my friend Sir David Devadoss, that the man is not in a position to repay the loan, the money-lender tempts the man with scanty means to take loans and incur unnecessary expenses, if a man goes about like this tempting people, that man has no right to demand that in case of failure on the part of the debtor to pay back the money he should be detained in jail. I think it is high time that people who go about tempting people to take loans just in order to earn profits were taught a lesson, so that the public may be saved from the rapacity of money-lenders. I hope that this Bill will prove to have a very salutary effect and will induce in these Marwaris a sense of responsibility.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN (West Punjab Muhammadan): Sir, although the present Bill applies to all judgment debtors, as we are aware the Bill is the outcome of the recommendations of the Royal Commission on Labour in India. I agree that this Bill will afford great relief to the labourers, but I would submit that this is not enough. I would take this opportunity of making a request to the Government to bring forward some Bill by which the wages of the labourer which are below one hundred rupees a month will not be liable to attachment by the civil courts in execution of a decree for debt. I know that labourers, particularly those working in the Khewra salt mines, have their wages attached by a decree in execution of a certain debt.

THE HONOURABLE THE PRESIDENT: You are going beyond the recommendations of the Royal Commission.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: Well, Sir, I must confess that I cannot say definitely whether the Royal Commission did or did not recommend it. But, after all, the Royal Commission are not the last word on the subject. It is always open to the Government to consider in what ways they can give legitimate relief to the labourers. If a labourer's earnings are Rs. 50 a month and he has to maintain a large family of children and helpless women, it is a great hardship upon him if he finds that his wages have suddenly been attached.

THE HONOURABLE THE PRESIDENT: Do you think that he will be able to borrow any money at all?

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: Sir, it will not be an unprecedented measure, because certain incomes are already exempt from attachment in execution of a decree for debt. For instance, an agriculturist's land, produce, bullocks, plough and other implements are already exempt from attachment in execution of a decree for debt. Therefore I would appeal to my Honourable friend who is in charge of this Bill to kindly consider whether he can recommend to Government to bring forward some measure by which the labourers will be given the benefit of their wages not being attached by a civil court in execution of a decree for debt.

Sir, I support the Bill.

THE HONOURABLE MR. R. M. MAXWELL (Home Secretary): Sir, the Honourable Mr. Sapru raised one point in regard to sub-clause (i) of clause (a) of section 2, where it is provided that the court may take action against

[Mr. R. M. Maxwell.]

a debtor if it is satisfied he is likely to abscond or leave the local limits of the jurisdiction of the court. At first sight that would appear to be a rather valid criticism of the provisions of the Bill. But if we consider more attentively the manner in which the Bill is drafted, I think that objection will fall to the ground. It will be noticed that the substantive provision of clause 2 of the Bill is a negative provision. It lays down definitely that execution by detention shall not be ordered unless certain things happen. That therefore is the position. The court may not order detention unless it is satisfied of certain things. Now, the argument is that the creditor might come forward with an affidavit setting out that the debtor was likely to abscond. Nobody can prove that an affidavit that something is likely to happen is true or false. Likelihood is a matter of conjecture and it is just as difficult for a creditor to prove that it is likely to happen as it is easy for the debtor to prove that it is unlikely. All that the creditor could do would be to come before the court to say that the debtor had made preparations to leave the jurisdiction of the court, or at any rate he must produce some substantive reason for asking the court to depart from the injunction that detention shall not be ordered. The burden of proof will be on the creditor. But we have also a further provision in this clause that the judgment debtor has to have an opportunity of showing cause why he should not be detained. Therefore, if the creditor comes forward and says the debtor is packing up to go away, the debtor can produce evidence to the contrary. And it is extremely unlikely that the creditor would be able to mislead the court into ordering detention in a case in which it was not really justified and in which there was not strong evidence to show that the debtor was intending to defraud the creditor in some way.

THE HONOURABLE MR. A. G. CLOW: I want to thank the Honourable Members who have supported the Bill and to say one word in reply to what fell from my Honourable friend Raja Ghazanfar Ali Khan. He suggested that it was time we were starting to protect from attachment the wages of labourers. He has possibly overlooked certain provisions which already exist in section 60 of the Civil Procedure Code, where the wages of labourers and domestic servants which are payable in money or kind are exempt from attachment, and a limited exemption is also given to attachment of salaries of certain other persons. But there is another Bill in another place which is designed to extend this protection and to make it more effective, and I hope in due course it will reach this Council.

THE HONOURABLE THE PRESIDENT: The Question is:

"That the Bill further to amend the Code of Civil Procedure, 1908, for certain purposes, as passed by the Legislative Assembly, be taken into consideration."

The Motion was adopted.

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

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. A. G. CLOW: Sir, I move:

"That the Bill, as passed by the Legislative Assembly, be passed."

I would merely say that the passing of this Bill will form a very fitting termination to the work of a Council which has assisted in a large measure in increasing the amount of protection given to the less fortunate classes of the community. (Applause.)

The Motion was adopted.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Leader of the House): Sir, I suggest that we meet now on Saturday, the day after tomorrow.

The Council then adjourned till Eleven of the Clock on Saturday, the 17th October, 1936.

COUNCIL OF STATE.

Saturday, 17th October, 1936.

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

QUESTIONS AND ANSWERS.

RENT CHARGED FOR QUARTERS FOR DUFFRIES AND PEONS IN SIMLA AND NEW DELHI.

181. THE HONOURABLE SAIYED MOHAMED PADSHAH SAHIB BAHADUR : (a) Is it a fact that peons and duffries employed in the offices of the Government of India Secretariat are not charged any rent for the Government quarters occupied by them in New Delhi during *winter*?

(b) Is it a fact that no family quarters have been provided for duffries at Simla?

(c) Is it a fact that rent is recovered from duffries who are compelled to leave their families in Government quarters at Delhi during the *summer season*? If so, what is the amount of rent charged per month?

(d) Is it a fact that most of the quarters of the duffries remain vacant during summer?

(e) Do Government propose to allow a few of the duffries who leave their families at Delhi in summer, to occupy the Delhi quarters free of rent, or to recover only a nominal rent? If not, why?

THE HONOURABLE MR. A. G. CLOW : (a) Yes.

(b) There is one class of quarters for all inferior servants in Simla, the rooms in which differ only in size; the larger ones are treated as married quarters or as quarters for more than one man, and the smaller ones as single quarters. There is no bar to quarters being given to married duffries when available.

(c) Yes. About Rs. 8 per mensem including charges for water.

(d) Yes.

(e) Rent-free quarters cannot be given, but the question whether the rents charged at present are excessive will be examined.

WOMEN VOTERS ON THE ELECTORAL ROLL OF THE COUNCIL OF STATE.

182. THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : (a) With reference to the answer of question No. 138 of the 6th October, 1936, will Government be pleased to state if a single name of

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women voters has been brought on the electoral roll in the United Provinces?

(b) If not, what are the reasons?

(c) Why have the names of the women whose husbands are voters, been not brought on the electoral rolls?

(d) Are the electoral rolls under the circumstances complete or incomplete?

(e) Will Government be pleased to issue immediate orders to the United Provinces Government to bring the names of all women whose husbands are voters on the electoral rolls before the general elections to the Council of State take place?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: (a) Yes.

(b) Does not arise.

(c) Because the wives of qualified men are not as such qualified.

(d) and (e). Do not arise.

SHORT NOTICE QUESTION AND ANSWER.

RIOTS AT BOMBAY.

THE HONOURABLE THE PRESIDENT: Honourable Members, I have received notice of a short notice question, which runs as follows:

183. (a) Have Government any information in regard to the rioting at Bombay?

(b) What steps have Government taken to check its spread and to prevent stray assaults in bye-lanes, etc.?

Has the Honourable Member in charge any objection to this short notice question?

THE HONOURABLE MR. R. M. MAXWELL: No, Sir, I have no objection.

THE HONOURABLE MR. P. N. SAPRU: Sir, I put the question.

THE HONOURABLE MR. R. M. MAXWELL: Sir, both parts of the question can best be answered by reading to the House the telegrams we have received from the Government of Bombay. The first telegram is one dated 15th October:

"Following commencement of work by municipal contractor on reconstruction of Maruti Temple at Byculla severe communal rioting broke out over a wide area in Bombay city today. Riots took form of sporadic attacks and numerous stabbing cases. So far 60 casualties including some deaths have been reported. Situation is very tense and more organised rioting commenced late this evening. Commissioner of Police fears that rioting will continue tonight. Orders prohibiting carrying weapons, assembly of more than five persons and imposing a curfew have issued. Additional police are being drafted to Bombay and military are standing by".

SHORT NOTICE QUESTION AND ANSWER.

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The next telegram is one dated the 16th October:

"Sporadic rioting continued in Bombay city till late last night taking the general form of clashes between small parties of Hindus and Muhammadans over a wide area. Police were compelled open fire on three or four occasions and four persons suffering from gunshot wounds were admitted to hospital. Casualties estimated at about one hundred and seventy including fourteen dead, eight Hindus and six Muhammadans. After midnight night was quiet except for isolated stabbing cases and it was not found necessary to call out military".

The last telegram is one which was received later yesterday and said:

"Apart from minor scuffles and some stone throwing situation in Bombay city remains calm though tension continues. No further deaths. It is now reported that total number of shots fired by police was five only".

We have had no further telegram this morning yet. The House will realise with regard to part (b) of the question that the measures to check the spread of the disorder rest with the Local Government of Bombay and not with the Government of India.

THE HONOURABLE MR. HOSSAIN IMAM: What was the cause of this rioting, Sir?

THE HONOURABLE MR. R. M. MAXWELL: A dispute about the building of a mandap at the Maruti Temple in Bombay.

DEATH OF SIR LALUBHAI SAMALDAS.

THE HONOURABLE THE PRESIDENT: Honourable Members, I presume you must have all heard with profound sorrow of the death of one of our former colleagues, Sir Lalubhai Samaldas. He was in the first Council of State from 1921 to 1925 and rendered very useful service during the period he occupied his seat in this Council. He was a well-known figure. He was a great business man. He had come to Bombay after long service in Bhavnagar State and other States and he took great interest in all commercial, industrial and economic questions that were discussed in this House. Later on he became a Member of the Bombay Governor's Executive Council for a short period, where he also distinguished himself as a Revenue Member. He took great interest in public questions and especially in the co-operative movement. He was connected with co-operative banking in Bombay and other co-operative movements. He was the founder of the Bank of Baroda. He was also President of the Industrial Commission in 1913 and the Indian Economic Conference in 1925. In various activities of life he distinguished himself and his loss is mourned not only in Bombay but all over India and I shall therefore on your behalf convey to his bereaved family our deep sympathy and condolence in their loss.

STATEMENT LAID ON THE TABLE.

PROGRESS OF RURAL DEVELOPMENT IN 1935-36.

THE HONOURABLE MR. J. C. NIXON (Finance Secretary): Sir, I lay on the table a copy of the Report* on the progress of the schemes financed from the Government of India grant for rural development in 1935-36.

* Circulated to all Honourable Members separately.

THE HONOURABLE MR. HOSSAIN IMAM : On a point of information, Sir. Will the Honourable Member, at the time of the Budget session, lay a further statement of expenditure made from this grant ?

THE HONOURABLE MR. J. C. NIXON : Government will consider the suggestion.

MESSAGES FROM THE LEGISLATIVE ASSEMBLY.

SECRETARY OF THE COUNCIL : Sir, two Messages have been received, from the Secretary of the Legislative Assembly.

First Message :

"In accordance with rule 36 (I) of the Indian Legislative Rules, I am directed to inform you that the amendments made by the Council of State in the Bill further to amend the Indian Companies Act, 1913, for certain purposes, were taken into consideration by the Legislative Assembly at its meeting held on the 15th October, 1936, and that the Assembly have agreed to the amendments".

Second Message :

"I am directed to inform you that the Bill to make better provision for the administration of the Durgah and the Endowment of the Durgah of Khwaja Moin-ud-Din Chisti, generally known as Durgah Khwaja Sahab, Ajmer, which was passed by the Council of State at its meeting held on the 7th October, 1936, was passed by the Legislative Assembly at its meeting held on the 16th October, 1936, with the amendments shown in the enclosed statement.

The Legislative Assembly requests the concurrence of the Council of State in the amendments".

Sir, I lay on the table the Bill, as amended by the Legislative Assembly.

DURGAH KHWAJA SAHEB BILL.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN (West Punjab : Muhammadan) : Sir, may I request you kindly to suspend the Standing Order imposing the condition of giving three days' notice and allow us to take into consideration all these amendments just now? You, Sir, have got discretion under rule 34.

THE HONOURABLE THE PRESIDENT : Has any Honourable Member any objection ?

HONOURABLE MEMBERS : No, Sir.

THE HONOURABLE THE PRESIDENT : Then you can move consideration.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : Sir, I beg to move

"That the amendments made by the Legislative Assembly in the Bill to make better provision for the administration of the Durgah and the Endowment of the Durgah of Khwaja Moin-ud-Din Chisti, generally known as Durgah, Khwaja Sahab, Ajmer, be taken into consideration".

THE HONOURABLE THE PRESIDENT : Do you wish to make a speech explaining these amendments ? These amendments are already in possession of Honourable Members. Please be very brief.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : I would like to make a statement on the second reading, when I move these amendments.

THE HONOURABLE THE PRESIDENT : It will be my function under the rules to put these amendments. I am giving you an opportunity to speak now if you desire to speak.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN : Sir, after a very short time we will be able, if Honourable Members give their consent, to place on the Statute-book a very important piece of legislation. I consider this important, Sir, not merely because it relates to a Durgah which is considered the holiest shrine by the Mussalmans throughout India and even outside India but because this is the first occasion when a private Bill has been passed by both the Houses so expeditiously. If you remember, Sir, this Bill was for the first time taken into consideration by the Council of State on the 7th of this month. During this brief period of ten days the Bill has been taken into consideration and passed by the Council of State with certain amendments unanimously agreed to by the Members concerned. Then the Bill was sent to the other House and they took into consideration and passed it with certain amendments yesterday. Those amendments had the unanimous support of all the Members of that House. And today, Sir, exactly on the tenth day, we are considering the amendments which have been made by the Legislative Assembly. As a matter of fact, I feel proud of the fact that a private legislation originating from this Chamber should be passed so expeditiously. I am very grateful to you, Sir, for the facility which you always very kindly provided for getting this Bill through and I am also very much indebted to the Honourable the Leader of the House who, in spite of the knowledge that Members were anxious to get away from Simla as early as possible, detained the Council of State till today, so that the Bill may be passed. There would have been no occasion for this hurry, Sir, except for the rule that if a Bill is passed by one Legislature and is not passed by the Indian Legislature before one Legislature is dissolved, the Bill lapses. It was in view of this that the Leader of the House in the Assembly and also the Leader of the Council of State very kindly agreed to give us an opportunity to get this Bill through. Another characteristic of this Bill is that there are conflicting interests in Ajmer itself. There is the mutawalli who has been virtually in sole possession of the management of the Durgah although working under the guidance and control of a committee. There are other interests too, and therefore I could not possibly expect that the Bill would be passed unanimously. I am very grateful to all Honourable Members of this House and of the other House that they have agreed to amendments which I believe do not adversely affect the interests of any party concerned. (Hear, hear.) Sir, as I said in my previous speech, this is the first step which the Muhammadan community have taken in trying to improve the management of a religious shrine. I am sure, Sir, that if this example is followed by others in the Provincial Legislatures, the Muhammadan community will certainly have done something which would be practical and bring substantial relief to the community. When other communities tried to bring this sort of legislation concerning their own sacred places, they had to struggle and pass through different stages of strife; they had

[Raja Ghazanfar Ali Khan.]

to make sacrifices and it was only after a good deal of bloodshed and unpleasantness that they were able to get the Bill passed. It is a matter of gratification to us that we should have been able to achieve that object without any unpleasantness or conflict.

The amendments made by the Assembly are large in number, but they do not substantially change the Bill. I regret, Sir, that the movers of amendments in the Lower House have given proof of very hopeless and bad drafting. I regret, Sir, that they should have mauled and mutilated some of the clauses of this Bill. They have turned very good and perfect English into a language which I can hardly call English. But, Sir, I do not blame them, because a mathematician from Aligarh and a Knight from Moradabad cannot be considered expert draftsmen. Just to give you an idea of the absurdities which have been committed—

THE HONOURABLE THE PRESIDENT: I think the less said the better.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: One of the amendments was that clause 9 in the original Bill may be omitted. Clause 9 related to the preparation of the electoral roll. They have omitted that clause and have provided that all the Muhammadans who are voters for the Municipal Committee, Ajmer, shall be voters for this Durgah Committee. Having done that they have retained section 14 which gives power to the Chief Commissioner to frame rules and regulations as to how the electoral rolls are to be prepared.

THE HONOURABLE THE PRESIDENT: If you are not satisfied it is open to you not to move.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: I know that, Sir. But these are only silly mistakes which will not materially affect the legislation. And as they attacked the Honourable Members of this House, I think it is up to us to show up their absurdities. Another amendment they have made is to delete "British" from "British India". Sir, with my limited knowledge of the constitution, my impression was that this Legislature was not competent to legislate for Indian States, but the so-called Parliamentarians of the other place thought that they had power even to bring forward legislation concerning the whole of India including the Indian States. However, the Bill will operate only so far as British India is concerned, and even if they had included the whole world that would not have helped them. They have also increased the number of members of the Committee from 19 to 25. In a way they have acted wisely, because this will give an opportunity to all the Provincial Councils to elect one of their representatives to the Durgah Committee, with the result that it will probably inspire a feeling in those representatives to improve the wakfs in their own provinces also.

Having said this, I must admit in one or two matters they have improved the Bill. They have also proposed a tribunal consisting of one officer to be nominated by the Chief Commissioner of Ajmer, not below the rank of a District Judge, one member to be nominated by the Committee and one member to be nominated by the aggrieved party, and that their decision in the case of

all disputes shall be final. This, I am sure, will protect the Committee and the different interests concerned from entering into endless litigation in the civil courts and wasting money.

I do not think there are any other amendments which require any particular mention; they are mainly verbal. There is one provision "Provided he may not be a Member of the Legislature" which is badly worded. Their intention was, as far as I know, that the Legislatures will be entitled to elect a Member either from amongst themselves or from outside, but the language they have used is somewhat extraordinary.

THE HONOURABLE THE PRESIDENT: I understand that it is a compromise measure.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: Yes, and we are not objecting because we have to pass these amendments under the threat that unless we accept them the Bill will lapse. So we are bound to accept them whether we like the drafting or not. But one great consolation is that the Members of the other place passed these amendments unanimously and the Honourable Members of this House will also I am sure pass these amendments unanimously. The history of this Bill teaches a moral lesson that when we really set about to do a work we can always achieve unanimity. I hope the same spirit will be displayed by us in even larger questions.

I have nothing more to say except, with your permission, just to make a passing reference to one important matter. That concerns the present Sajjadanashin. Publicly and on the floor of this House I pay my tribute to the selfless sacrifices he has made in training public opinion to support this Bill. In this Bill we are not giving anything to the Sajjadanashin in any form or shape. In all the trouble he has taken and the money he has spent in broadcasting the whole history of the administration of this shrine, he was only moved by the noble motive that this place of his ancestors should be better managed. That was the whole object he had in view. I also appreciate the great services and help given to me by a very public spirited advocate of Ajmer, Mirza Abdul Kadir Beg, who is the President of the Rajputana Muslim League, without whose help probably I would not have succeeded in bringing this measure in the form in which it is being passed. He gave me all possible information about Ajmer and its affairs. Unfortunately the other day one of my Honourable friends, for whom I have great regard, Nawab Sir Akbar Khan, made a reference that the Dewan Sahib Sajjadanashin was not a descendant of Khwaja Muinuddin Chishti.

THE HONOURABLE THE PRESIDENT: You are going into irrelevant matters.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: I will just try to help my friend to get to the real facts. If he would only refresh his memory from *Tarikh Farishia* and *Muntakhab-ut-tarikh* of Mulla Abdul Qadir Badauni, he would find that the fact of Khwaja Saheb having left descendants is clearly established by both. The mistake of Abdul Fazal that Khwaja Hussain was deposed by Akbar, because his claim to be a descendant of Khwaja Saheb was found groundless, as also explained by Badauni, who was

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Abkar's official recorder of events at the time when the deposition of Khwaja Hussain took place. In addition to above I also advise Sir Akbar to consult and read the following books on this subject:

- (i) Tuzak Jahangiri, (ii) Akhbar-ul-Akhyar, by Maulana Abdul Haq Muhaddis of Delhi, (iii) Siyarul-Aulia, by Syed Mohammad Kirmani, (iv) Munisul-Arwah, by Princess Jahanara Begum.

THE HONOURABLE SIR DAVID DEVADOSS (Nominated: Indian Christians): On a point of order, Sir. How is all this relevant to the Bill?

THE HONOURABLE THE PRESIDENT: I have already said this matter is irrelevant. You can settle your differences outside the House.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: Sir, I have no intention of starting a riot in Simla! One is going on in Bombay! May I just finish the name of the book, Sir?

THE HONOURABLE LIEUTENANT-COLONEL NAWAB SIR MAHOMED AKBAR KHAN: I know all the books that he refers to. In spite of those books I say that the claim is absolutely groundless.

THE HONOURABLE THE PRESIDENT: You can settle the matter outside.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: I have no misgivings on the subject. I know that once my friend makes up his mind, nothing in the world, no proofs, no books, no history, no arguments, no persuasion, can make him change his mind! That is a matter where I am sure one's wrong opinion does not count.

I thank you, Sir, once again and thank the Leader of the House and all the Honourable Members for the full support which they have given me in getting this Bill passed.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab: Non-Muhammadan): Sir, I rise to welcome the measure and I am glad that the Legislative Assembly have also thought it fit to pass this measure which aims at the reform, and the right reform, in the management of religious institutions. Sir, as this shrine, amongst others, is one which is also visited by non-Muslims, and as a number of non-Muslims have devotion to the Khwaja Sahab, it would have been much better, in case non-Muslims had also been included in the Committee. However, Sir, I wish that in future when such like Bills are introduced, in order to create better feelings amongst the two great communities of India, the movers will see that this communal distinction is avoided. I did not like to move such an amendment when this Bill was before this House, because the Honourable mover in his proviso to clause 5 had said:

"Provided that no person other than a Hanifi Muslim shall be a member thereof".

I am sorry that even amongst Muslims there has been communal distinction. This is a measure which was badly needed for improvement in the management

of religious institutions. I congratulate the Honourable mover, Raja Ghazanfar Ali Khan, and Members of both the Houses for giving their support to this useful measure and thereby enabling this Bill to come on the Statute-book.

With these words, Sir, I support the Motion.

THE HONOURABLE SAYYED MOHAMED PADSHAH SAHIB BAHADUR (Madras: Muhammadan): Sir, I rise to support the Motion. It is a matter for real satisfaction that the Bill which was introduced in the last Delhi session and which had started a very heated controversy, both in the Council and outside, has, after all, been so well and suitably modified by amendments that have been made by this House just a few days ago and those carried out by the Legislative Assembly yesterday, that it has now assumed a form which is agreeable to all sections of opinion in this House. Sir, as has been observed by my Honourable friends who have preceded me, this is a very important measure, inasmuch as it concerns the administration of a shrine, which is held to be the holiest in the whole of India and which is held in great respect by the Mussalmans, not only all over India, but even those outside this country. Sir, it is very gratifying to find that, even though the Government rightly adopted an attitude of neutrality in this matter, both yourself and the Honourable the Leader of this House and the Honourable the Leader in the other House, did all they could to expedite the passing of this measure. Even though they did not interfere in the decisions to be taken, still you all gave us every facility to see that we were able to accomplish our task as quickly as possible. So, Sir, with the help of you all and our non-Muslim brethren, both in this House and in the other House, we have been able to modify this measure as we thought best and to have it carried.

Sir, as has been remarked by the Honourable mover, the amendments that have been made in the Assembly are all, on the whole, quite good and commendable. As has been said, there have been some very remarkable omissions and defects in not carrying out the consequential corrections, after having deleted one of the clauses in the Bill, as was passed by this House. But all those things apart, the amendments made by the Assembly are, on the whole, good, and they can all be accepted in a body; especially in the case of the amendment that they have made in regard to clause 5, I feel that they have made a substantial improvement in that respect. This clause was amended by this House just a few days ago, and in amending that clause we had in view the fact that, instead of handing over the administration to the people who belong to Ajmer, it would be better to introduce an independent element also, so that people who come from outside could be such as would be beyond the influence of party politics in Ajmer. We were able to bring about this result to some extent, by having a majority of those outsiders, though only a narrow majority of outsiders. Sir, the amendment that has been passed in the other House has now given a clear majority to this outside element. In this respect it is a very decided and substantial improvement in the Bill. About clause 7 also, the Assembly has been able to effect an amendment, which is really good, because to have admitted everybody in Ajmer to be eligible to exercise the franchise would not have been quite a feasible thing, because it would be just possible on occasions of elections to import people from the villages close by

[Saiyed Mohamed Padshah Sahib Bahadur.]

so that, when contests happen to be keen, it would have been just possible for these parties to have brought outsiders from neighbouring villages and make them take part in the elections. But now the amendment that has been made in the other House has made that impossible. And the provisions, that they have made for the settlement of disputes by recommending an Arbitration Board, is really very good. It will put an end effectively to all the litigation that has been ruining the parties in that place. This is a very useful provision.

With these words, Sir, I give my support to the Bill.

THE HONOURABLE LIEUTENANT-COLONEL NAWAB SIR MAHOMED AKBAR KHAN (North-West Frontier Province : Nominated Non-Official) : Sir, I am glad to see that the Durgah Khwaja Saheb Ajmer Bill has been passed by the Legislative Assembly with some modifications. I am not at all concerned with the alterations made in it in the other House, because these are quite immaterial. What I wished was to get the Bill through both the Houses of the Central Legislature so as to have it enacted with the least possible delay and indeed, it is a very good thing to see its passage through both the Houses, for which I must congratulate my Honourable friend, Raja Ghazanfar Ali Khan, for bringing in this Bill on behalf of the Mussalmans of this country.

What I wish to say in regard to it now is, that the wakf of Durgah Khwaja Saheb originated by the Emperors Akbar and Shah Jahan and further augmented by his successors and various Rajput chiefs and rajas. So far as I have ascertained in this matter, none of the various donors of this wakf have set apart a portion of its income for the muttawali of the sajjadanashin. The object underlying the origin of this wakf was to continue and keep up the mission of Khwaja Saheb, i.e., the spiritual and moral upliftment of humanity, for which the Khwaja Saheb himself worked for nearly 23 years in India. The question has been raised in the other place as to the descent of Khwaja Saheb. Well, Sir, it is an easy thing now-a-days to make one's descent. Genealogical tables, in order to prove descent from a certain ancestor, can easily be made without any trouble.

THE HONOURABLE THE PRESIDENT: Will you please leave that question at this stage?

THE HONOURABLE LIEUTENANT-COLONEL NAWAB SIR MAHOMED AKBAR KHAN: I will leave it, Sir, but I will say this, that the Khwaja Saheb came to India at the advanced age of 75 years and I can furthermore prove that he never got married here. The official recorder of that period is Minhajusraj who, in his well-known history, distinctly said that the Khwaja Saheb never got married here and died quite childless. And, furthermore, this is supported by Akbar's Minister.

THE HONOURABLE THE PRESIDENT: Order, order. All this is irrelevant to the Bill.

THE HONOURABLE LIEUTENANT-COLONEL NAWAB SIR MAHOMED AKBAR KHAN: Well, Sir, as it is your ruling, I will not go into the descent of anybody but I must say that neither the sajjadanashin nor the mutawalli are the direct descendants of Khwaja Saheb. Even supposing the pretended

claim to be a correct one, it does not make any difference at all. Khwaja Saheb did not make any will and the aukaf were given after his death. The donors never mentioned the mutawallis or sajjadanashins in any of their gift-deeds. There can be no adverse possession of the wakf property under any circumstances, no matter if its possession may extend to many centuries. Hence the whole of this wakf is for the Muhammadan world and it is for the Muhammadan community to look after it and manage it for its good administration.

Sir, I would have liked personally—as the Honourable the Leader of the Opposition said—that there ought to have been at least some nominee of the Hindu Rajput Chiefs on it, but as we cannot do anything to the amendments at this stage if we want the Bill to be passed, I will express a hope that, if in future this Bill is ever brought before the Council, it should be borne in mind that the Khwaja Saheb Durgah endowments are not only from the Muslims but from the Hindu Ruling Chiefs as well.

I am glad to find that the Honourable Raja Ghazanfar Ali Khan has been instrumental in bringing forward this Bill in the interest of the Muslim community, for which he rightfully deserves their gratitude, and I expect that its wholesome working will surely prove beneficial and advantageous for the whole Muslim world. On the other hand, if its experience of work is found disagreeable to anybody, it is always open to anyone to have it modified by another Bill later on.

With these words, Sir, I support the Bill whole-heartedly.

*THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa: Muhammadan): Mr. President, it gives me great pleasure to support the measure before the House and in this connection I have a personal pleasure in reflecting that, though the Bill, as it was last before the House, had some features to which I had conscientious objections, I am glad that the Assembly has removed many of them and the Bill as it has come to us is on the whole much better than the Bill which we passed. I was not prepared, Sir, to listen to a lecture from Raja Ghazanfar Ali Khan on the misdeeds of the Assembly. It is scarcely fair for those who live in glass houses to indulge in stone throwing. He particularly questioned, Sir, the power of this Legislature to legislate for India. I would remind him of the great constitutional custom whereby the nationals of a country are subject to income-tax from whatever source their income may be derived. Yes, Sir, it is a law throughout the world that income-tax can be collected from incomes derived outside the country when the residents are the nationals of the country, and in a similar manner the Durgah being situated in British India, we are perfectly authorised and constitutionally empowered to legislate for its properties belonging outside India.

THE HONOURABLE THE PRESIDENT: You need not dilate on that point because we have already got foreign investments liable to income-tax.

THE HONOURABLE MR. HOSSAIN IMAM: I am very grateful to you, Sir, for reminding us of this. Then, Sir, as to the accuracy in English of the Mathematician of Aligarh and the Knight of Moradabad, I scarcely think it

* Not corrected by the Honourable Member.

[Mr. Hossain Imam.]

was necessary to bring in personalities. We should avoid personalities as far as possible because after all people can pay us back in our own coin.

As far as the amended Bill is concerned, the Honourable mover himself has admitted that there have been some improvements. As we were in a hurry, so were the Assembly people—they did not have the time to go over the amendments with the care which would have been necessary to achieve mathematical accuracy.

Now, Sir, I will merely make a reference to one fact, that the question about the sajjadanashin has absolutely no relevance. It was rather a waste of time that such a question should have been brought forward. The holder of this office is rightly respected throughout India and that is sufficient unto itself. I would not dilate on the historical aspect of the question. The Bill, as I said, Sir, is an improvement. If there are defects, we can bring in amendments in the next session, but we would like to give a due share of the congratulations to all those who were responsible for bringing forward this Bill.

Sir, I support this Bill.

THE HONOURABLE THE PRESIDENT: The Question is:

"That the amendments made by the Legislative Assembly in the Bill to make better provision for the administration of the Durgah and the Endowment of the Durgah of Khwaja Moin-ud-Din Chisti, generally known as Durgah Khwaja Sahab, Ajmer, be taken into consideration."

The Motion was adopted.

THE HONOURABLE THE PRESIDENT: I should like to say a few words on the next stage of the Bill, because, to my knowledge, this is the first time during the history of the Council of State when a Bill which has originated in the Council of State has been amended in the Assembly and has been sent back to the Council of State for further disposal. The procedure in connection with this is somewhat different from the ordinary procedure, and this is prescribed by rules framed under the Government of India Act—rules 32 to 35. I will draw the attention of the House at this stage only to rule 35. It says:

"If a Motion that the amendments be taken into consideration is carried, the President—(not the Member-in-charge)—shall put the amendments to the Chamber in such manner as he thinks most convenient for their consideration."

I propose to put all these 14 amendments together, both to save time, and as I understand this is an agreed and compromised Bill, I may point out that under clause (2) of rule 35 no further amendments to these amendments is permitted, except those which are of a consequential character or of an alternative nature. Clause (2) of rule 35 runs thus:

"Further amendments relevant to the subject-matter of the amendments made by the other Chamber may be moved, but no further amendment shall be moved to the Bill, unless it is consequential upon, or an alternative to, an amendment made by the other Chamber."

In view of this, I shall put all the 14 amendments together myself from the Chair.

The Question is:

"That this Council do agree with the Legislative Assembly in all these 14 amendments."

The Motion was adopted.

THE HONOURABLE THE PRESIDENT: This finishes the work of this session.

LEGISLATIVE ASSEMBLY.

Statement showing the amendments made in the Bill to make better provision for the administration of the Durgah and the Endowment of the Durgah of Khwaja Moin-ud-din Chisti, generally known as Durgah Khwaja Sahab, Ajmer, by the Legislative Assembly at its meeting held on the 16th October, 1936.

1. In clause 2—

- (i) in sub-clause (4) (b) after the word "building" the words "and moveable property" were inserted;
- (ii) in sub-clause (4) (c) after the word "Jagir" the words "including all land, houses and shops and all landed property, wheresoever situated belonging to the Durgah Sharif" were inserted;
- (iii) in sub-clause (4) (d) the word "British" was omitted; and
- (iv) for sub-clause (4) (e) the following was substituted:

"(e) only such offerings as are intended explicitly for the use of the Durgah".

2. In sub-clause (1) of clause 4, for the word "supervision" the word "administration" was substituted and the words "and of buildings connected therewith" were omitted.

3. In clause 5—

- (i) for the word "nineteen" the word "twentyfive" was substituted;
- (ii) for sub-clause (e) the following was substituted:

"(e) three shall be elected by the Muslim Members of the Central Legislature;"
- (iii) sub-clause (f) was omitted and the subsequent sub-clauses were re-lettered accordingly;
- (iv) sub-clause (g) was omitted and the subsequent sub-clauses were re-lettered accordingly;
- (v) sub-clauses (h) and (i) were re-lettered as sub-clause (f) and (g) respectively;
- (vi) after sub-clause (i) the following new sub-clauses were inserted:

"(j) one shall be elected by the Muslim Members of the United Provinces Provincial Legislatures;

(k) one shall be elected by the Muslim Members of the Bihar Provincial Legislatures;

(l) one shall be elected by the Muslim Members of Bengal Provincial Legislature;

(m) one shall be elected by the Muslim Members of the Punjab Provincial Legislature;

(n) one shall be elected by the Muslim Members of the Sind Provincial Legislature;

(o) one shall be elected by the Muslim Members of the Madras Provincial Legislature."

- (vii) in sub-clause (j) for the words "Hyderabad's Government" the word "Hyderabad" was substituted; and the sub-clause was re-lettered as sub-clause (n);
- (viii) after sub-clause (n) the following new sub-clause was inserted :
- "(o) four Sajjadanashins of the Shrines of the Chisti Order of Soofis to be co-opted by the members elected or nominated under the preceding sub-sections (a) to (n);" and
- (ix) the following proviso was added :—
- "Provided that no person other than a Hanafi Muslim shall be a member thereof. Members elected by the Provincial and Central Legislatures may not be members of Legislatures".
4. In clause 6 after the word "election" occurring in the first line the words "of members mentioned in section 5 (d)" were inserted.
5. For clause 7 the following was substituted :
- "7. Only those Muslims who are recorded as voters in the Register of voters of the Municipal Board of Ajmer, except persons belonging to the Khadim community, shall have the right to vote in the election of members under section 5 (d)."
6. Clause 9 was omitted.
7. To clause 10, the following were added at the end :
- "casual vacancies shall be filled up by the authority which has the power to appoint the members".
8. In clause 12—
- (i) in sub-clause (1) all the words occurring after the figures "1863" were omitted
- (ii) for sub-clause (2) the following was substituted :
- "(2) The duties and powers of the Committee shall be—
- (a) to manage the Durgah endowment;
 - (b) to keep the buildings within the boundaries of the Durgah Sharif and all buildings, houses and shops comprised in the Durgah Endowment in proper order and in a state of good repair;
 - (c) to receive all moneys and other income of the Durgah Endowment;
 - (d) to see that the endowment funds are spent in the manner desired by the donors;
 - (e) to pay salaries, allowances, and perquisites, and make all other payments due out of or charged on the revenues or income of the Durgah Endowment;
 - (f) to engage, appoint, promote, degrade, suspend or dismiss servants of the Durgah Endowment;
 - (g) to do all other such things as may be incidental or conducive to efficient administration"; and
- (iii) after sub-clause (2) the following new sub-clause was inserted :
- "(3) That the Committee will exercise its powers of administration, control and management of Durgah Endowment through the Muttawalli who shall be its Manager."
9. For clause 13 the following was substituted :
- "13. The Committee may appoint such and so many standing and special committees as it deems fit, and may appoint to them persons who are not member

of the Committee, to exercise such powers and perform such duties as may be delegated to them by the Committee, subject to the confirmation by the Committee."

10. For clause 17 the following was substituted :

"17. Any dispute arising about the powers, or privileges of Sajjada Nashin, Muttawalli or any Khadim and the Committee shall, at the request of either side, be referred to a Tribunal of Arbitration consisting of one member appointed by the Committee, one member appointed by the aggrieved party and an umpire of a rank not below that of a District Judge appointed by the Chief Commissioner of Ajmer-Merwara. The decision of the tribunal shall be final and no suit shall lie in any civil court in respect of the matters decided by the Tribunal. Every such request shall be deemed to be a submission to arbitration under the terms of this section within the meaning of the Indian Arbitration Act, 1899, and all the provisions of that Act, with the exception of section (2) thereof, shall apply accordingly."

11. After clause 17 the following new clause was inserted :

"18. No act or proceeding of the Committee shall be invalidated merely by reason of the existence of a vacancy or vacancies among its members."

12. In clause 19 for all the words occurring after the words "Durgah Endowment" in the fifth line the words "to religious preaching" were substituted.

13. For clause 20 the following was substituted :

"20 (a) The accounts of the Durgah shall be duly audited every year by a Chartered or Registered Accountant appointed by the Committee.

(b) The Committee shall publish an annual report on the administration of the Durgah with the financial estimate and the report of the Auditor."

14. Necessary corrections of the numbering and lettering of the sections inserted were carried out together with consequential corrections of cross references.

FAREWELL SPEECHES ON THE DISSOLUTION OF THE THIRD COUNCIL OF STATE.

*THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Leader of the House) : Sir, it is now nearly four years since my distinguished predecessor, the late Sir Fazl-i-Husain, welcomed you here as the first non-official President of this House, and in doing so he expressed the hope that you will be the best custodian of the rights and liberties of this Chamber. I think that hope has been amply fulfilled. (Applause.) You came to your task fully equipped with experience, knowledge and achievement in many fields of public activity. After being called to the Bar nearly 50 years ago, after making your mark in your own province as an Advocate, you turned your attention to industrial pursuits. Later, you were a member of the Fiscal Commission, a Governor of the Imperial Bank, and a member of the Royal Commission on Currency and Exchange. You devoted a good deal of your valuable time to local administration and were for a number of years a member of the Municipal Corporation of Nagpur. As President you have conducted the debates and proceedings of this House with fairness, with firmness, and with efficiency. In your private capacity you are an ideal President of this House. Your hospitality, your accessibility, your geniality, and your kindness have attracted to you all the good wishes of the Members of this House. It is only natural that we, both officials and non-officials, should join in the united

* Not corrected by the Honourable Member.

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[Sir Jagdish Prasad:]

tribute of regard and affection to you on the eve of the dissolution of this House. For my own part, since I have had the honour of being the Leader of this House you have shown nothing but kindness and help in all my difficulties. Our very best wishes go with you for your continued health and happiness.

I should also like, Sir, with your permission, to take this opportunity of saying a word of farewell to the non-official Members of this House. Some of them will be going back to their constituencies to contest elections; some will be seeking new fields of service and distinction in the Provincial Legislatures. I think we can all look back to six years of good work none-the-less effective because it has been done quietly and unobtrusively.

I should like also to thank the Leader of the Opposition and other Members for the friendly spirit in which our proceedings have been conducted. The clash of opinion, the thrust and parry of attack have, I am glad to say, left no scars behind. We have all done our work with the sole object of doing the best that we can according to our abilities and a spirit of goodwill and co-operation has prevailed throughout. In wishing you all good-bye, I may express the hope of welcoming some of you back again next year. (Applause.)

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Sir, I deem it a privilege, as spokesman of this side of the House to add my tribute to the services which you, Sir, have rendered to the House both as a Member and as its President. There is a personal pleasure attached to this tribute in that I have enjoyed your friendship for over twenty years and have watched with interest and with profit your unique parliamentary career.

You, Sir, entered public life in the legislative sphere at a time when some of us were in our teens. You have maintained, throughout that period, that vigour of thought and that clear outlook which makes parliamentary life so useful.

In honouring you, today, we are paying our tribute not only to the President but also to one who has been the Father of the House. We are proud of the fact that you, as the first non-official to be appointed to this Office, have added greatly to the dignity and the prestige of this Office. And the pleasure is doubled when we feel that this rôle has been filled by one of our countrymen. There was a time when in the heat of political controversies the Council of State stood in danger of being relegated to the background. Now, His Excellency the Viceroy addresses both the Houses jointly.

There will undoubtedly be some difference of opinion as to whether your office should be modelled on the Speakership of a popular Chamber or on the functions of the Lord Chancellor in the House of Lords. You have, on the occasions, gone outside the purely technical duties of a President and helped implicitly obeyed by every section of the House even though on occasions Members of this Honourable House may have held a different view on the merit of the case.

We assure you, Sir, of a warm welcome should you choose to join this Chamber hereafter. We bid you farewell on the eve of the dissolution of the Council and pray for your long life, health and prosperity.

Sir, this being the last meeting of the present Council of State, I heartily thank the Honourable Leader of the House for his consistent courtesy to us and for his accommodating us always. I am also thankful to the Honourable Secretaries of Government, the Chief Commissioner of Railways and the Chief Commissioner of Delhi for the courtesy they have always extended to us, and am equally thankful to His Excellency the Commander-in-Chief, who notwithstanding his being a soldier has sympathetically and patiently heard us in debates.

I at this juncture bid farewell to all my official and non-official colleagues and wish them peace and health. Sir, I am also thankful to the Honourable the Leader of the House for paying a compliment to the Party to which I have the honour to belong. The Party has criticised Government when criticism was necessary and this Party has always strived to serve our King and country according to its best lights.

*THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa : Muhammadan): Sir, I rise to join in the congratulations on the work done by you during the last four years. There is no doubt that your appointment has been a red letter day in the history of the Council of State, firstly, because a non-official was elevated to the Chair, and secondly, because in you we found a sage adviser, helpful and obliging patron and at the same time one who was ready to maintain the dignity of this House. To us it has been a great pleasure that whenever any question involving the dignity of the House came up you were always ready to take up our cudgels and to defend it with the vigour characteristic of your political life. Your appointment, Sir, has been beneficial to both sides of the House, because in you we have the rare combination of a critic, and sometimes a vehement critic, of Government as well as one who can understand the point of view of Government and adjudicate upon it dispassionately. When the question of the Joint Select Committee came before us you forwarded the laudable desire of the House to be associated with it, and when the Finance Bill was brought late to us you took up the matter with Government to have it brought to us in time to enable us to do justice to it.

We shall always remember your kindness to us inside and outside the House. Perhaps people have not realised how helpful you have been to us on this side because we do not blow our own trumpets. The Honourable the Leader of the House was kind enough to express his good opinion about the Opposition. I think that in this House we have a rare combination of good fellowship which is absent in most of the legislatures where legislatures are as powerless as this House. In spite of our differences we have always received most courteous and kindly treatment from the occupants of the Treasury benches and we are very grateful to them. The Third Council of State has set many new decisions. I looked into the debates concluding the First and Second Councils and found no counterpart of these congratulatory proceedings. Again, on this last day the Third Council of State has passed a non-official Bill and a Bill which originated in this House, which also is an innovation.

* Not corrected by the Honourable Member.

[Mr. Hossain Imam.]

We are now going back to our constituencies, some to go to the local Councils, some to return here, but all those of us who are fortunate enough to come back here hope that we will find in the Fourth Council of State the same genial good-fellowship as we have in this one. (Applause.)

*THE HONOURABLE MR. P. N. SAPRU (United Provinces Southern : Non-Muhammadan): Sir, may I as a junior Member of this House join in the tributes which have been paid to you this morning. This is the last occasion on which the present Council will sit and in a few days we shall be engaged in our elections. It is fitting therefore that we should say before we disperse what we feel about you. It is embarrassing, Sir, to say all that one feels about you in your presence, but I would ask you to believe, Sir, that what we are saying comes from the heart and that there is no element of exaggeration in what we are saying about you. You, Sir, have had a great career. You have had a rich and varied life. You have achieved great distinction in various walks of life, law, business and politics. You were, Sir, a very distinguished Member of the old Imperial Legislative Council, a contemporary of Gokhale, of Surendranath Banerjee, of Wacha, of Pandit Madan Mohan Malaviya and Bhupendranath Basu; and you were a signatory to the famous Memorandum of the Nineteen which eventually led to the mission of Mr. Montagu and the introduction of the Montagu-Chelmsford Scheme. You were in your non-official days an able and distinguished fighter of public causes. You have been a Member, a distinguished Member, of this Council, since its birth and you were appointed its President in 1932. You were its first non-official Indian President and worthily, Sir, if I may say so with respect, you have filled that great office. You have been able, impartial, just and courteous as our President. But these qualities, great as they are, are not precisely the qualities which have endeared us to you. They are qualities which may win people's respect, but they are not precisely the qualities which win what is much more difficult, people's affections. You have won, Sir, not only our respect, but also our hearts. You are not only respected by us, but, if I may say so, loved by us. (Hear, hear and Applause.) What is the secret of your success? The secret of your success, Sir, is that you are one of God's gentlemen, incapable of a mean thought, of a harsh word or an unkind deed. We have always looked up to you not only as our President, but as our best friend, guide and philosopher. You have ruled us through our hearts. You have added, Sir, dignity and prestige to this Council. It was, we know, at great sacrifice that you accepted this position and we have marvelled at the extraordinary capacity which you have shown for hard work. Even when some of us, younger men, feel tired and go to the lobbies and have a smoke, you go on, Sir, listening to our speeches, attentive to every word that we utter, alert, vigilant and watchful. You have been, Sir, a great President, the greatest President that this Council has ever had. (Applause.) And I am sure it is the unanimous wish of this Council that you may continue to preside over it for many many years more to come. (Applause.) We hope, Sir, that should the opportunity present itself to you—and we are sure it will—you will not refuse to guide the deliberations of this

* Not corrected by the Honourable Member.

Council at such a critical juncture. Sir, may I say that we are thankful to the Leader of the House for the great courtesy and spirit of accommodation that he has always shown. We are also obliged to our official colleagues, to His Excellency the Commander-in-Chief, to the various Secretaries, to the Chief Commissioner of Delhi, to the Chief Commissioner of Railways, for the kind help that they have always given us. Sir, we in this Council have a friendly atmosphere and we should be sorry if that friendly atmosphere disappeared. Sir, it has been a pleasure for us to work in this Council and whether we come back or not to this Council, we shall always look with pride and pleasure to the days that we have spent in this Council.

Sir, I join in the tributes that have been paid.

THE HONOURABLE SAIYED MOHAMED PADSHAH SAHIB 'BAHADUR (Madras : Muhammadan): Sir, I associate myself with what has been said by the Honourable speakers who have preceded me in giving expression to the grateful appreciation of the excellent manner in which you have discharged your onerous duties as the President of this House. Sir, before you entered upon this high office, you had for years been one of the most popular and esteemed Members of this Council. You had, Sir, already distinguished yourself in various fields of activity and had to your credit great services—a brilliant record of great services—rendered to the country for nearly a period of half a century. Sir, in your profession as a lawyer, in your career as an industrialist, as a pandit of high finance, and lastly, and not the least, as a politician and a parliamentarian, you had already earned a reputation—in everyone of these activities you had earned a reputation, which seldom falls to the lot of other individuals who devote their whole lifetime to the pursuit even of one of these careers. Therefore, Sir, it was patent that when you accepted this office, you accepted it at a considerable sacrifice. Great as was your sacrifice from the point of view of business, from the point of view of material gain, you made no small sacrifice in allowing yourself to be muzzled, as you said the other day at dinner, for all these years. It would of course have cost no small effort for one like you to have sat unconcerned in your Presidential Chair, when storms of controversies raged round about you and perhaps arguments were vehemently advanced, which in the fulness of your knowledge and experience you knew were not quite well-founded. Sir, a keen debater like you would have found it to be the hardest exercise of patience and self-control to have refrained from entering into the arena and taking part in the dialectical fencing which was going on around you. But, Sir, the cause which you wished to serve was well worth the sacrifice that you have made and in serving this cause we are glad to find that you have achieved the same success which you have achieved in every other work on which you had launched, and this success was always achieved by you by dint of your capacity, your sincerity and the honesty of purpose which you always brought to any task which you ever undertook. Sir, not only did your appointment open up a new chapter in the history of this august body, it being the first appointment of a non-official President for this House, but you were able, by all that you did achieve during the tenure of your office here, to fill up the first pages of this chapter with such glory and splendour that the traditions

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[Saiyed Mohamed Padshah Sahib Bahadur.]

that you have set up would be well worth being preserved and followed in the Legislatures which will be set up in the new reforms.

THE HONOURABLE THE PRESIDENT: I shall thank you all to be as brief as possible and save my blushes!

THE HONOURABLE SAIYED MOHAMED PADSHAH SAHIB BAHADUR: Sir, as my Honourable friend Mr. Sapru has said, we feel embarrassed in your presence in paying you the tribute which is really your due and which you deserve by virtue of your capacity, character, breadth of view, kindness and genial disposition.

Sir, I will close my remarks by saying that this Council which is going to enter upon a more useful career under the new reforms, this Council was able to build up its claim to the greater power which it is going to be invested with by much that it was able to achieve under your guidance here. You, Sir, have enlarged the scope of the work that is being done in this Council. You have invested the non-official work that is done here with more dignity and by giving it as much encouragement as it was possible for you to give it.

Sir, it is a copious record if anyone attempts to enumerate all that you have done both in this Council and outside, and I will end my observations with reference to you by simply joining in the good wishes that have been expressed by the previous speakers and wishing you long life, health, every happiness and prosperity.

Before I sit down, Sir, I would take the opportunity of bidding good-bye also to my colleagues in this House. First of all, Sir, I would in particular express our grateful thanks to the Honourable the Leader of this House who has always been ready to accommodate the non-official Members of this House in the disposal of the non-official work not only by securing us additional days but also by consenting to sit for longer hours in this House and adjusting the business in a way so as to give us more time for the disposal of non-official work here. I am grateful also, Sir, to the other officials, His Excellency the Commander-in-Chief, the Secretaries of all Departments, the Chief Commissioner of Railways, and all the officials here who, whenever it was possible for them, were always found ready to help us and accommodate us.

Lastly, Sir, and not the least, I express my grateful thanks to all my other and non-official colleagues in this House from whom I have always received nothing but kindness and courtesy. We have, Sir, in this House, in spite of our differences on public questions, been able to carry on as members of a happy family.

THE HONOURABLE DIWAN BAHADUR SIR RAMUNNI MENON (Madras: Nominated Non-Official): Sir, I feel I cannot let this occasion pass without making a few remarks. Two thoughts are working in our minds today, both having their origin in our knowledge of the Council's impending dissolution. One is that you will soon cease to be its President. It has been said of Mark Twain that on reading his obituary in the daily papers he promptly announced that the report of his death was an exaggeration. I shall not commit the indelicacy, not to say the impropriety, of anticipating the decision

on a matter which rests partly in your own hands and partly and primarily in the hands of His Excellency the Governor General. But I may be permitted to express the hope—a hope which I am sure is shared by all Members of this Council—that the future course of events will prove that our apprehension of your demise as our President is altogether groundless. Indeed if our prayers and wishes can determine the course of destiny, I am sure that the next Council will find you adorning the Chair which you have filled with so much distinction during the last four years.

The other thought which comes up in the mind is the uncertainty in regard to many of us as to our return to the next Council. I therefore take advantage of this occasion of leave-taking to express my great gratitude to the Leader of the House for his unfailing kindness and courtesy and to you, Sir, my great esteem, and my appreciation of those great and varied qualities which you have shown in the discharge of your duties as our President. Opinions may differ as to the utility of this Council, under its present constitution, as an organ of the State. But I think there will be universal approval of the atmosphere of dignity, courtesy and tolerance in which its deliberations are conducted. Many factors have doubtless contributed to this atmosphere, but I think I may say without fear of contradiction that the most dominant of them is your own personality. I shall not embarrass you by referring to this subject in any detail, but I think I shall be lacking in appreciation if I do not mention the knowledge, experience and tact, the fairness and impartiality which you have brought to bear upon your great and onerous task and which have contributed so largely to the smooth and efficient working of this Council. Your consideration for the new Member has always been one of your obvious traits. No Member can ever forget the patience, sympathy and kindness which you extended to him when he rose to make his first speech. I have sometimes thought that you possess the gift of making the dumb speak.

People with some knowledge of men and affairs can readily tell a good thing or a bad thing when they see it. There is a story told of a certain Persian king who was asked to adjudicate between the claims of two rival poets to a prize. The king listened very patiently to the recitation of his poem by one of the rival claimants and without any hesitation awarded the prize to the other. Examples of the converse of this story are often found in practical affairs. We all know that we possess a very good President in you and that it will be difficult, if not impossible, to get another who can fill the Chair as worthily as yourself.

Before I sit down I should like to express the hope that the tradition which has been built up in this Council and to which you have so very largely contributed will grow and flourish under your wise guidance in the short period of time that lies between us and the inauguration of the Federation and that it will provide stimulus and inspiration to the reformed Council in its tender years.

THE HONOURABLE SIR DAVID DEVADOSS (Nominated: Indian Christians): Sir, it would be tedious, though it may be pleasant, for me to repeat all that has been said by other Honourable Members of this

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[Sir David Devadoss.]

House. I confine myself only to one or two points. In the first place, you are the guardian of our privileges and our liberties. On a memorable occasion, Sir, you protected our rights against encroachment by the Executive. After spending weeks in the other place—I will not say wasted, because they were not the people who wasted, but other people wasted the time—after spending several weeks, they came here and wanted a Bill to be passed in a few hours. You, Sir, very rightly protested against that, and ever since that, I believe the Executive has not been trying to encroach upon our privileges. That is an achievement which will go down to future generations as one which redounds not only to the credit but to the honour of your place.

The second point is this. Sir, the Chair is supposed to have a soporific effect on its occupants. As has been observed by the Honourable Mr. Sapru, many Members of this Honourable House find it exceedingly difficult to stay for half an hour in their seats and they go out either to have a smoke or a chat. You have been sitting for several hours. One day you sat from 10 o'clock in the morning to 6-30 in the evening. It is not at all an easy thing to do. People who have been occupying chairs, Sir, not only in the Legislative Assemblies but in other places, would be able to bear testimony to the fact that when they are elevated to a chair, especially when the chair is on a higher winks especially after lunch. You, Sir, never allowed your attention to slack for a moment; whether it be the subject of the Khewra mines of our Honourable Raja, or whether it be animal nutrition of some of our Rajas here or some other knotty conundrums relating to finance of the Honourable Mr. Hossain Imam, you were always ready to pull up when they strayed from the point. Sir, it is not an easy matter. It is a matter for great congratulation, especially when you have been hard worked, that you should follow the discussion so closely and pull up whenever necessary. Sir, the Council of State would be unthinkable without you, Sir, as President of it (Applause) and I hope that when the new Council meets, you will be asked to adorn it as its President. With these few words, I should like to say that we really feel very grateful for all that you have done for us here, inside as well as outside.

I may also say a word or two about the Honourable the Leader. He has been very kind to us and has in every way met the wishes of the Opposition. If we are sitting here today, when all the official business was over two days ago, we are doing so simply to oblige our Muhammadan friends; otherwise, we would have gone back to our places on the 15th of this month. We are here to pass a Bill—I do not know how it will work. The future alone will show. These trusts, it has been my experience, are mismanaged, and it is a good thing that the Muhammadans have thought of having a law which would enable them to see that these trusts are properly managed.

With these few words, Sir, let me take leave of you and the other Honourable Members of this House.

THE HONOURABLE MR. R. H. PARKER (Bombay Chamber of Commerce): Sir, one of the ablest of my Indian friends some time ago said to me that he regarded the greatness of England as due very largely to the fact that there were so many men there who were willing to put aside their own interests and perform a public service. If I may say so with great respect, you have shown that attitude in life. In my early days, I decided to have nothing to do with politics with the result that when I came here to Simla for the first time last year, I was completely unacquainted with parliamentary procedure and public speaking and I asked an Indian friend of mine if he could put me on to any line of thought or book which would guide me as a "young legislator" and he replied, "All you have to do is to ask Sir Maneckji Dadabhoi". That I have always done, as you know, Sir, and I have always found you, Sir, extremely kind in every possible way. I would like also to say that the Members of the Government benches have always shown great consideration to me and given me every help.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN (West Punjab: Muhammadan): Sir, like my Honourable colleague Mr. Sapru I am also speaking as a junior member. I must confess that in spite of my being seven years in the other place, and two years in the Council of State, up till the last Delhi session I did not know whether the Council of State had an elected President or a nominated President. I can assure you, Sir, that from the way in which you treated us, we always considered that no elected President could have done better. (Applause.) If the Governor General had left the choice to us, we could not have elected any other person except yourself to the Chair. To form a correct idea of what changes have taken place in the Council of State, one has to go back four or five years. Before I crossed the efficiency bar and was promoted to this House, I used to stand on the balcony of the Legislative Assembly and at about 20 minutes past 11, a long row of rickshaws with coolies dressed in beautiful uniforms used to pass with their faces towards the Mall, and on inquiry it was always found that the Council of State had finished their work and adjourned. Whenever we saw the Council of State rickshaws pass after 12 o'clock, we thought that something extraordinary had happened. Now, we have been sitting here, particularly on non-official days, up to 5 o'clock every day, and it is mostly due to our having the privilege of having a non-official Chairman who is always anxious to help us in every possible way to bring forward non-official legislation. This welcome change in the Council of State can also be attributed to the formation of the Opposition Party in this House, and I would be failing in my duty if on this, the last occasion, I did not express my great appreciation of the formation of the Progressive Party or the Opposition Party in the Council of State. I understand this Party was formed only four years ago. It is not easy to form an Opposition in a House like this and I must pay my highest tributes to the Honourable the Leader of the Opposition Party, Rai Bahadur Lala Ram Saran Das, on his success in forming a real opposition party in this House which is to a great extent responsible for making the debates in this House interesting. However mild that opposition may be, the existence of an Opposition Party in the House always adds to the value of its debates and deliberations. Government should never be afraid of an opposition party so long as my Honourable friend Sir Josna Ghosal is the Whip of the Government Party.

[Raja Ghazanfar Ali Khan.]

whose great popularity and whose entertainments in New Delhi will always attract more people to the Government side than on the side of the Opposition ! Sir, I will not say much about the Leader of the House. The only wise thing which the Government have been doing consistently for the last 16 years is always to pick out the best of the Executive Councillors and to appoint him Leader of the Council of State. I know the Honourable Sir Muhammad Habibullah, the late Sir Fazl-i-Husain and now our present Leader, and I am sure all Honourable Members will agree with me that no other Member of the Viceroy's Executive Council would be more fitted to be Leader of this Honourable House than our present Leader. I may further submit that we have luckily as Members of the Government those valiant Secretaries who really run the Government of India. However brief their replies to our questions they give us the impression that they mean to do what they say. That would not be the case if the reply was given by an Executive Councillor. And the Honourable the Chief Commissioner for Railways couches his replies in such a way that although he always refused what I asked I feel somehow indebted to him ! This small pink book of Standing Orders of 108 pages contains such matters as even those people who have been in the Legislatures for a number of years have still to look up every ten minutes and still make mistakes, we are grateful to the Secretary of the Council of State, Mr. Lal, who always readily helped us and was always obliging. Sir, we shall always remember with gratitude the kindness, the sympathy, which you have meted out to us, and I can assure you that I am not talking conventionally when I say that, provided you are prepared to make further sacrifice for a period of two or three years before the new constitution comes in, His Excellency the Governor General will be placing us all under a heavy debt of gratitude if he will ask you to again to occupy this Chair.

Before I sit down I must express my thanks to Rai Bahadur A. L. Banerjee. I am sure I am voicing the feelings of all the non-official Members that so far as our connection with the office is concerned he has always been very courteous and sympathetic.

THE HONOURABLE KHAN BAHADUR DR. SIR NASARVANJI CHOKSY (Bombay : Nominated Non-Official) : I cordially associate myself with the sentiments—

THE HONOURABLE THE PRESIDENT : I do not wish to prevent Members from expressing their sentiments, but I must request them once more to be very very brief.

THE HONOURABLE KHAN BAHADUR DR. SIR NASARVANJI CHOKSY : I do not propose to take long. I cordially agree with all the sentiments which the Honourable Members have expressed. You have, Sir, occupied an eminent position in the Legislature of India and by your dignity, cordiality, impartiality and fairness you have evoked the love and esteem of the Honourable Members, nay, you have enhanced the prestige of the Chair by following its traditions and have added fresh lustre to its dignity and great position. As regards your relations with Honourable Members, Sir, permit me to say that they have always met with impartiality and fairness at your

hands, a fact that has been conspicuous in the deliberations of this House I cannot however help saying that the deliberations in this House must have imposed a considerable strain upon your physical energy, not to say patience and powers of endurance. I am really surprised that you should have continued for hours together to keep the Chair and to give close attention to each and every point that arose. The Council has been happy in a President who has upheld its rights and privileges. Although in parting with you, Sir, we express our gratitude for all that you have done for the Council, we do hope that when the new Council assembles, you will continue to adorn the Chair with dignity and prestige. We bid you good-bye with all gratitude and cordiality.

One word as to the Honourable the Leader of the House. During my experience of four years I have never come across an occasion when the Honourable Leader of the House has expressed such sympathy towards a Member moving a Resolution as he has been to myself. I was very agreeably surprised at the way in which he expressed his sympathy and cordiality upon a question which was of great importance to all India. Need I say I feel extremely grateful to him.

With these words, Sir, I again wish you all happiness and prosperity.

THE HONOURABLE RAJA CHARANJIT SINGH (Punjab : Nominated Non-Official) : I should like to associate myself with the sentiments which have been so eloquently expressed by my Honourable friend the Leader of the House and other Honourable Members. I have had the privilege of knowing you, Sir, for very many years, and I can confidently say that there is no Member who has rendered more patriotic or more far-reaching services to the Government and country. Since your elevation to the Chair, which was once occupied by such great men as Sir Alexander Muddiman, Sir Montagu Butler and Sir Henry Moncrieff Smith, you have not only upheld the great traditions of your distinguished predecessors but have also added fresh lustre to it. You have been, Sir, a vigilant guardian of the honour and dignity of this House and we are very grateful to you for the courtesy and consideration you have always shown to us.

THE HONOURABLE MR. BIJAY KUMAR BASU (Bengal : Nominated Non-Official) : I will be very brief and I would not have risen, except to associate myself in this very pleasant task of bidding you and the other Members of this Council good-bye. Otherwise, I would be in a minority as I find most of the Members have spoken and I am always afraid to be in a minority. But, Sir, as you have pointed out, it is useless for us to say things which may tend to make you blush. I consider it as awkward to praise a man to his face as to abuse him behind his back. So I will, Sir, only associate myself whole-heartedly with the sentiments that have been expressed so far as you are concerned and the other Members of the Treasury benches by the other speakers and shall not repeat them to your face. I wish you, Sir, health and peace of mind during the years to come.

THE HONOURABLE NAWAB MALIK SIR MOHAMMAD HAYAT KHAN NOON (Punjab : Nominated Non-Official) : I beg to associate myself with all that has been said by the Honourable Leader of the House, the Honourable

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[Sir Mohammad Hayat Khan Noon.]

Leader of the Opposition and the other Honourable Members. Sir, we, the nominated Members, are particularly very thankful to you because we received just as much courtesy, justice and fair treatment from you, Sir, as any other section of the House. I also thank the Honourable Leader of the House and the Secretaries for their courtesy.

THE HONOURABLE PRINCE AFSAR-UL-MULK MIRZA MUHAMMAD AKRAM HUSSAIN BAHADUR (Bengal : Nominated Non-Official) : I am not a man of speech, and so there is not the least fear of my speaking at any length on this day. I have maintained silence throughout this session as well as in the last, but there are occasions when one feels tempted to break the monotony of his practice and to speak a few words, particularly on this day when our hearts are tender and we feel regret in parting from so many good friends, particularly you, Sir, as the head of the Council of State. I was associated with you, Sir, six years ago as a Member of the Council of State, when you were my colleague ; and it was then that I learnt to respect you for your views, your sincerity of purpose, which I admire. It is a matter of great joy that there is no conflict of views since you have occupied this Chair. You are the same person, the same sincere and honest person, that you were when you were an ordinary Member of the Council of State. You have shown to us courtesy and sympathy which we all appreciate and admire, and I feel it difficult to use words, because so many people have said so much and used so many words that I can hardly find myself able to express the sentiments of appreciation with which I am filled. I wish you, Sir, a long, healthy and useful life, and I am sure that if opportunity presents, as I am sure it will present itself to you, to do service to your country, you will not be diffident in accepting the offer so long as God gives you power and strength to do your duty to your country. (Applause.)

Sir, as regards the Leader of the House with whom I have been associated for two sessions, I cannot but express my great admiration for the consummate skill with which he has dealt with the many questions that have come up in this Council and presented Government Bills and Government cases. The Government benches are full, Sir, with the pick of the Civil Service and everyone of them is a past master in the art of argument,—and argument which brings conviction to many of us in this Council. I am sorry we have to part with them and I wish them, particularly the Leader of the House, a healthy, happy and prosperous life and I hope that the relations which have existed between the Leader of the House and the Members of the Council of State, the relations of amity and goodwill shall always continue.

Turning, Sir, to my right, I cannot refrain from expressing my admiration of the way in which the Leader of the Opposition, Rai Bahadur Lala Ram Saran Das, has done his duty. (Applause.) The way in which he has opposed Government has taken away all the stings of opposition ; and on the benches on his left, we have two very promising young men, I mean Mr. Sapru and Mr. Hossain Imam, who are shaping so well that I have no doubt that many of us think that they are destined to fill more important places and to do greater service to their country than they are doing at present. Before me, Sir, sits a man from the Punjab, the Honourable Raja Ghazanfar

Ali Khan, with whom also I was associated before as a Member of the Council of State. He was then not the same Raja Ghazanfar Ali Khan that he is today. • He has developed his skill in debate to a considerable extent, and when he gets up he commands our attention for the way in which he deals with the several questions in which he has interested himself. I wish you, Sir, and all the Members of the Council of State good-bye and farewell.

*THE HONOURABLE KHAN BAHADUR SHAMUS-UD-DIN HAIDAR (Bihar and Orissa : Nominated Non-Official) : Sir, I feel I would be lacking in my duty if I failed to join my Honourable colleagues in expressing our feeling of great and genuine respect for you. I confess I am not an old Member of this House like most of my Honourable friends and have therefore not the privilege and pleasure of knowing you longer. But, Sir, during the short space of a year and a few months that I have been here, I found that your remarkable personality, your acknowledged ability, your able and just rulings, your encouragement to new Members, your uniform kindness and your proverbial hospitality, have not only endeared you to all the Members of this House, but have tended to raise you in the esteem of everyone, both inside and outside the House. We are aware, Sir, that the duties of the President are by no means of an easy character and it would not be wrong to say that that duty has been performed by you, Sir, in a manner worthy of your high reputation and of which every Indian ought to be proud.

Sir, I do not wish to take up more of the time of the House after all that has been said by my seniors, and will therefore end my tribute of respect by humbly and earnestly begging the God of the East and the West to spare you for many many years to come and to bestow on you and your family all that is noble and good. (Applause.)

THE HONOURABLE THE PRESIDENT : (Applause.) Honourable Members, this brings to an end the labours of the Third Council of State. This has been a remarkable Council in many ways, and that has been due to the contributions many of you, both individually and collectively, have made towards the discussions of many absorbing and important problems that have come before us during the last four years that I have presided over this Council. In the first instance, you would like to know the nature of the work done by you and I would therefore in a few words—I do not propose to detain the Council—but will give you a short resume of the contributions made by Members. Altogether eight sessions of this Council have been held. Altogether I had before me for disposal during these four years 1,900 questions for admission, out of which I admitted 1,548 only. It is a fairly large number and the proportion also is large. The number of questions answered, as I have said, was 1,548. The number of notices of resolutions which were received were 250. The number of resolutions discussed were 135. The number of Bills discussed were 111 and the number of Acts passed were 89 ; three Bills certified by the Governor General were also passed, and the number of Adjournment Motions—to my great satisfaction I say—received were only seven, and four were disallowed and three discussed. This is no mean volume of work. In a premier House like this, it is the quality that counts and not merely volume of work. Quantity has no place in this Chamber. I feel extremely gratified particularly over the small number of

* Not corrected by the Honourable Member.

[Mr. President.]

Adjournment Motions. I compliment the Council for having exercised that power, that privilege, which is given us with so much caution, with so much consideration and with so much moderation. Elsewhere we have noticed hundreds of Motions of Adjournment have been made on all and every trivial matter of business, whether they were pertinent to the proceedings of the Council or not. But here you have exercised this privilege with the same circumspection and discrimination which has been displayed by the House of Commons. I particularly refer to this matter because it is a very important and serious matter, and I am of opinion that no Member of the Council is authorised or permitted to take up the time of the Council by moving Adjournment Motions indiscriminately. The practice which you have adopted is an example to all the Legislatures in India and the way in which you have treated this great privilege and exercised it with such caution commends you to the whole country. I shall not detain you very much longer. You have very kindly expressed sentiments which I very highly appreciate and esteem. I have been tremendously touched with the sentiments expressed by many of you but I can say only one word in connection with that. Whatever little success I may have attained as your President is all due to you and not to me. When I first took charge of my office, I begged of you all, both officials and non-officials, to support me in the important task which destiny marked out for me. I was very diffident of doing any good work in this Council. I may honestly confess that at times in the beginning I felt very nervous but it was your co-operation, your willing help and assistance, your obedience to the rulings of the Chair and your generous regard for me that has helped me in discharging my duty. I may say that I shall miss you all. I cannot say what will be the composition of the new Council of State. Many of you will be attracted to your provinces, and I think you can serve your country better by some of you joining your own Councils in the provinces. Many of you will stand for election to this Council. Many of you will meet with success and come back here. As I know very well, some of you have an almost certain chance of coming back to this Council on account of your long association with this Council and on account of the good work which you have discharged here and on account of the position which you occupy in your own province. But the election turmoil will soon be over. I wish you all success in your efforts. But I ask you not to despair if you are defeated in the elections. There are many and more important avenues of service outside this House and if your one aim and object is to serve your country, that can be done in this House or elsewhere or in the local or Provincial Councils.

One thing I must say. I would be ingratitude on my part if I did not express my opinion as regards the work this Council has performed. I say without hesitation and without fear that the level of speeches in this Council has always been very high as compared with many Indian Legislatures. The tone and manner and the courtesy with which the Members have throughout acted is an example to other Councils. I should like to say much on that subject but I must say that I am gratified with the testimony which His

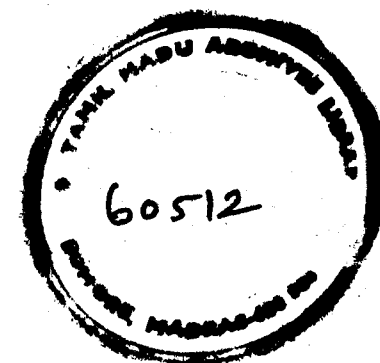
Excellency the Governor General has given to the Members of this Council. His Excellency said, speaking of the Council of State;

"Consisting as it does of Members of proved experience in many walks of life, its balanced judgment on the problems that have come before it and the pains which it has invariably taken to reach a just and objective decision on the many controversial issues with which it has been faced entitle it in a high degree to our gratitude and our esteem".

No such tribute to my knowledge during the last 30 years in the Legislative Council has ever been paid by the Governor General to any other Council. It is a feather in your cap. I hope that the great traditions which you have established, the great reputation which you have achieved, will be more firmly consolidated and will also serve as an example to your successors, whatever may be the position of that House, and that the next Council like you will work for the benefit and advancement of the country.

I again thank you for all kind sentiments you have expressed. Your approbation is my best reward. I will now wish you all good-bye and I will deem it a privilege if, after I have adjourned the Council, all the Honourable Members will come up to the Chair and I will regard it as a token of our everlasting friendship if you will kindly shake hands with me before you leave this Chamber. (Applause.)

The Council then adjourned *sine die*.



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