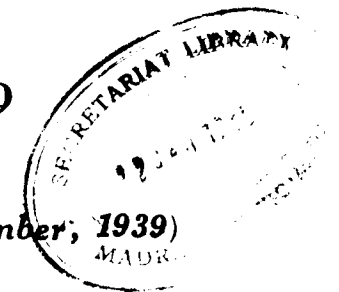


THE
COUNCIL OF STATE DEBATES

VOLUME II, 1939

(11th September to 27th September, 1939)

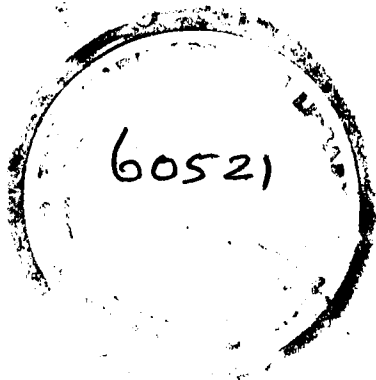


SIXTH SESSION
OF THE
FOURTH COUNCIL OF STATE, 1939



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CORRIGENDA

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Date.	Page.	Question No.	Corrections.
18-9-39	51	3	In line 5 from the bottom, for "granted" read "recruited for".
18-9-39	51	3	In line 4 from the bottom, delete the semi-colon and the words "have been recruited".
18-9-39	51	3	In line 3 from the bottom, delete "yet".
18-9-39	51	3	In last line of the page, for "s" read "is".
18-9-39	112	..	In line 18 from the top, for "thought" read "though".
20-9-39	138	..	In line 14 from the bottom, for "rom" read "from".
20-9-39	141	..	In line 19 from the top, insert "of" after "both".
20-9-39	149	..	In line 15 from the top, for "carreer" read "career".
20-9-39	155	..	In line 12 from the top, for "them" read "then".

Council of State

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BAR-AT-LAW.

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THE HONOURABLE SIR DAVID DEVADOSS.
THE HONOURABLE SIR RAMUNNI MENON.
THE HONOURABLE MR. HOSSAIN IMAM.

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THE HONOURABLE SIR A. P. PATRO, K.C.I.E.
THE HONOURABLE SIR RAMUNNI MENON.
THE HONOURABLE MR. R. H. PARKER.
THE HONOURABLE MR. P. N. SAPRU.

} *Members.*

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THE

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

VOLUME II—1939

COUNCIL OF STATE.

*Monday, 11th September, 1939.***ADDRESS BY HIS EXCELLENCY THE VICEROY TO THE MEMBERS
OF THE CENTRAL LEGISLATURE.**

HIS EXCELLENCY THE VICEROY : Gentlemen, I have in the first place to read to you a Gracious Message to India from His Imperial Majesty the King-Emperor which I have just received, and which I think can most appropriately first be announced in the presence of the Central Legislature :—

“ In these days, when the whole of civilisation is threatened, the widespread attachment of India to the cause in which we have taken up arms has been a source of deep satisfaction to Me. I also value most highly the many and generous offers of assistance made to Me by the Princes and people of India. I am confident that in the struggle upon which I and my peoples have now entered, we can count on sympathy and support from every quarter of the Indian Continent in the face of the common danger. Britain is fighting for no selfish ends but for the maintenance of a principle vital to the future of mankind—the principle that the relations between civilised States must be regulated, not by force, but by reason and law, so that men may live free from the terror of War, to pursue the happiness and the well-being which should be the destiny of mankind. GEORGE R. I.”

We are all of us by now only too familiar with the circumstances in which Germany has attacked her neighbour State. We have seen, even in the week that has elapsed since the outbreak of the war, the spirit in which that war is likely to be waged by Germany's Rulers. We have seen the ruthless onslaught

(1)

[His Excellency the Viceroy.]

upon Poland without a declaration of war; the sinking without warning of the liner "Athenia", and the loss of life that has followed; the complete and cynical disregard by the Rulers of the German people of those principles the establishment and the maintenance of which has been the general object of civilised mankind in past years. It is clear beyond any question in the present circumstances that, hateful as the idea of war may be to us, we, and the nations associated with us, are left with no alternative. There is no means of replying to the unprovoked and wanton onslaught that has been made on a peaceful country but by resorting ourselves to force. But, in resorting to force, we can at least do so with confidence as to the purity of our motives, and as to the unselfishness of the considerations which have led us to our decision.

I need not today enlarge on the importance of the issues. You are all of you familiar with them. But I would again emphasize the impossibility which confronts us in face of repeated breaches of faith, breaches of honourable understandings, over the past year and more, of trusting the word of the Rulers of the German people—a point which the Prime Minister forcibly brought out in his recent address to Germany. Nothing could be more damning than the plain recital of the facts. We have been assured time and again that Germany had no further territorial ambition in Europe, and that assurance has been repudiated on every occasion on which it has suited the Rulers of Germany to repudiate it. We have been assured that Germany would respect the Treaty of Locarno; that she had no designs on the former Czechoslovakia; that she was concerned only to restore to Germany the Sudeten fringes of Czechoslovakia, and had no designs on the true Czechoslovak centre of that country; that she did not aim at the incorporation in her territories of the citizens of any non-German nation or race; that she did not contemplate the annexation of Austria; that she had no designs on Poland, for many years in the difficult post-war period a trusting friend bound to her by treaties of alliance. That long list does not exhaust the tale of German pledges, publicly given in the most binding and the most sacred fashion. No single one of those pledges has been honoured. Each one of them has been broken with entire disregard for those standards of truth and international morality on the basis of which alone the world can hold together, or hope to progress. And those breaches of faith have been not merely a breach of faith. They have represented a denial of justice; a refusal to recognize any guiding principle save that of force; a complete and cynical disregard for the principles that regulate the intercourse of nation with nation; an anxiety to turn to the fullest advantage the absence of preparedness of those nations who had believed in the sanctity and in the sacredness of the undertakings given on behalf of a great nation by the Rulers of that nation.

Now that the decision is taken, now that it is clear that no course other than armed resistance will enable us, and the countries allied with us, to preserve the principles for which we fight, I would make only one appeal today. My appeal is one for unity. In the Message which I have just read His Imperial Majesty has told us of the deep satisfaction caused to him, by, in his own words, "the widespread attachment of India to the cause in which we have taken up

arms". Our task must be to vindicate the principles at stake, to work together in the closest unity for the furthering of our common object. Nothing could be more significant than the unanimity of approach of all in India—the Princes, the leaders of the great political parties, the ordinary man and woman; or than the contributions, whether in offers of personal service, of men, of money, that have already reached me from the Princes and the people of India. There could be no more striking evidence of the depth of the appeal of the issues now before us. I am confident that however difficult may be the days that lie ahead of us (and the teaching of history shows us clearly the folly of assuming in a struggle of the magnitude of the present that victory will be easy, or that the course of the campaign, whatever it may be, will be unchequered) India will speak and act as one, and that her contribution will be worthy of her ancient name.

Gentlemen, in circumstances such as those in which we are met together today you will not expect me to deal with the matters of more ordinary interest which in the normal course would have figured in my address to the Central Legislature. I am certain that I shall be voicing the wishes of all of you if I confine my remarks today to the war and to the issues that directly concern or arise out of war. But I feel that it is only proper that I should express my own confidence that, whatever may be the tasks that, as the campaign develops, may fall to the lot of our Defence Forces, whether by sea, by land, or in the air, the response will be one worthy of those glorious traditions the fame and renown of which are world-wide. They are already, as you know, represented overseas, and our fighting forces can claim to be assisting, at the very outset of the war, in holding posts of vast and critical importance.

To the civil population of the country, and to the civil services, whether at the centre or in the provinces, I would say that past experience has shown the spirit in which we may anticipate their answer to the new call which is being made upon them, and to the new tasks which they have to undertake. These are anxious and difficult times, in which heavy burdens, personal as well as general, must necessarily weigh upon all of us whoever and wherever we may be. I am certain that those burdens will be sustained in a manner worthy of our past.

Before I conclude my remarks to you today there are two matters, both of them arising out of the present situation, on which I would say a word. The first is the acceptance by His Majesty's Government and the Government of India of the conclusions of Lord Chatfield's Committee as expressed in the recently published Despatch. That decision marks an epoch in the history of Indian defence. The grave problems which confronted us in the matter of defence consequent on changes in the international situation and the development of modern armaments are now in a fair way to solution. They have been the constant concern of my advisers, and particularly of His Excellency the Commander-in-Chief, for many months past. The result of the deliberations which have taken place is, on a broad view, satisfactory in the highest degree. In particular I am glad to think not only that the improvements so essential at the present stage of the world's history should be so far advanced, but that, thanks to the most generous measure of help which has been extended

[11TH SEPT. 1939.]

[His Excellency the Viceroy.]

to us, the necessity of laying heavy additional burdens on the Indian taxpayer has been avoided. The profound significance of the decisions that have been taken lies in the fact that India,—so largely an agricultural country, which could never, save at the cost of a complete disregard of other calls, have hoped to make available the vast sums of money necessary for re-equipment and modernization,—has, thanks to the gift which she has received from His Majesty's Government, been placed in the same position in relation to the modernization of her army as the great industrial nations of the world.

I will add only one word more, in regard to our federal preparations. Those preparations, as you are aware, are well advanced, and great labour has been lavished on them in the last three years. Federation remains as before the objective of His Majesty's Government; but you will understand, Gentlemen, without any elaborate exposition on my part, the compulsion of the present international situation, and the fact that, given the necessity for concentrating on the emergency that confronts us, we have no choice but to hold in suspense the work in connection with preparations for federation, while retaining federation as our objective.

Had we met in more normal times, there would have been many other matters to mention to you today,—the position of Indians overseas; the various developments of interest and importance which are under consideration in civil administration; the working of provincial autonomy and of the reformed constitution. But, as I have already suggested, I feel certain that at a time when the struggle which is raging elsewhere is uppermost in our thoughts, this is a moment in which that emergency, and matters directly associated with that emergency, must be of predominant and, in a sense, of almost exclusive importance. Our trust must be that, under Providence, the forces of right and of justice will triumph, and that we may be able to take up again those interrupted activities on which we have been engaged for the furtherance of the constructive work of peace, and of the progress and the prosperity of India. (Applause.)

COUNCIL OF STATE.

Tuesday, 12th September, 1939.

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

MEMBERS SWORN :

The Honourable Mr. Eric Conran-Smith (Home Secretary).

The Honourable Mr. Charles MacIvor Grant Ogilvie (Defence Secretary).

The Honourable Mr. John Dawson Tyson (Communications Secretary).

The Honourable Mr. Cyril Edgar Jones (Finance Secretary).

The Honourable Mr. John Henry Swain Richardson (Bengal Chamber of Commerce).

MOTION *RE* GERMAN AGGRESSION AGAINST POLAND.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Leader of the House): Mr. President, with your permission I should like to move the Motion which has already been circulated to Honourable Members of the House.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU (United Provinces Northern : Non-Muhammadian): What about my Motion of Adjournment?

THE HONOURABLE THE PRESIDENT: I am giving precedence to the Leader of the House because of the importance of the subject. Ordinarily Motions for Adjournment are made after questions. Today there are no questions and you can make your Motion after the Motion proposed has been moved and passed.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: Sir, I move:

"That the House do send to Poland an unanimous expression of its profound admiration at their heroic struggle against wanton German aggression and its complete confidence that the undaunted spirit of their people and the unflinching determination of their Allies will ultimately lead them to victory."

Sir, Honourable Members are aware that the British Empire and France are at war with Germany. They are also aware that Germany has invaded Poland without warning. Every effort was made by England and France to avert the disastrous calamity of war and to secure a peaceful settlement of

[Sir Jagdish Prasad.]

the differences between Germany and Poland. I can say with complete assurance that the sympathies of all sections of Indian opinion are with France and England and Poland, for the peoples of India realise that what is at stake is not merely the freedom of Poland but the freedom of mankind. What is at issue is not the rectification of frontiers between two adjoining countries but whether human relationships are to be based on justice and on reason or on force and fraud and brutal persecution and on the enslavement of not only the body but what is much more precious, of the human mind. It is a great moral issue which is now committed to the hazard of war. At such a momentous period when the future of civilization hangs in the balance it seems to me that it is not enough for us in this country merely to express our sympathy. The time is for action. Our sympathies must be translated into deeds. We must not remain listless spectators of a heroic struggle. Believe me, our whole-hearted participation in a fight for the ultimate victory of right over brute force will strengthen the moral fibre of our people. It is an ennobling experience for individuals and for nations to stake everything for the supremacy of a great moral principle. The calm determination of the men and women of England and France to undergo the horrors of modern warfare, not for material gain but for the vindication of moral principles, must spur us to do our utmost so that out of the carnage of war, victory may emerge on the side of justice and righteousness. We could make no greater contribution to the preservation of civilized existence than to throw our whole weight into this struggle. There are some who have doubts and misgivings and who ask : "Is our help to be unconditional? Should we not take advantage of this struggle to obtain further political privileges for our people?" I hope Honourable Members will bear with me for a moment if I place before them my own view as an Indian on this issue. Let us not ignore the psychological effect on people in England. How will the British people engaged in a life and death struggle over an issue with which we fully agree, regard our action if we make our help conditional on the completion of a political bargain? Will there not be a certain lowering of the moral values, a certain estrangement of the spirit between us and those with whom we bargain in such cruel circumstances? Considering the great human and moral issues over which this struggle is being waged it seems to me that it will be in keeping with our spiritual tradition, that it will be in harmony with the highest teaching of our saints and philosophers if we perform our obvious duty without thought of reward or profit. We will fight for the right because it is the right, and with that motive alone.

But coming down to a lower plane, the commercial plane, if I may call it, the plane of bargain, of profit and loss, are we sure that insistence on a bargain at the present moment will ultimately be to our advantage? Let us not forget that there are not merely two parties to this bargain, India and Britain. There are more parties than one in India and with conflicting claims. A settlement of terms may soon degenerate into a wrangle paralysing effort and filling the atmosphere with domestic strife. There is in all conscience enough of discord in the country. Let us beware lest in an untimely attempt at a political settlement we lose soul and body together. A united war effort will be the best solvent of our internal differences. I have not a shadow of doubt

in my own mind that we should throw ourselves into this tremendous issue with only one thought, the complete destruction of the doctrine of force in the settlement of human differences. Let us not forget for a moment, I beseech you, that the ultimate fate of India will be decided on the battlefields of Europe. We cannot be indifferent to the ultimate issue of this war merely because the scene of battle happens to be at present far removed from our frontiers. If Nazi dictatorship triumphs, all is lost not only for us but for all who value freedom and justice and the reign of law. But I have unflinching faith that, bitter and prolonged and full of sorrow and misery though the struggle may be, the cause of freedom will triumph and men and women all over the world will again be able to breathe freely. Let us waste no more time in disputation and argument, but plunge with all our might in support of this most righteous of wars, and the thought that we have shared in this struggle will add inestimably to the moral stature of our people. As the immediate result of the victory of the Democratic Powers, we shall as a people be able to hold our head high before the nations of the world and we will have gained an accession of spiritual strength which will lead our people irresistibly to its destined place among the free nations of the world.

I would now move that the House do send to Poland an unanimous expression of its profound admiration at their heroic struggle against wanton German aggression and its complete confidence that the undaunted spirit of their people and the unflinching determination of their Allies will ultimately lead them to victory.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan) : Sir, during the last 12 months the ambitions of some of the great western powers have kept the world in a disruptive condition. The concessions made to them have, instead of bringing about an appeasement, increased their belief in force and made them more aggressive. This is not the time to go into the history of those problems which have brought about the present crisis. But there is no doubt that partly the Treaty of Versailles which humiliated Germany and the abandonment last year of Czechoslovakia has involved us in the present tragedy. This is not the time to discuss the British and French policy in the past and enter into the intricacies of foreign policies, but in the present situation the victory of the democratic powers would be better for the world than of the powers which believe in force and autocracy. For Poland I have the deepest sympathy. It is fighting heroically to maintain the independence which it won with the help of the Allies only about 20 years ago. It is faced with a very difficult situation, from which it may be doubted whether even the surrender of Danzig and the Polish Corridor would have saved it. This is probably the main reason why it has decided to oppose the might of Germany, well knowing the heavy and heartrending sacrifices that this will entail. It is too weak by itself to be able to protect its national existence, but we hope that with the support of the Allies it will not merely be able ultimately to preserve its freedom but also make the smaller nations feel that the freedom which they cherish is more secure than before. The sympathies of India, I have no doubt, are with the cause represented by Poland and its Allies. I hope, however, that the British Government which is fighting to maintain the independence of Poland will enable Indians to feel that the

[Rai Bahadur Lala Ram Saran Das.]

principles of justice and liberty will be applied to India also. I strongly feel that a self-governing India will be a great asset to England and at the same time be the greatest proof of the genuine faith of Britishers in the principles which they are now professing.

Sir, I support the Resolution which has been moved by the Honourable the Leader of the House Sir Jagdish Prasad. I hope that the British Government will not hesitate to discharge its moral duty towards India as unhesitatingly as India is discharging its own duties by standing up for the maintenance of national freedom and the spread of the reign of reason and justice throughout the world. I trust that the Allies will prove by their conduct in their own territories that right is might and not that might is right. I hope Indians will do what they possibly can in helping the British Government unconditionally and keep up old traditions of chivalry and enlightened loyalty. In this connection, Sir, I would also like to quote the following observation on the present war by Dr. Rabindranath Tagore, with which I fully concur:—

“The conscience of the world has been profoundly shocked at the latest manifestations of the arrogant unrighteousness of the present ruler of Germany. This is but the culmination of a long series of intimidations of the weak from the suppression of the Jewish people in the Reich to the rape of that gallant and truly liberal State of Czechoslovakia. Through the mouth of Mahatma Gandhi the voice of my country has already been raised in moral condemnation of the inhumanity which has plunged the world into this insensate carnage, to satisfy the vainglorious whims of an individual and his associates. Our voice may not perhaps reach the ears of the faction in power in Germany, for it is not borne on the wings of high explosive shells. I can only hope that humanity may emerge triumphant and that the decencies of life and freedom for the oppressed peoples may be firmly established for all time to come in a world purified through this terrible bath of blood.”

Sir, I do not want to take up more of the time of the Council and will sit down with the assurance that we Indians will do our best to support the British Government in every respect to prevent aggression of this kind.

THE HONOURABLE MR. P. N. SAPRU (United Provinces Southern : Non-Muhammadan) : Sir, in this Motion the Leader of the House asks us to extend our sympathy to an unfortunate country in the ordeal which she is undergoing. I welcome this departure from past practice because I hope that the step which he has taken means that hereafter we shall be permitted to take an interest in the larger world of which we are part and from which we cannot separate ourselves, and that hereafter we shall be permitted to discuss foreign affairs which have hitherto been banned for us.

THE HONOURABLE THE PRESIDENT : I cannot allow that.

THE HONOURABLE MR. P. N. SAPRU : Well, I have just said what I wanted to say. That our sympathies are with Poland in the terrible crisis, through the terrible times she is passing through, goes without saying. We should be untrue to the glorious traditions which we have inherited, to the ideals for which we and those who have gone before us have been working since the beginnings of British administration, to the creed which we have accepted for ourselves, to the principles upon which we wish to see our polity rest, namely,

democracy and international brotherhood, if we did not sympathise with a race which has an unfortunate history and which is the latest victim of Nazi aggression.

The world is now about to witness destruction on a scale which even the imagination fails to grasp in large parts of Europe because of the fanaticism, the perverted patriotism, the cruel ideology, the insanity of one man who is the incarnation of the dark forces of mankind. No one can hate Nazism and Fascism more than I do—not even Sir A. P. Patro—and I have no hesitation in saying that I would regard a Nazi victory as the greatest calamity that can ever befall mankind. How can we who are endeavouring to be free men and free women in our own land, who are worshipping at the shrine of democracy and working for the establishment of the liberal democratic state, who carry with us memories of dark episodes in our relationship with an Imperialism which, I am glad to acknowledge, is more humane and much more liberal in its instincts than National Socialism, how can we, the representatives of a people who have inherited a philosophy which emphasises the unity of all life, how can we deny our sympathy to our unfortunate brothers of Poland? They are not for us, to use the language of Mr. Chamberlain, a people in some far distant land whom we do not know. The Indian national movement is not a nationalist movement in any narrow sense. India has desired and desires to be a free member of the British Commonwealth so that she may be able to make its distinctive contribution to world peace and world order, and with the vision of a new social order based on justice both in the international and domestic spheres, before her, she cannot but be whole-heartedly for nations who are the victims of aggression.

The issue before mankind today is not Danzig. The issue before mankind is not the Polish Corridor. The issue before mankind is not the Treaty of Versailles. The issue before mankind is not the conquest or the subjugation of this race or that. The issue before mankind is whether there shall or shall not be any rule of law in international dealings, whether a small nation has or has not a right to negotiate on equal terms with a mighty neighbour, whether there shall be international anarchy or international order in the world. The Governments of Mr. Chamberlain and M. Daladier have at long last taken a firm stand against aggression. I have been as a student of international affairs a convinced critic of the foreign policy of that Government. My criticisms are identical with those of the Opposition parties—with those of Mr. Lloyd George, Sir Archibald Sinclair and Mr. Greenwood. I think that policy because of its weakness is responsible in large measure for the present crisis—but I gladly acknowledge that Mr. Chamberlain has done the right thing at this moment and I am not going to deny him support because of my past differences. I would like, however, to express the hope that he will continue to be firm and stand for a just and honourable peace, a peace honourable to all the parties involved in the war, and that he will succeed in not only saving Poland but also freeing the great German people with whom we have no quarrel, whom we admire for many outstanding qualities, from the thralldom of Hitlerism and Hitlerian tyranny. India recognises that the democracies are on the right side, that the cause they are fighting for is just and righteous, and that it is one worthy of her sympathy and support.

[Mr. P. N. Saprū.]

But while I conceive it to be India's duty to be definitely on the side of the democracies and to give them all the support her resources will permit, I equally hold it imperatively essential that His Majesty's Government should create such psychological conditions as will lead to general political appeasement and ensure genuine spontaneous co-operation on the part of the people of India.

True to its liberal traditions, that great newspaper, the *Manchester Guardian*, has tried to understand Indian psychology and I would endorse its plea for equality of status and effective self-government for India at the Centre and the removal of all causes of distrust that the present defence arrangements arouse.

I say this in no spirit of bargaining for I want India to pull her full weight in the fight for human freedom, and it is because I want her and her sons to realise the dangers with which the present situation is fraught not only for her but for the entire human race that I would plead with all the earnestness of which I am capable for a policy which would make India and Indians feel that the day of their freedom is not distant.

Effective co-operation could be ensured only in a commonwealth of free nations and it is because I feel that India's co-operation would be more effective and fruitful if it were based upon a status of equality with those nations on whose side she is fighting that I plead for a revision of India's political status.

Britain cannot fight for freedom in Poland and deny it to India. The war will not have been fought in vain if it ensures justice and equality in both the national and the international sphere—and if the law of the jungle is abrogated and mankind evolves a real system of collective security.

With these words, Sir, I support the Motion.

THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa : Muhammadan): Mr. President, the Motion which the Honourable the Leader of the House has moved places in a nutshell the opinion of entire India. Our sympathy for Poland is all the greater because we know what they have to face. India itself is not an independent country. Therefore, she knows what it means to be a subject nation. But there is this vast difference that whereas we live under an Imperialism which is the least harmful of all the Imperialistic powers—I may almost call it the best of a bad lot—they have to face a power which denies even elementary rights to its own nationals. Nazism is a denial of all that we hold sacred in life, in thought and in ideology. It means the subjugation of an entire people to the autocratic will of one person. We who believe in democracy and in civil liberties cannot even contemplate what poor Poland has to face. We know the chequered history of this country which for centuries has been partitioned, divided up, dismembered, broken, trodden down and in every way humiliated not only by foes but even by those who went as friends and promised things to them. Napoleon told them many things, but what was the result? Poland had never had unity, after its first Empire disappeared. After all these years they got a National Government and enjoyed it for a few years and now they have to face the worst domination they could possibly imagine. On the one side they have the German Nazis and there is a fear that they may again be partitioned and divided up and denied the liberty which they enjoyed all these years. As our Honourable colleague

Mr. Saprū has said, this war which is being waged at the moment is for the establishment of the freedom of the world. It cannot be isolated into a war for the upkeep of Polish independence alone, because that issue would not be so big as to draw England and France on the one side and make Italy remain neutral on the other side. But what is the prospect? We know that freedom can be only nominal and not real. The German people are supposed to be independent and sovereign people. But do they have any independence, any right, *vis-a-vis* the State? Similarly, India also wishes that she should not have a sham liberty, a sham constitution where those who have the misfortune to be in the minority either of ideology or of religion are crushed, as they are being done every day in India. Even ideological minorities are suffering at the hands of those who have power. The India of the future, I hope, will be better, and the liberties therein will be more real than in the past. The determination of the Allies to fight this danger has come rather late. The House will remember that in 1935, when I was moving a Resolution on the subject of the League of Nations, I drew pointed attention to the fact that the theory of collective responsibility and collective security is being given the go-by and that there is no safety for the world until collective security is made the lodestar of the people of the world. No one can fight alone for his rights against an aggressor or superior power, and as long as you allow that superior force should prevail, you encourage this aggrandisement which has resulted today in the attack on Poland. The British people with the best of intentions thought that the world is now sane enough to regard with horror a war and all that it implies. They went on with disarmament. They wanted to teach the world that it is better to live in peace. But they forgot that what is the gift of the strong man is regarded as the weakness of one who is weak. People thought that England was unable to spend more money, that she was unwilling to fight, that she had deteriorated and they took mean advantage. And it was a mistake that this impression which was gaining ground in Central Europe was allowed to remain as it was and no check was applied by British foreign policy to remove this misconception of the attitude of His Majesty's Government. They woke to the reality of the situation rather late, but as the proverb goes, "Better late than never". I welcome this decision of His Majesty's Government to fight and I hope they will fight to a finish to end this standing danger to the liberties of the world in the shape of Nazi aggrandisement.

Sir, I support the Motion.

THE HONOURABLE MR. SHANTIDAS ASKURAN (Bombay : Non-Muhammadan): Sir, I wish to associate myself with the Motion moved by the Honourable the Leader of the House to convey to Poland our admiration, sympathy and support. The eloquent speech in which the Honourable Sir Jagdish Prasad has moved the Motion leaves, indeed, little to be said by any Indian, whether inside this House or outside. He has expressed in admirable terms the sentiments of all sections and classes of the people in India. Nothing can be more gratifying to us, Sir, than the remarkable outburst of generosity on the part of the Princes and the people of India since the declaration of war. From all parts of the world, there has been unmistakable recognition of Britain's intention to resort to arms if Germany would not abandon her methods of aggression against her weaker neighbours. This war, it must be

[Mr. Shantidas Askuran.]

clear to unbiassed observers even in Germany, is not of Britain's seeking. Indeed, there has been a growing section of opinion in Britain that the Prime Minister, by his policy of appeasement last year gave some encouragement to Hitler. As events have now proved, Hitler was totally mistaken in his estimate of British character. As is often the case with bullies, Hitler mistook Britain's love of peace for weakness. Blinded by his own mad love of domination, he refused to listen to the voice of warning and to appeals for the settlement of Germany's claims by reason and negotiation. He and he alone will be held by history to be the cause of the present catastrophe.

Sir, we in this country with our ancient civilization based upon a spiritual outlook cannot but abhor war, except when it is forced upon us in the defence of the weak and the oppressed. There is an ancient Sanskrit saying which comes to my mind at this moment : it is that the tears of the weak undermine the thrones of Kings. Although some successes, such as the annexation of Austria and Czechoslovakia, by means too brutal for our understanding, have encouraged Hitler to think that the way is open for world domination, it is to the credit of Britain that she should have come forward to champion the cause of the weak. The smaller nations of Europe have been oppressed by a terrible sense of fear as to their fate and security. Britain could not do less than she has done, without betraying the future not only of the Commonwealth of Nations of which she is the leader, but of the world as a whole.

Sir, we may have our own differences with Britain. They are many, no doubt, who feel that she has been too slow in recognising India's claims to equality. But in a struggle like the present, whose length and intensity no one can foretell, India's place, as the Honourable the Leader of the House has told us, is undoubtedly by the side of Britain. This war is being fought to assert the rule of law in international affairs. Success for such a cause is bound to have the most profound reactions upon India's position and status in a new world order which must follow peace.

Sir, I would like to make one final observation. The Honourable the Leader of the House has reminded us of the teaching of the Bhagavat Gita that it is not only right but it is our duty to defend a righteous cause without any further thought. But if there are some amongst us, who would like to be assured that India would get something substantial by her contribution to the war, I would remind them that the British public is not likely to forget in the hour of triumph our generous and unquestioning support during a period of darkness and struggle. India by actively taking part in the war, will have gained the right to admission to a position of equality with the other nations of the world in building up a new civilization based on international justice and fair play.

Sir, I give the Motion my warmest support.

*THE HONOURABLE RAJA CHARANJIT SINGH (Nominated Non-Official): Sir, I give my whole-hearted support to the Motion made by the Honourable Kunwar Sir Jagdish Prasad and the sentiments expressed by him. I would at the same time ask you to convey the unswerving loyalty and

*Not corrected by the Honourable Member.

devotion of the people of India to His Imperial Majesty the King Emperor and India's earnest desire to support His Majesty's Government in every possible way. (Applause.)

THE HONOURABLE SIR MUHAMMAD YAKUB (Nominated Non-Official): Mr. President, the conditions under which we have met this morning are no doubt very grave and serious. The brute forces of Nazidom have openly started aggression and treachery, and, acting on the principle that "might is right", Hitler is devouring and destroying smaller countries and weaker nations. The circumstances which led to this war and the efforts which were made by Great Britain to avoid bloodshed need not be repeated here. They have already been described fully, and His Excellency the Viceroy yesterday in his forcible and lucid speech has given a detailed account of them. Our hearts go forth in sympathy to the latest victim of Nazidom, namely, Poland. We cannot but sympathise with Poland and admire the bravery and patriotism with which she has been fighting against very heavy odds and against a very powerful foe. It is no doubt, Sir, our sacred duty to lend our whole-hearted support and co-operation to Britain and France in support of the noble cause for which they have taken up arms. I have never found such unanimity on any subject as I find today all round the country on this subject. I was really very much moved on reading the touching statement which was issued by Mr. Gandhi after having an interview with His Excellency the Viceroy. The statement which was, only yesterday, published in the papers, the statement of Pandit Jawaharlal Nehru also shows that he is in sympathy and in concord with the feelings which were expressed by Mr. Gandhi. Many prominent Princes of India, including His Exalted Highness the Nizam, have issued patriotic appeals to their subjects to support the British Government, and it seems to me that the realisation of a common danger has brought all parties and all schools of thought together. We will not certainly spoil the grace of our co-operation by making it contingent on any conditions and provisos. We, in India, are like the passengers of a ship which is being threatened by the enemy guns and submarines. Will it be right or will it be proper for the passengers on this occasion to raise their grievances and complaints against the officers of the ship and the crew instead of putting all their weight to save the ship from sinking? If, God forbid, the ship goes down to the bottom of the sea, how will our grievances be removed or will our position be improved in any way? Therefore, Sir, it is time that we should all unanimously with one voice declare the common intention of India to support the British on this occasion of their great trial.

Mr. President, neither the time nor the subject-matter of this Motion requires a long speech and I will say nothing more except that I whole-heartedly lend my support to the Motion which has been ably moved by the Leader of the House.

THE HONOURABLE SIR A. P. PATRO (Nominated Non-Official): Sir, it is an extraordinary situation, extraordinary because for the first time I see the terms of the Motion on paper here when I entered into the hall. I do not know whether other Honourable Members have had this Motion circulated to them, but so far as I am concerned—

HONOURABLE MEMBERS: No, we got it here in the Council.

THE HONOURABLE THE PRESIDENT: This was an exceptional occasion. In virtue of the powers vested in the President, I allowed it without circulation.

THE HONOURABLE SIR A. P. PATRO: I am only pointing out the situation, namely, it is an extraordinary situation and therefore perhaps we have not had the advantage of previous notice of this Motion, though it is possible that some Honourable Members could prepare long essays, philosophical dissertations, on this Motion. Apart from this, I say that this Motion does not require any long speech or any extraordinary statement to be made. After the very lucid statement made by His Excellency the Viceroy yesterday in addressing the Legislature and the statement made by His Excellency the Commander-in-Chief which in essence summarises the whole situation so clearly and lucidly and truly, the picture is so very clear to the country that I do not think that there is one person here or outside who is not in sympathy and would not support the Motion before the House. But, Sir, in speaking about this Resolution, one cannot speak with any moderation. I do feel the grave injustice, the cruel injustice, done by one nation to another nation. Every attempt that was made by nations with a view to effect a compromise and peace was deliberately and cruelly frustrated by Germany and without any notice and without any intimation of the impending danger Germany goes and pounces upon Poland. Poland is a Republic, a Republic which we all appreciate and admire. What are the relations between Germany and Poland? When Hitler came to be President of the Reich what happened? In 1934 he entered into a pact with Poland that he would not enter into any land that was then in the possession of Poland. When he was endeavouring to invade Austria his statement to the Reich was that he has every respect for the country occupied by Poland and he specified Danzig and said that the independence will be left untouched which is the legitimate and legal property of Poland. Within a few months after, what happens? There is his Lieutenant, General Goering, who starts a false propaganda saying that the German minority have throughout been greatly oppressed by the Poles and therefore it is the right of the Reich that they should get back what was theirs and that Danzig should come into the Reich. The same tactics and the same method was adopted in regard to Czechoslovakia. The Czech population have been subjected by threats, by coercion, by force. The same methods are adopted here. The Poles are a brave nation, a courageous nation, a self-respecting nation; therefore they withstood the first onslaught and they are standing brave and courageous. Therefore our admiration should go forth to the Poles and our appreciation should not be merely in words or in reading long essays, but our appreciation should be to do our best and utmost in order to encourage recruitment and help Great Britain in the just war that it has entered into. The Prime Minister of England in the House of Commons has stated very truly that no nation has ever entered into the war with greater justice and greater cause than England has done. Sacrifices will have to be made, sacrifices must be made and the Prime Minister said that right will ultimately triumph over might. Sir, I associate myself with the Motion.

THE HONOURABLE MR. J. H. S. RICHARDSON (Bengal Chamber of Commerce): Sir, I have listened to the remarks and views of my Honourable

Indian colleagues with great appreciation and much thankfulness and it only remains for me to say that I most heartily support the Motion.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU (United Provinces Northern: Non-Muhammadan): Mr. President, this is undoubtedly 12 Noon. an awful moment. It is a sad commentary on Western civilization that practically within 20 years of a great war we should be plunged into a struggle which promises to be more fierce and destructive than even the last one. One wishes that questions on which peace and order in the world depend could be settled by reason and negotiation. But unfortunately all the countries of the world have in the connection with the administration of the territories under them relied on force. It is the result of these internal policies, and the belief in force that we see today in the conflagration that has broken out in Europe. In spite of this, India's sympathies, I am sure, will be on the side of those who are fighting autocracy and dictatorship. Notwithstanding our differences with the British Government, I think anyone who observes what is taking place in the country can feel that, owing to the antagonism created by the Fascist and Nazi political philosophies and methods of government, there is greater support for the democracies in India than there was in 1914. For Poland we feel the utmost sympathy. We who are struggling for our freedom cannot but feel deeply for the brave Poles who notwithstanding their subjection to foreign rule for a century and a half have retained their national spirit. They were cynically partitioned by three great Powers and it was practically after 150 years that they were able to regain their freedom at the close of the Great War. We deeply sympathise with them in their gallant struggle to maintain their newly-won national status and to determine the cause of their national life in accordance with what they deem best for themselves. In 1914 it was a murder at Serajevo that set a spark to the powder magazines of the world. Today it is the conduct of Germany in respect of Danzig and the Polish Corridor that has set the world ablaze, but in each of these cases, as we can easily see, behind the immediate events lay principles of great moment which all those who value human freedom and personality must be prepared to defend.

Sir, in expressing our sympathy with Poland we morally bind ourselves to give her what help we can. But such help as we can give can only be given through the British Government and I am sure that India will be prepared to play its part worthily in the present struggle. But for the realisation of the result that we have in view, namely, the achievement of victory for those principles which we all value and whose reign we want to establish in this country, it is essential that there should be complete co-operation between the authorities and the non-officials. I have no desire to raise controversial questions or to ask for any reward for standing up for principles on which the destiny of mankind depends, but any one in this country who is interested in the future fate of the world must ask himself as to what are the means by which that co-operation can be achieved which will enable us to carry this struggle to a successful issue. Now, this co-operation that we all want requires in one word that India should be made to feel that her status is equal to that of the other self-governing members of the British Empire. The efforts to create this belief will undoubtedly require a reconstruction of the

[Pandit Hirday Nath Kunzru.]

present Central Government and a pursuit of enlightened policies with regard to the army. The present unsatisfactory form of government must be changed as early as possible if the confidence of the people is to be gained. Besides, if we are to put forward our best efforts, it must be primarily in the military domain. It is obvious, therefore, that if liberal policies are followed in this field it will enable Britain to achieve co-operation to a greater extent than anything else that it could do. I emphasise this point, Sir, because, frankly speaking, I feel that the policies that have been followed in this department are such as to create want of confidence in British intentions towards the development of self-government in this country. The policies of the Army Department seem to me to be resolutely racial and anti-Indian. I speak, Sir, frankly and without bitterness for there are issues larger than those concerning the fate of the British Empire that are at stake at the present moment. I do hope, Sir, that the British Government will realise that free men are the best defenders of freedom and that they can mobilise fully that feeling which already exists in this country in their favour in order to achieve results which both they and we have at heart only if they apply to India the principles for which they are fighting in Europe.

My Honourable friend the Leader of the House, who moved the Motion now before us, is specially concerned with questions relating to Indians abroad. I am sure he will bear me out when I say that in fighting for justice for Indians, for the protection of their elementary rights, we have come up again and again not merely against the Dominions but against His Majesty's Government themselves who, when they are in danger, ask us to identify our interests with theirs and to shed our blood freely for the Empire over which they rule. I trust, Sir, that as a result of the present war and the realisation of the fact that its successful prosecution depends on unity amongst all sections of the people and among the people and the Government, not merely the Government of India but His Majesty's Government also, who are finally responsible for the policies that are pursued in India, will change their angle of vision and will enable India to share in the freedom which they wanted to establish in 1914 and which they want to establish today throughout the world.

With these words, Sir, I support the Motion moved by the Honourable Sir Jagdish Prasad. I believe in my heart of hearts that there cannot be anything worth living for if human personality is despised, if the rule of force is established throughout the world and if men use the moral right of thinking for themselves and associating themselves freely in defence of opinions on which ultimately the salvation of the world depends. I have no doubt that my country realises this to the fullest possible extent. Looking at the question, both from the point of view of the world and of the welfare of this country, Indians will no doubt do the best that they are capable of in this situation to smash those principles which are the foundations of Fascism and Nazism. May it be given to the authorities also to realise the significance of the occasion and their own moral duty to do what is just and right towards the people living in their own territories.

THE HONOURABLE MR. V. V. KALIKAR (Central Provinces : General) : I heartily congratulate the Honourable the Leader of the House in moving

a Motion for endorsing the sympathy of this House for a right and just cause. Sir, we give and must give unstinted support to Britain in this right and just cause. India cannot afford to side with those nations who want to trample ruthlessly on the principles of justice and equity. Of course, India has limited resources. Britain must know that India has got limited resources and to some extent Britain is responsible for it. Whatever resources India has got, she will ungrudgingly place them at the disposal of Britain.

Sir, the Honourable the Leader of the House raised the question of bargaining. I can assure him that there is no Party in India at the present moment which wants to bargain with Great Britain. Our point is that unfortunately India is not in a strong position to give as much support as she desires to give to England in this catastrophe. My Honourable friend Mr. Kunzru has alluded to some points in his speech. I fully endorse his view that at least in this emergency there ought to be full co-operation between the official and non-official side and attempts must be made even though within a limited time to make India quite ready to take up her position with Britain in this struggle. Britain, Sir, should not forget after the successful finish of this war that India's claim for being an equal partner in the Commonwealth of Nations is just. Sir, India desires not only to give moral support but also material support to Britain in her just fight. But India regrets that her resources are limited and that she is not in a position to give as much material support as she desires to give owing to the policy that has hitherto been followed by Britain. I, therefore, heartily give my support to the Motion and at the same time I want to impress on Britain that India must be given full liberty for playing a proper part and taking her proper share in the struggle that is before us and I trust that Britain will remember that she has also to fulfil her pledges to India in future.

THE HONOURABLE KUMAR NRIPENDRA NARAYAN SINHA (West Bengal : Non-Muhammadan) : Sir, I whole-heartedly support the Resolution so ably moved by the Honourable the Leader of the House. Sir, in this hour of national crisis, it is absolutely necessary that India should stand united with the rest of the British Empire and should render all possible help to the British whenever required. I hope, Sir, that after the war is over, India's objective will be remembered.

THE HONOURABLE LT.-COL. SIR HISSAMUDDIN BAHADUR (Nominated Non-Official) : Sir, I rise to support whole-heartedly the Motion moved by the Honourable the Leader of the House and so strongly supported by my Honourable colleague. The independence and welfare of British India and Indian States stand and fall with Britain. This is not merely my personal view, but also that of other thinking and far-sighted people. I appeal to the Leaders of all Parties in India to face this problem courageously and with a clear realisation that dark days may come. Reach your decision. And it is obvious in which direction that decision might lie. As far as I myself and my family are concerned, we have already offered our services and our resources to His Majesty's Government and are ready to go to any front. (Applause.)

THE HONOURABLE HAJI SYED MUHAMMAD HUSAIN (United Provinces West : Muhammadan) : Mr. President, there cannot be the least doubt

[Haji Syed Muhammad Husain.]

that this war is a war of aggression, injustice and greed. We have all followed the events preceding the war and we all know the circumstances under which this war has begun. It is a war between might and right, between the strong and the weak, and the result of this war will show to the world that the weak also have a right to exist under the sun. So far as admiration and sympathy for Poland is concerned, there is not the least doubt that we have the greatest admiration and sympathy for the determination with which the Poles are fighting against this tyrant which defies the whole world. So far as determination to see it through to a successful end is concerned, I am prepared to say that it is the duty of the Allies and the Allies of the Allies to see that this aggression shall not be repeated in the world. So far as co-operation and participation in the war is concerned, there were occasions before today when the war clouds were very thick and there were indications from certain party platforms as to India's non-participation in the war. That, as I thought then, was nothing more than an effort to bargain. To my mind nothing can be meaner than to take advantage of the position in which the British are placed today and try to bargain. Our differences and quarrels are the differences and quarrels of the household, just as in England itself there are party differences on domestic policies; and so long as we are not separated from the British Empire our differences with Britain are the differences of the house between members of the same household. But when the house itself is attacked and is in danger, there is no question of differences between its members. We must all stand as one man and try to defend that house in which we all live. It will be most unfortunate if there is any spirit of bargaining or any condition attached to the support which India has to offer to Britain. India will not be helping the British alone; it will be helping itself also in this great war. India is impotent to defend itself with its own resources, particularly its military resources which are very limited. If the war is prolonged and more countries enter into it can it be said that without British help India would be able to defend even one of its coasts or cities from attack by any power which chooses to come to India? Then, when India at present looks for its defence to the British Government, is it fair and honest to try and put forward any condition for its co-operation in defending the whole house of which India is a part? I say, no. And at this moment I refuse to admit that India is not strong enough to make itself felt for the settlement of its own grievances. Let the war be finished and I am quite sure Indians themselves will be strong enough to force the British to do justice towards India and to accede to India's claims. But at the present moment the only question which should be before India is to defend the whole house of which it is a part, and nothing else, no condition and no provision should be attached to that. Therefore as an Indian I would certainly offer my whole-hearted support to the Motion moved by the Honourable the Leader of the House.

I have just one word more to add. I have said as an Indian that it is our duty at this juncture, so long as we are within the Empire, to support the British in this war. Now, something more than an Indian, as a Mussulman I congratulate the British Government on enlisting the support and friendship of the Muslim countries, which I should say divide this hemisphere into half,

from North-East Africa up to Afghanistan. With this support and alliance I have every hope that the war will show to the German people that aggression and might are not the only things; and although in a few weeks poor Poland may be gone, it will not be gone for ever; it will be only a temporary eclipse and justice will be done.

With these words I support the Motion of the Honourable the Leader of the House. (Applause.)

THE HONOURABLE THE PRESIDENT: Honourable Members, we have unfortunately met this morning under the shadow of a great and terrible war. That war has been started by one man alone to satisfy his unprincipled ambitions. The civilization of the whole world is in great danger and is considerably menaced. The entire Empire is now behind Britain and I am very glad to notice from the speeches made this morning that India will not lag behind in joining the other members of the Empire in this terrible catastrophe. Germany is now fighting a solitary war because other nations have remained neutral and have no desire to join Hitler in his brutally forced war. At this moment a great duty is cast upon us all and especially upon you, the Members of this Council of State. You are the Senators of this great country and you are the accredited representatives, I may say, of this vast Empire. There lies much in your power to help not only Poland but the Allies in the supreme task that they have undertaken. It is not only that speeches should be made in this House, but you have power when you go back to the country, to your own people, to exercise your influence, to help, to guide and to advise your own countrymen, what action they should take and what attitude they should adopt, in this great emergency. On you rests this sacred and imperative duty, and you will be judged by the manner in which you perform this sacred task. Do not lag behind any other nation in their enthusiasm and their support to the Allies, who are fighting a supreme and unselfish war for the freedom of all countries and to smash and exterminate altogether Nazism in Germany. Our duty and our obligations is to stand firm by the British Government and lend all the help and assistance in our power, which we are capable of giving. I am very pleased also to know and to hear this morning that many of you have expressed the desire that our assistance to Britain shall be unconditional. In my humble opinion our help to Britain should be entirely unconditional and not one made in a spirit of bargaining and haggling. As the Right Honourable Sir Tej Bahadur Sapru remarked only the other day, I am tempted to quote his short observations on this point:

"The future of India must stand over until the common peril is over. It would be a short-sighted policy to say or do anything which might encourage Germany, Russia, or any other member of the axis Power, quite apart from the fact that associations going back to 1,000 years cannot be terminated in the twinkling of an eye by resolutions, however strongly worded. Our self-interest alone demands that we must do everything to secure the safety of the country and that I am clearly convinced cannot be done without full and unreserved co-operation with the British Empire".

I hope you will bear all these sentiments most carefully in mind. Every sober-minded man will accept with unstinted approval these noble sentiments and I am very glad that some Members of this Council have given an echo today to these sentiments in as sincere a manner as possible. Though we are far away from the theatre of war, pray do not forget that India is within the danger

[Mr. President.]

zone and is liable to be attacked any time. I am very pleased that His Excellency the Commander-in-Chief in his broadcast the other day has given us a complete idea of the way in which the Government of India have been preparing to take our part in any eventuality that may arise, and has told us what India would have to do in case an attack was made on us. He has fully explained the dangers which India will have to encounter. If any attack is made here it is imperative in the interests of India that Singapore, Egypt and Aden should never fall into hostile hands. It is therefore only right, and it is a matter of patriotism, that our Indian soldiers should be sent to these strategic bases to protect our common land and that we should in this manner aid the protection of India and render help to England in her great trial.

I must also mention that it is a matter of great congratulation to the country that the Chatfield Committee's recommendations have been accepted at this critical time by His Majesty's Government and a magnificent gift of over Rs. 33 crores and a loan of Rs. 11½ crores without interest is generously made by His Majesty's Government to India. This gift will enable India to be placed in a strong military and naval position and with a further additional help and assistance by His Majesty's Government India will be in a position to avert war if she is involved in it. At this time when we are meeting here, a great war is being carried on there. You must be reading in newspapers daily how Poland is making the heaviest sacrifices in her power to regain her freedom and independence. Let us all pray Providence that in this supreme hour of trial and difficulty He may help Poland and the Allies to carry on successfully their supreme task and come out victorious and thus suppress and erase Hitlerism, terrorism and everything connected with that sordid régime. I therefore ask you, Honourable Members, to rise and to pass this Motion with all solemnity which has been so ably moved by the Honourable the Leader of the House :

"That the House do send to Poland an unanimous expression of its profound admiration at their heroic struggle against wanton German aggression and its complete confidence that the undaunted spirit of their people and the unflinching determination of their Allies will ultimately lead them to victory."

The Motion was adopted (Honourable Members standing).

THE HONOURABLE THE PRESIDENT: Honourable Members, I will request His Excellency the Governor General to convey to the President of the Polish Republic your sentiments of sympathy through His Majesty's Government.

MOTION FOR ADJOURNMENT *RE* RECOMMENDATIONS OF THE CHATFIELD COMMITTEE.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU (United Provinces Northern: Non-Muhammadan): Mr. President, I gave notice yesterday of my intention to move the adjournment of the business of the House to discuss a definite matter of urgent public importance, namely, the unsatisfactory

character of the announcement made by His Majesty's Government regarding the recommendations of the Chatfield Committee. Since, however, I gave this notice, several Honourable Members have spoken to me on the subject and asked me to request you to have the discussion of this matter postponed so that they may be able to obtain full information on the subject from the Defence Department. Hardly anyone of them has read the Despatch of His Majesty's Government on the recommendations of the Chatfield Committee. Most of them have only read extracts, meagre or full, that have appeared in the newspapers. There are therefore two courses open to us; one is that I should move the Motion today and that you may kindly allow its discussion to be adjourned to some future day convenient to the House; the other is that I may be allowed to move it on the next day on which the House sits, which, I understand, will be the 18th instant. I am entirely in your hands in this matter and I am fully prepared to accept the course that commends itself to you.

THE HONOURABLE THE PRESIDENT: I would like to know when is it likely that the whole Despatch will be published.

THE HONOURABLE MR. C. M. G. OGILVIE (Defence Secretary): As far as I am aware it has already been published in full in the press.

THE HONOURABLE THE PRESIDENT: We cannot take as authentic anything published in the press.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: We cannot quote from it.

THE HONOURABLE MR. C. M. G. OGILVIE: It is the only way in which publication has been given to it.

THE HONOURABLE THE PRESIDENT: But doesn't the Government propose to distribute the whole Despatch to the Honourable Members of the Central Legislature?

THE HONOURABLE MR. C. M. G. OGILVIE: I think, Sir, a copy of the Despatch was sent to every Member of the Central Legislature, as far as I am aware, (*Cries of "No, no,"*) who was in Simla on the day of publication.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: Hardly any one of us was in Simla at the time.

THE HONOURABLE THE PRESIDENT: I can assure you that I myself have not seen the Despatch.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab: Non-Muhammadan): None of us has.

THE HONOURABLE THE PRESIDENT: Two courses have been suggested by the Honourable Member for dealing with his notice of an Adjournment Motion, but I am exceedingly sorry I cannot accept the first course because I have no such power whatever. If I admit the Motion today, under the Standing Orders I must ask the Council to sit today at 4 p.m. for the discussion of the Motion, or immediately after the work of the Council is finished today, and therefore it is not possible for me to accede to the Honourable Member's

[Mr. President.]

first proposal. I shall accept his second suggestion and allow him to move his Motion on next Monday and I shall not then object to it on the ground that the event is not of recent occurrence but will waive that point and permit him to move his Motion.

THE HONOURABLE SIR A. P. PATRO (Nominated Non-Official): In the meanwhile, Sir, may the Department be asked to circulate the Despatch to the Members of the House?

THE HONOURABLE THE PRESIDENT: Yes, I presume that will be done.

STATEMENTS LAID ON THE TABLE.

THE HONOURABLE SIR ALAN LLOYD (Commerce Secretary): Sir, I lay on the table—

- (a) a copy* of the Insurance Rules, 1939; and
- (b) a copy of the United Kingdom-India Trade Agreement Rules, 1939.

UNITED KINGDOM-INDIA TRADE AGREEMENT RULES, 1939.

DEPARTMENT OF COMMERCE.

NOTIFICATION.

TARIFFS.

Simla, the 17th June, 1939.

No. 20-T. (21)/39.—In exercise of the powers conferred by sub-section (2) of section 3 of the Indian Tariff Act, 1934 (XXXII of 1934) and in supersession of the notification of the Government of India in the Department of Commerce, No. 780-T. (11), dated the 24th December, 1932, the Central Government is pleased to make the following Rules:—

Rules.

1. *Short title.*—These Rules may be called the United Kingdom-India Trade Agreement Rules, 1939.

2. *Application.*—These Rules apply to goods consigned from the following countries, namely:—

- (a) The United Kingdom of Great Britain and Northern Ireland, and
- (b) The Colonies, British Protectorates, and territories under the British Mandate specified in the First Schedule.

3. *Definition.*—In these Rules—

- (a) “Act” means the Indian Tariff Act, 1934 (XXXII of 1934);
- (b) “British Colony” means any country specified in the First Schedule;
- (c) “expenditure on material” means the cost to the manufacturer of the material at the factory or works, including containers but excluding royalties;
- (d) “factory or works cost” means the cost of production to the manufacturer at the factory or works and shall include the value of containers and other forms of interior packing ordinarily sold with the article when it is sold retail, but shall not include the manufacturer's or exporter's profit or the cost of exterior packing, carriage to port and other charges incidental to the export of the article subsequent to its manufacture; and

* Not printed. Copy placed in the Library of the House.

(e) “United Kingdom” means the United Kingdom of Great Britain and Northern Ireland.

4. No article shall be deemed to be the produce or manufacture of the United Kingdom or a British Colony unless the Customs Collector is satisfied—

- (1) subject to the provisions of rule 5 that the article has been consigned from such country; and
- (2) (a) where the article is unmanufactured, that it has been grown or produced in such country, and
- (b) where the article is manufactured—
 - (i) that it has been wholly manufactured in such country from material produced in such country; or
 - (ii) that it has been wholly manufactured in such country from unmanufactured materials; or
 - (iii) that it has been partially manufactured in such country and that the final process of manufacture has been performed in such country and that the expenditure on material produced and labour performed in such country in the manufacture of the article is not less in the case of an article specified in the Second Schedule than one-half and in the case of other articles than one-quarter of the factory or works cost of the article in its finished state:

Provided that where the goods are consigned from a British Colony the material produced and labour performed in any other British Colony may be reckoned as though it were material produced or labour performed in the colony from which the goods were consigned.

Explanation.—For the purposes of sub-clause (iii) of clause 2 (b) the final process of manufacture shall not be deemed to have been performed in any country in which no process other than a process of mixing, bottling, labelling, packing into retail containers or the like has been performed, but where such process as aforesaid has been performed in the country in which the final process of manufacture has also been performed nothing herein shall render the cost of such process ineligible for inclusion in the computation of the fraction of the factory or works cost of the article in its finished state which represents expenditure on material produced and labour performed in that country.

5. Articles of a description specified in the first column of the Third Schedule which have been consigned from the United Kingdom but are in other respects eligible under rule 4 to be deemed to be the produce or manufacture of a country specified in the corresponding entry in the second column thereof shall be deemed to be the produce or manufacture of that country notwithstanding the fact that they were not consigned therefrom.

6. If the owner of any goods entered for home consumption claims that they are Customs House pro-chargeable with a preferential rate of duty, but is unable to satisfy the Customs Collector that the goods fulfil the conditions laid down in rule 4 or rule 4 read with rule 5, as the case may be, the Customs Collector—

- (i) shall levy and collect the duty at the standard rate, and, if at any time within a period of three months from the date of payment of duty at the standard rate he receives an application in this behalf from the owner of the goods and is duly satisfied that the goods are entitled to entry at the preferential rate, shall make a refund to the owner of the extra duty levied; or
- (ii) may, in his discretion, levy and collect the duty provisionally at the preferential rate, subject to the execution by the owner of the goods of a bond in one of the Forms prescribed in the Fourth Schedule binding himself to pay the balance of the duty.

7. (1) No claim that goods are chargeable with a preferential rate of duty shall be considered by the Customs Collector in respect of goods imported by post unless —

(a) at the time of arrival in British India such goods are covered by a declaration as to the country of origin entered in the customs declaration form or (in the absence of such a form) on the wrapper of the package, or

(b) such claim is made by the owner at any time before delivery of the goods is taken.

(2) If the owner of the goods is unable to satisfy the Customs Collector that the goods fulfil the conditions laid down in rule 4 or rule 4 read with rule 5, the Customs Collector shall proceed in the manner prescribed in rule 6.

8. (1) If the owner of any goods entered for warehousing claims that they are chargeable with a preferential rate of duty, but is unable at the time Customs House procedure for goods entered of entry to satisfy the Customs Collector that the goods fulfil the conditions laid down in rule 4 or rule 4 read with rule 5, as the case may be, the Customs Collector shall assess duty at the standard rate.

(2) If the Customs Collector is satisfied before the goods are removed from the warehouse that they are chargeable with a preferential rate of duty, he shall re-assess them accordingly at the time of such removal.

(3) If the goods are removed from the warehouse without the Customs Collector being so satisfied, they may be dealt with in the manner prescribed in rule 6.

9. Where any payment of duty due under a bond has not been made in accordance with Power to levy unpaid therewith, and upon demand being made, the Customs Collector may, in his discretion and without prejudice to his power to levy duty short-levied, enforce the bond, recover the amount due at any time as if it were duty short-levied within the meaning of section 39 of the Sea Customs Act, 1878 (VIII of 1878).

FIRST SCHEDULE.

[See rules 2 (b) and 3 (b).]

LIST OF BRITISH COLONIES.

East Africa.

1. Kenya, Uganda Protectorate, and the Mandated Territory of Tanganyika.
2. Northern Rhodesia.
3. Nyasaland Protectorate.
4. Somaliland Protectorate.
5. Zanzibar Protectorate.

South Africa (including St. Helena).

6. Basutoland.
7. Bechuanaland Protectorate.
8. Swaziland.
9. St. Helena.

West Africa.

10. Gambia.
11. Gold Coast.
12. Togoland under British Mandate.
13. Nigeria.
14. The Cameroons under British Mandate.
15. Sierra Leone.

Eastern and Far Eastern.

16. Arab Littoral of the Persian Gulf (i.e., Bahrain, Kuwait, and the Trucial Shaikhdoms).

17. Ceylon.

18. Hong Kong.

19. Malaya (i.e., the Straits Settlements, the Federated Malay States and the Unfederated Malay States of Johore, Kedah, Kalantan, Perlis and Trengganu).

20. Mauritius.

21. North Borneo.

22. Sarawak.

23. Seychelles.

Mediterranean.

24. Cyprus.

25. Gibraltar.

26. Malta.

Pacific.

27. British Solomon Islands Protectorate.

28. Fiji.

29. Gilbert and Ellice Islands.

30. Tonga.

31. New Hebrides (Condominium).

West Indian (including the Falkland Islands).

32. Bahamas.

33. Barbados.

34. Bermuda.

35. British Guiana.

36. British Honduras.

37. Jamaica.

38. Cayman Islands.

39. Turks and Caicos Islands.

40. Leeward Islands, i.e., Antigua, Dominica, Montserrat, St. Christopher-Nevis and the Virgin Islands.

41. Trinidad and Tobago.

42. Windward Islands, i.e., Grenada, St. Lucia and St. Vincent.

43. Falkland Islands.

SECOND SCHEDULE.

[See rule 4 (2) (b) (iii).]

1. Sewing and Knitting Machines (and parts thereof) to be worked by manual labour or which require for their operation less than one quarter of one brake-horse-power.

2. Cycles (other than motor cycles) imported entire or in sections and parts and accessories thereof; excluding rubber tyres and tubes.

3. Motor cars including taxicabs and articles (other than rubber tyres and tubes) adapted for use exclusively as parts and accessories thereof.

4. Motor omnibuses ; chassis of motor omnibuses, motor vans and motor lorries ; and parts of mechanically propelled vehicles and accessories excluding rubber tyres and tubes.

5. Motor cycles and motor scooters and articles (other than rubber types and tubes) adapted for use as parts and accessories thereof.

THIRD SCHEDULE.

(See Rule 5.)

Description of articles.	Country.
Angostura bitters	Trinidad.
	Bahamas.
	Barbados.
	Bermuda.
	British Guiana.
	British Honduras.
Bum	Jamaica.
	Leeward Islands, i.e., Antigua, Dominica, Montserrat, St. Christopher-Nevis and the Virgin Islands.
	Mauritius.
	Trinidad.
	Windward Islands, i.e., Grenada, St. Lucia and St. Vincent.

FOURTH SCHEDULE.

[See rule 6 (ii).]

FORM A.

KNOW ALL MEN by these presents that I/we of and am/are held and firmly bound unto the Governor-General of India in Council (or, after the establishment of the Federation of India, the Governor-General of India) in the sum of Rs. to be paid to the Governor-General of India in Council (or, after the establishment of the Federation of India, the Governor-General of India) his successors or assigns for which payment, well and truly to be made I/we bind myself/ourselves and each of us my/our and each of our heirs and legal representatives firmly by these presents sealed with my/our respective seals, dated this 19 day of

WHEREAS I am/we are the importer(s) of the goods named below which to the best of my/our belief fulfil the conditions laid down by the rules made under sub-section (2) of section 3 of the Indian Tariff Act, 1934 for determining their eligibility to a preferential rate of duty under the First Schedule to that Act and whereas I/we have not been able to produce at the time of making entry of such goods at the Custom House evidence to satisfy the Customs Collector that those conditions are fulfilled and whereas the Customs Collector has agreed provisionally to accept duty at the preferential rate pending the production of

such evidence and I/we have agreed that if such evidence is not presented to the Customs Collector within three months of the date of this bond or being so presented is not accepted by him as satisfactory I/we will pay to the Customs Collector on demand the difference between the duty paid at the preferential rate and the duty leviable at the standard rate on the said goods now the condition of this bond is such that if the necessary evidence as aforesaid shall be produced to the Customs Collector within the said period and he shall accept such evidence as satisfactory or if I/we shall pay on demand the difference between the duty paid at the preferential rate and the duty leviable at the standard rate on the said goods, then the above written bond shall be void, otherwise the same shall be and remain in full force and virtue.

Signed, sealed and delivered
by the above named in the
presence of—

FORM AA.

KNOW ALL MEN by these presents we of and of (hereinafter referred to as "the Importers") and we (Indenting House or Bankers) of (hereinafter referred to as "the Sureties") are held and firmly bound unto the Governor-General of India in Council (or, after the establishment of the Federation of India, the Governor-General of India) in the sum of Rs. to be paid to the Governor-General of India in Council (or, after the establishment of the Federation of India, the Governor-General of India) his successors or assigns for which payment well and truly to be made we hereby jointly and severally bind ourselves and each of us and each of our heirs and legal representatives firmly by these presents sealed with our respective seals dated this 19 day of

WHEREAS we the importers are the importers of the goods named below and we the sureties have been concerned in the purchase by the importers of the said goods (are the Bankers of the Importers) AND WHEREAS to the best of the knowledge and belief of us the Importers and of us the Sureties the said goods fulfil the conditions laid down by the rules made under sub-section (2) of section 3 of the Indian Tariff Act, 1934 for determining their eligibility to a preferential rate of duty under the First Schedule to that Act AND WHEREAS the Importers have not been able to produce at the time of making entry of such goods at the Custom House evidence to satisfy the Customs Collector that those conditions are fulfilled AND WHEREAS the Customs Collector has agreed provisionally to accept duty at the preferential rate pending the production of such evidence and the Importers have agreed that if such evidence is not presented to the Customs Collector within three months of the date of this bond or being so presented is not accepted by him as satisfactory they the Importers will pay to the Customs Collector on demand the difference between the duty paid at the preferential rate and the duty leviable at the standard rate on the said goods now the condition of this bond is such that if the necessary evidence as aforesaid shall be produced to the Customs Collector within the said period and he shall accept such evidence satisfactory or if the Importers or failing them the Sureties shall pay on demand the difference between the duty paid at the preferential rate and the duty leviable at the standard rate on the said goods, then the above written bond shall be void, otherwise the same shall be and remain in full force and virtue.

Signed, sealed and delivered
by the above named in the
presence of—

FORM B.

KNOW ALL MEN by these presents that I/we of and am/are held and firmly bound unto the Governor-General of India in Council (or, after the establishment of the Federation of India,

the Governor-General of India) in the sum of Rs. to be paid to the Governor-General of India in Council (or, after the establishment of the Federation of India, the Governor-General of India) his successors or assigns for which payment well and truly to be made I/we bind myself/ourselves and each of us my/our and each of our heirs and legal representatives firmly by these presents sealed with my/our respective seals, dated this day of 19 .

WHEREAS I am/we are a regular importer(s) of goods which fulfil the conditions laid down by the rules made under sub-section (2) of section 3 of the Indian Tariff Act, 1934 for determining their eligibility to preferential rates of duty under the First Schedule to that Act AND WHEREAS it is likely that from time to time I/we may not be able to produce at the time of making entry of goods at the Custom House evidence to satisfy the Customs Collector that those conditions are fulfilled and that the goods, particulars of which are contained in the bill of entry, are assessable to customs duty at the preferential rate AND WHEREAS the Customs Collector at.....has agreed that if, having regard to the nature or particulars of such goods as detailed in such bill of entry, he is of opinion that it is likely that the necessary evidence is capable of being produced to satisfy him that the goods are entitled to be assessed for customs duty at the preferential rate he will provisionally accept duty on such goods at the preferential rate pending the production by me/us of the necessary evidence, and I/we have undertaken that in every such case I/we will within three months from the date of making entry of such goods present such evidence to the Customs Collector and that if such evidence is not in every case presented within the period aforesaid or if being presented it is not accepted by the Customs Collector I/we will forthwith on demand pay to the Customs Collector the difference between the duty paid on such goods at the preferential rate and the duty leviable at the standard rate AND WHEREAS it has been further agreed with the Customs Collector that the security given by these presents shall cover a total sum representing the difference between such rates of duty of Rs. and that if and whenever the total unadjusted claims by the Customs Collector against me/us in respect of such unpaid duty shall amount to more than Rs. the Customs Collector may refuse to consider the possibility of evidence being procurable though not available at the time of making entry of any further goods unless I/we shall offer to the Customs Collector and he shall be willing to accept a further bond in similar terms hereto for such amount as the Customs Collector shall decide now the condition of the above written bond or obligation is such that if the necessary evidence as aforesaid shall be produced to the Customs Collector within three months from the respective dates of making the entry from time to time of any such goods and the Customs Collector shall accept such evidence or if the difference between the duty paid on any such goods at the preferential rate and the duty leviable at the standard rate shall from time to time be paid by me/us on the demand of the Customs Collector then the above written bond or obligation shall be void; otherwise the same shall be and remain in full force and virtue.

Signed, sealed and delivered
by the above named in the
presence of—

A. H. LLOYD,

Additional Secretary to the Government of India.

INFORMATION (PROMISED IN REPLY TO QUESTIONS) LAID ON THE TABLE.

THE HONOURABLE MR. J. D. TYSON (Communications Secretary): Sir, I lay on the table a statement promised in reply to part (b) of short notice question No. 146 asked on the 28th August, 1934, showing the objects on which the Aviation share of the Petrol Tax Fund was expended during the financial year 1938-39.

Information promised in reply to part (b) of short notice question No. 146 asked by the Honourable Sir Ernest Miller on the 28th August, 1934.

STATEMENT SHOWING THE OBJECTS ON WHICH THE AVIATION SHARE OF THE PETROL TAX FUND WAS EXPENDED DURING THE YEAR 1938-39.

Object.	Expenditure.
	Rs.
<i>Clubs.</i>	
Financial assistance to flying clubs in India	20,500
<i>Research.</i>	
Scholarship and financial assistance to Mr. P. P. Nazir, an aeronautical research student in England	3,747
<i>Training.</i>	
Training of Indian "B" Pilots as Pilot Instructors	3,660
Training of Indians in multi-engined aircraft and as wireless operators ..	1,293
Flying training for Indian "B" license pilots on Government Avro X ..	5,013
Financial assistance to Mr. B. L. Dhawan in connection with his training in England as first officer for Indian Trans-Continental Airways ..	1,500
Training of Major W. Jones in England on the operation of the "Link Trainer"	993
Cost of "Link Trainer" and its installation	24,637
	37,096
<i>Experimental.</i>	
<i>Aircraft—</i>	
Experiments for determination of performance tests of aircraft ..	36
Experiments in connection with the investigation of air locks on certain types of aircraft engines	200
	236
<i>Meteorology—</i>	
Experiments for the collection of data regarding atmospheric bumps in India	63
Charges for constructing three boxes to house the lamps with switch-board on each box in the Observatory at Karachi Air Port in connection with experiments with Holophane Lumeters ..	72
	135
<i>Wireless Telegraphy—</i>	
Flights in the Avro X in connection with the calibration of the Delhi wireless station, for experimental purposes	1,681

STATEMENT SHOWING THE OBJECTS ON WHICH THE AVIATION SHARE OF THE PETROL TAX FUND WAS EXPENDED DURING THE YEAR 1938-39—*contd.*

Object.	Expenditure.
<i>Experimental—contd.</i>	Rs.
<i>Works and Equipment—</i>	
Purchase, as an experimental measure, of a Pegson power rammer	1,240
Purchase and erection, as an experimental measure, of a remote controlled wind tee and a wind direction indicator	5,539
Purchase and installation, as an experimental measure, of a Radicone wind indicator	4,549
Purchase as an experimental measure, of an A. G. A. illuminated wind sleeve indicator	1,133
Construction of an experimental pontoon for flying boats at Allahabad	9
	12,470
<i>Miscellaneous.</i>	
Maintenance and operation of the Government aeroplane Avro X, VT-ACT	1,184
Total ..	77,049

THE HONOURABLE MR. J. D. TYSON (Communications Secretary) : Sir, I lay on the table the information promised in reply to—

- (1) Question No. 207 asked on the 20th March, 1939.
- (2) Question No. 274 asked on the 11th April, 1939.
- (3) Question No. 291 asked on the 17th April, 1939.

Information promised in reply to part (e) of question No. 207 asked by the Honourable Mr. Hossain Imam on the 20th March, 1939.

STATEMENT SHOWING THE NUMBER OF NON-SERVICE MEN APPOINTED IN THE BROADCASTING DEPARTMENT FROM THE DIFFERENT PROVINCES BY PUBLIC ADVERTISEMENT DURING THE YEARS 1935—1939.

Name of Province.	1935-36.	1936-37.	1937-38.	1938-39.
Punjab	5	..	12	3
Delhi	1	..	1	..
United Provinces	3	..	10	1
Central Provinces	..	..	1	1
Bihar	1	..	..	..
Bombay	..	..	6	1
Bengal	1	..	7	2
Madras	3	..	6	4

Information promised in reply to parts (a) and (b) of question No. 274 asked by the Honourable Mr. Hossain Imam on the 11th April, 1939.

ALL-INDIA RADIO.

Two Bihari Hindus. All posts in All-India Radio are temporary.

Information promised in reply to question No. 291 asked by the Honourable Pandit Hriday Nath Kunzru on the 17th April, 1939.

NUMBER OF EUROPEANS, ANGLO-INDIANS AND INDIANS IN THE EMPLOY OF PORT TRUSTS ON THE 31ST DECEMBER, 1938, WHO WERE RECEIVING SALARIES OF RS. 500 AND OVER.

A statement giving the information for the Port of Calcutta is laid on the table.

Statement showing the number of Europeans, Anglo-Indians and Indians in the employ of the Calcutta Port Commissioners on the 31st December, 1938 who were receiving salaries of Rs. 500 and over.

Name of Port.	(1) Initial salary of Rs. 500 to 999.			(2) Rs. 1,000 to 1,999.			(3) Rs. 2,000 and over.		
	Europeans.	Anglo-Indians.	Indians.	Europeans.	Anglo-Indians.	Indians.	Europeans.	Anglo-Indians.	Indians.
Calcutta	24	11	5	53	8	4	9	..	..

STATEMENTS LAID ON THE TABLE.

THE HONOURABLE MR. C. E. JONES (Finance Secretary) : Sir, I lay on the table copies* of—

- (1) Central Government Appropriation Accounts of the Defence Services for the year 1937-38.
- (2) Central Government Audit Report—Defence Services, 1939 (including report on the Appropriation Accounts of the Defence Services for 1937-38).
- (3) Commercial Appendix to the Appropriation Accounts of the Defence Services for the year 1937-38 and the Audit Report thereon.
- (4) Appropriation Accounts of Railways in India for 1937-38 ; Part I—Review and Part II—Detailed Appropriation Accounts.
- (5) Railway Audit Report, 1939.
- (6) Capital Statements, Balance Sheets and Profit and Loss Accounts of Railways in India including the Balance Sheet and the Profit and Loss Account of Tatanagar Workshops.

*Not printed. Copies placed in the Library of the House.

[12TH SEPT. 1939.]

(7) Balance Sheets of Railway Collieries and Statements of all in costs of coal for 1937-38.

(8) Central Government Finance Accounts, 1937-38 and the Audit Report, 1939.

THE HONOURABLE MR. C. E. JONES (Finance Secretary): Sir, I lay on the table a copy* of the Report on the progress of the schemes financed from the grants for Rural Development for the period 1st January to 30th November, 1938.

THE HONOURABLE MR. E. CONRAN-SMITH (Home Secretary): Sir, I lay on the table a copy of the Registration of Foreigners (Exemption) Order, 1939.

REGISTRATION OF FOREIGNERS (EXEMPTION) ORDER, 1939.

No. 21/32/39-Political, dated the 21st June, 1939.—In exercise of the power conferred by section 6 of the Registration of Foreigners Act, 1939 (XVI of 1939), the Central Government is pleased to make the Declarations hereinafter set out in this Order:—

1. That the provisions of the Registration of Foreigners Rules, 1939 (hereinafter in this Order referred to as the Rules) shall not apply to, or in relation to, any person who has not attained the age of sixteen years.

2. That the provisions of the Rules, except such of the provisions of rules 4, 14, 15 and 16 as apply to, or in relation to, passengers and visitors who are not foreigners, shall not apply to, or in relation to, any subject of His Majesty.

3. That the provisions of the Rules, except rule 8 and such of the provisions of rules 4, 14, 15 and 16 as apply to, or in relation to, passengers and visitors who are not foreigners, shall not apply to, or in relation to,—

(a) any foreigner in the service of His Majesty;

(b) any British protected person;

(c) the wife and any child of—

(i) any person duly appointed by a foreign Government to exercise diplomatic functions, or

(ii) any consul or vice-consul;

(d) any person who is a subject of the Sultan of Muscat and Oman;

(e) any person of Asiatic birth who is a subject of any State having sovereignty over any territory of which the boundaries are coterminous with the boundaries, external or internal, of India; or

(f) any foreigner not specified in any of the preceding clauses of this Declaration who enters British India solely in transit to a destination beyond British India, for so long as he is authorised to travel in British India under a licence previously obtained by him from the Registration Officer of the place at which he enters British India and complies with such conditions as to route and other matters as may be specified in the said licence.

4. That the provisions of rules 4, 15 and 16 of the Rules shall not apply to, or in relation to, any passenger to whom Declaration 2 or 3 of this Order applies and who enters, or departs from, British India on board any vessel travelling solely between a port in British India and a port in Burma, Ceylon, French India, or Portuguese India.

5. That, subject to the condition that he has obtained permission from the Registration Officer to land in British India, the provisions of the Rules except rules 8 and 14 shall not apply to, or in relation to, any passenger who arrives in British India on any vessel in transit to a destination beyond British India and who re-embarks and continues his journey on the vessel on which he arrived in British India.

6. That the provisions of the Rules except rules 8 and 14 and sub-clause (d) of sub-rule (1) of rule 16 shall not apply, for so long as the vessel on which he is employed remains

* Not printed. Copy placed in the Library of the House.

at a port in British India, to, or in relation to, any seaman as defined in the Rules who is not a resident of British India and does not land in British India for discharge.

(Sd.) H. J. FRAMPTON,

Deputy Secretary to the Government of India.

THE HONOURABLE MR. E. CONRAN-SMITH (Home Secretary): Sir, I lay on the table a copy of the declaration of exemption under section 6 of the Registration of Foreigners Act, 1939 as published with the Notification of the Government of India in the Home Department No. 21/32/39-Political, dated the 28th July, 1939.

GOVERNMENT OF INDIA.

HOME DEPARTMENT.

Simla, the 28th July, 1939.

REGISTRATION OF FOREIGNERS ACT, 1939.

Declaration of Exemption.

No. 21/32/39-POLITICAL.—In exercise of the power conferred by section 6 of the Registration of Foreigners Act, 1939 (XVI of 1939), the Central Government is pleased to declare that the provisions of the Registration of Foreigners Rules, 1939, shall not apply to, or in relation to, His Royal Highness Prince Peter of Greece.

(Sd.) H. J. FRAMPTON,

Deputy Secretary to the Government of India.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Education, Health and Lands Member): Sir, I lay on the table a copy of Notification No. F-33/39-Overseas, dated the 1st August, 1939, in the Department of Education, Health and Lands prohibiting the emigration of unskilled labourers from British India to Ceylon for the purpose of unskilled work.

DEPARTMENT OF EDUCATION, HEALTH AND LANDS.

NOTIFICATION.

OVERSEAS.

Simla, the 1st August, 1939.

No. F. 33/39.—Whereas the Government of Ceylon have decided to terminate from the 1st of August, 1939, the employment of a large number of Indians engaged in unskilled work in that country and the declared policy of that Government is to discontinue in course of time the employment of many more such Indians;

And whereas in view of the great uncertainty consequently prevailing in Ceylon regarding the employment of Indian unskilled labour in that country it appears necessary and expedient to the Central Government to issue this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 30A of the Indian Emigration Act, 1922 (VII of 1922), the Central Government is pleased to prohibit with effect from the 1st of August, 1939, all persons from departing by sea out of British India to Ceylon for the purpose of unskilled work unless exempted by special order of the Central Government from the provisions of this notification.

(Sd.) G. S. BOZMAN,

Secretary to the Government of India.

INFORMATION (PROMISED IN REPLY TO QUESTIONS) LAID ON THE TABLE.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Education, Health and Lands Member): Sir, I lay on the table the information promised in reply to—

(1) Question No. 186 asked on the 16th March, 1939.

M.

(2) Question No. 273 asked on the 11th April, 1939.

(3) Question No. 298 asked on the 17th April, 1939.

Statement containing the information promised in reply to question No. 186 asked by the Honourable Mr. B. N. Biyani on the 16th March, 1939.

USE OF THE TREVOR TOWN HALL, AJMER, FOR PUBLIC MEETINGS.

(a) Yes.

(b) Yes.

(c) The Chairman has left for England and Government have no information of any such instructions.

(d), (e) and (f). The Chairman presumably refused permission under condition 1 (d) of the conditions for the use of the Town Hall approved by the Municipal Committee on the 18th of December, 1936 (copy attached). The meeting was to have been held to welcome a *jatha* on its way to Jaipur where such *jathas* had been declared unlawful.

(g) Yes.

(h) Presumably for the reason mentioned in the reply to parts (d), (e) and (f).

Copy of Resolution No. 23 passed at the ordinary meeting No. 48 of 1936-37 of the Ajmer Municipal Committee, held on Friday, the 18th December, 1936, at the Municipal Office, at 8-30 a.m.

With reference to the General Committee's resolution No. 1, dated the 17th September, 1936, referring the case of regulating use of the T. T. Hall to a Special Sub-Committee to draw up general directions, read the following conditions submitted for approval :—

1. The Trevor Town Hall with such furniture as it may have will be available :—

(a) for holding Darbars,

(b) for meetings of the Ajmer Municipal Committee or its Sub-Committees or Special Committees,

(c) for meetings which the Commissioner of Ajmer may like to convene, and

(d) when not required for (a), (b) and (c), for holding public meetings, political, social, literary or others, except those—

(i) which may be unlawful, or

(ii) of which the object or purpose may be unlawful, or

(iii) which may be convened by an unlawful organisation, or

(iv) which may have been prohibited by an order promulgated or issued by Government or any Magistrate, or

(v) which may be held for religious debates (Munazra).

(e) for such other general purposes as the Municipal Committee may from time to time by resolution approve.

2. No permission except under (a), (b) and (c) above will be given unless a sum of Rs. 15 has been deposited by the party seeking permission as security for making good any damage done to municipal property. The deposit will be refunded after deduction of such amounts, if any, as the Chairman may consider adequate to cover the damage, if any, caused to municipal property by or on account of the use made in consequence of the permission granted. The Chairman's decision in the matter will be final.

3. That the party making use of the Hall at night shall also pay annas twelve for use of light, and for fans, if used in hot weather, at day or night, additional charges of annas two per hour.

4. That the Chairman will ordinarily grant permission on application made to him 24 hours before the intended use ; but in urgent cases, he may grant permission for the use of the Hall, if there is sufficient time to allow of arrangements being made for handing over the Hall to the party asking for permission to use it.

5. If more applications than one are received for the use of the Town Hall, for the same time, preference will be given to the application first received.

Resolved unanimously that the directions be approved.

Statement giving the information asked for in question No. 273 on the 11th April, 1939 by the Honourable Mr. Abdool Razak Hajee Abdool Sattar.

MUSLIM REPRESENTATION IN CERTAIN OFFICES OF THE CENTRAL GOVERNMENT LOCATED AT CALCUTTA.

Name of office.	Appointments.	Posts on Rs. 100 a month or below.		Posts above Rs. 100 per mensem.		Whether any record exists to show that an attempt was made to secure Muhammadan candidates by advertisement ?
		No. of sanctioned posts.	No. of posts held by Muslims.	No. of sanctioned posts.	No. of posts held by Muslims.	
Office of the Surveyor General and his subordinate offices.	Clerical ..	94	15	31	3	Yes, except in the case of inferior servants.
	Miscellaneous	691	218	57	11	
	Inferior servants.	231	127	..	..	
Income Tax Department.	Clerical ..	316	130	74	13	No. Retrenched clerks are still being re-engaged with due regard to orders about communal representation in services.
	Inferior servants.	231	63	..	..	
Meteorological Department, Calcutta (Alipore).	Clerical (3 posts vacant)	19	6	20	..	Yes.
	Inferior servants (1 post vacant).	22	1	..	..	
Indian Museum (Including Art Section).	Clerical ..	5	..	4	1	No.
	Inferior servants.	65	18	..	..	
Archæological Section (Indian Museum).	Clerical ..	3	..	5	1	No.
	Inferior servants.	12	2	..	..	
Botanical Survey ..	Clerical ..	6	..	3	..	No recruitment has been made in recent years.
	Inferior servants.	15 (Includes 4 temporary bearers).	2	..	..	
Geological Survey ..	Clerical ..	3	1	12	2	Yes.
	Miscellaneous	12	3	12	..	
	Inferior servants.	31	10	..	..	
Zoological Survey ..	Clerical ..	6	1	3	..	Yes.
	Inferior servants.	26	6	..	..	

Information promised in reply to question No. 298 asked by the Honourable Pandit Hirday Nath Kunzru on the 17th April, 1939.

NUMBER OF I.C.S. AND MILITARY OFFICERS LENT TO INDIAN STATES.

On 1st January, 1939 the numbers were 13 I.C.S. Officers and 11 Military Officers.

THE HONOURABLE MR. M. S. A. HYDARI (Labour Secretary): Sir, I lay on the table the information promised in reply to—

- (1) Question No. 129 asked on the 27th February, 1939.
- (2) Question No. 248 asked on the 4th April, 1939.
- (3) Question No. 271 asked on the 11th April, 1939.

Information promised in reply to question No. 129 asked by the Honourable Mr. Kumarsankar Ray Chaudhury on the 27th February, 1939.

DISCOVERY OF MARBLE IN THE MUSSOORIE HILLS.

Yes.

Information promised in reply to part (c) of question No. 248 asked by the Honourable Mr. Hossain Imam on the 4th April, 1939.

GOVERNMENT OF INDIA PRESS, NEW DELHI.

Sixteen candidates (nine Hindus and seven Muslims) qualified in the test held in 1937 for appointment as compositors in the Government of India Press, New Delhi. Four Hindus and two Muslims have been appointed permanently. The chances of other candidates depend on the occurrence of vacancies. Except two candidates (one Hindu and one Muslim) who could not be appointed for administrative reasons, the remaining eight candidates (four Hindus and four Muslims) were given temporary employment for two months during the winter season 1939-40.

Information promised in reply to part (b) (ii) of question No. 271 asked by the Honourable Mr. Abdool Razak Hajee Abdool Sattar on the 11th April, 1939.

PRINTING AND STATIONERY DEPARTMENT.

The need for advertisement did not arise as there were no occasions when suitable Muslim candidates were not forthcoming in the ordinary course for appointment to vacancies reserved for that community.

THE HONOURABLE SIR GUTHRIE RUSSELL (Chief Commissioner for Railways): Sir, I lay on the table the information promised in reply to—

- (1) Question No. 79 asked on the 13th February, 1939.

- (2) Question No. 94 asked on the 18th February, 1939.
- (3) Questions Nos. 96 and 97 asked on the 18th February, 1939.
- (4) Question No. 121 asked on the 27th February, 1939.
- (5) Questions Nos. 140 to 143 and 145 to 148 asked on the 7th March, 1939.
- (6) Question No. 245 asked on the 4th April, 1939.
- (7) Questions Nos. 113 and 295 asked on the 20th February and 17th April, 1939, respectively.

Information promised in reply to parts (c) and (d) of question No. 79 asked by the Honourable Mr. V. V. Kalikar on the 13th February, 1939.

CONTRACTS FOR ICE AND AERATED WATERS ON THE N. W. R.

(c) Messrs. Bliss & Co. did not hold the aerated water contract for the Rawalpindi Division of the N.W.R. in 1938, so that the Chief Accounts Officer did not raise any debit relating to that Division: he did, however, raise a claim in respect of transactions on the Karachi Division.

The N.W.R. Administration issues each ice and aerated water contractor with a certain number of letters of authority, each covering the daily transport of a fixed quantity of ice and aerated waters between any two stations on the allotted section. But not more than one letter of authority may be used for booking ice and aerated waters between two particular stations on the same day, without special permission. Messrs. Bliss & Co., however, in 1938, booked ice on more than one letter of authority daily from Sukkur to Padidan for some time and then, themselves realising their error, brought this to the notice of the Railway Administration. As the contractors themselves brought the matter to notice, the Railway Administration were satisfied that the breaking of the rules was not intentional, and so it was decided not to recover any charges for the ice booked in excess of that allowed on one letter of authority.

As regards aerated waters, enquiries made by the Railway Administration show that Messrs. Bliss & Co. did not carry in 1938 aerated water bottles in excess of the quantity allowed free of charge under the letters of authority issued to them.

(d) One ice-man of Messrs. Bliss & Co. was convicted by a Court at Hyderabad in September, 1938 for theft.

Information promised in reply to question No. 94 asked by the Honourable Rai Bahadur Lala Ram Saran Das on the 18th February, 1939.

GOODS AND PASSENGER TRAINS RUNNING DAILY IN THE HOWRAH, ASANSOL AND DINAPORE DIVISIONS, E. I. R., ETC.

(a) and (b). Statements giving the required information are attached.

(c) Information is not readily available but Government understand that 15 per cent. of the track on the E.I.R. is on black cotton soil.

STATEMENT No. 1.

Statement showing the average number of Passenger and Goods Trains running per day during the last five years on the Howrah, Asansol and Dinapore Divisions of the E. I. R.

Divisions.	Passenger Trains.									
	1933-34.		1934-35.		1935-36.		1936-37.		1937-38.	
	N.B.	S.B.	N.B.	S.B.	N.B.	S.B.	N.B.	S.B.	N.B.	S.B.
Howrah ..	77.0	76.8	77.2	76.2	75.7	74.1	82.6	81.6	90.0	89.6
Asansol ..	49.1	49.1	50.7	50.7	53.1	53.1	53.8	53.8	57.1	57.0
Dinapore..	38.2	38.5	34.2	34.8	33.5	34.0	35.0	35.9	39.6	39.6

Divisions.	Goods Trains.					
	1935-36.		1936-37.		1937-38.	
	N.B.	S.B.	N.B.	S.B.	N.B.	S.B.
Howrah ..	38.46	39.43	38.02	37.52	39.77	40.90
Asansol ..	66.40	61.96	65.86	65.67	71.58	68.55
Dinapore ..	35.90	36.06	36.75	37.06	38.56	38.42

NOTE.—N. B. means north bound.
S. B. means south bound.

STATEMENT No. 2.

Statement showing the present number of maintenance gangs in each section and number of men in each gang as compared to 1934-35 in the Howrah, Asansol and Dinapore Divisions of the E. I. R.

Howrah Division.

Serial No.	Sections.	1934-35.		1939.	
		No. of gangs.	No. of men in each gang (average).	No. of gangs.	No. of men in each gang (average).
1	Howrah to Lillooah	87	15.59	69	19.52
	Lillooah to Khanyan				
	Bandel to Dainhat				
	Naihati Branch to C. C. Railway ..				
2	Lillooah to Kamarkundu	50	21.52	47	22.31
	Pundooah to Pinjrapol				
3	Chandanpur to Burdwan	58	11.46	54	12.86
	Khana to Barharwa				
	Katwa to Azimganj				
4	Azimganj to Nalhati	62	12.43	55	13
	Monigram to Monghyr (excluding Jamalpur).				
	Bhagalpur to Mandar Hill				
	Sakrigali Ghat Branch				
5	Rajmehal Branch	9	12	6	18
	Jamalpur				

Asansol Division.

Serial No.	Sections.	1934-35.		1939.	
		No. of gangs.	No. of men in each gang (average).	No. of gangs.	No. of men in each gang (average).
1	Ondal to Kalipahari	38	13.10	30	17.83
	Ondal Sainthia Branch				
	Kasta Branch Topai				
	Barabani Ikra-Chinchuria				
2	Ondal-Gourangdi	15	15.6	15	21.13
	Asansol to Pradhankhanta, including Branch lines.				
3	Salanpur to Ghorparan	37	12.45	37	16.6
	Giridih Branch				
	Baidyanath Dham Branch				
	Salanpur Branch				
4	Between Pradhankhanta-Tetulmari ..	48	12.89	29	18
	Pathardih Branch				
	Jherria Branch				
	Kusunda Branch				
	Kastagram Branch				
	Jamuniatand Branch				
5	Tetulmari to Bandhua	59	12.52	43	17
6	Gomoh to Barwadih (excluding the station yard).	47	11.25	45	11.11

STATEMENT NO. 2—contd.

Dinapore Division.

Serial No.	Sections.	1934-35.		1939.	
		No. of gangs.	No. of men in each gang (average).	No. of gangs.	No. of men in each gang (average).
1	Jhajha to Moghalsarai	109	14.06	98	15.62
2	Manpur to Dehri-on-Sone (ex) ..	25	14.2	22	16.14
	Dehri-on-Sone to Moghalsarai ..	28	15.43	28	15.58
3	Kiul to Jamalpur (ex)	7	9	6	10.5
	Patna-Gaya Branch	14	8.15	14	9.15
	South Behar Branch	20	8.2	19	8.64
	Barkakana Loop (Sone-East-Bank Barwadih).	26	8.54	26	8.54
	Tarigha Branch	2	8	2	6
	Digha Ghat Branch	1	8	1	8
4	Loading and unloading gangs ..	15	12.63	13	14.46

Statement giving the particulars asked for by the Honourable Rai Bahadur Lala Ram Saran Das in questions Nos. 96 and 97 on the 18th February, 1939.

PERMANENT WAY INSPECTORS ON THE E. I. R. AND B. N. R.
EAST INDIAN RAILWAY.

		1934-35.						
Headquarters of Inspectors.	No. of Permanent Way Inspectors.	No. of Asstt. Permanent Way Inspector under Permanent Way Inspectors.	Length under each Permanent Way Inspector.					Total Track miles.
			Route miles. (Main line).	Track miles.				
				Main line.	Branch line.	Sid-ings.		
HOWRAH DIVISION.								
Howrah	1	2	2.88	16.25	..	66.97	83.22	
Lillooah	1	2	57.68	88.92	22.14	10.75	121.81	
Bandel	1	1	30.03	49.17	11.83	38.73	99.73	
Burdwan	1	2	39.00	108.44	0.40	43.10	151.94	
Rajbandh	1	..	39.21	78.42	..	21.99	100.41	
Gurup	1	..	29.24	58.48	..	3.49	61.97	
ASANSOL DIVISION.								
Ondal	1	..	6.75	47.54	1.07	93.50	142.11	
Asansol	1	2	18.37	32.07	3.64	61.97	97.68	
Karmatar	1	..	43.25	86.50	5.50	13.77	105.77	
Madhupur	1	1	44.50	89.00	4.37	13.97	107.34	
Barakar	1	1	25.12	54.23	7.14	35.84	97.21	
Dhanbad	1	..	5.50	11.14	63.96	149.61	224.71	
Gomoh	1	1	34.42	68.86	0.77	28.02	97.65	
Hazaribagh Road ..	1	..	41.0	82.00	..	7.94	89.94	
Gujhandi	1	1	43.90	87.00	..	11.81	98.81	
DINAPORE DIVISION.								
Jhajha	1	1	35.37	70.74	26.70	24.94	122.38	
Mokameh	1	..	24.63	59.26	3.90	20.02	83.18	
Patna Junction ..	1	1	46.91	93.83	35.94	20.55	150.32	
Dinapore	1	1	42.61	85.17	..	15.70	100.87	
Buxar	1	..	51.00	102.00	..	7.20	109.20	
Moghalsarai	1	2	40.62	84.36	12.05	85.55	181.96	
Karmnasa	1	..	40.21	80.40	..	8.20	88.60	
Dehri-on-Sone	1	..	36.00	72.00	0.28	13.66	85.94	
Rafigunge	1	1	39.00	84.00	..	7.73	91.73	
Gaya	2	3	13.50	20.44	200.79	58.69	279.92	

PERMANENT WAY INSPECTORS ON THE E. I. R. AND B. N. R.—*contd.*EAST INDIAN RAILWAY—*contd.*

1938-39.								
Headquarters of Inspectors.	No. of Permanent Way Inspectors.	No. of Asstt. Permanent Way Inspectors under Permanent Way Inspectors.	Length under each Permanent Way Inspector.					
			Route miles. (Main line).	Track miles.				Total Track miles.
				Main line.	Branch line.	Sid-ings.		
HOWRAH DIVISION.								
Howrah	1	2	2.88	16.21	..	68.82	85.03	
Lillooah	1	2	57.68	88.09	22.14	11.46	121.69	
Bandel	1	1	30.03	49.02	11.84	38.73	99.59	
Burdwan	1	2	39.00	108.04	0.79	42.31	151.14	
Rajbandh	1	..	39.21	78.42	..	16.46	94.88	
Gurup	1	..	29.24	58.05	..	3.52	61.57	
ASANSOL DIVISION.								
Ondal	1	1	16.37	77.21	1.07	122.27	200.55	
Asansol	1	1	8.75	54.35	7.40	82.01	143.75	
Karmatar	1	..	44.34	88.62	5.50	12.61	106.73	
Madhupur	1	..	44.50	89.00	4.37	13.59	106.96	
Barakar	1	..	24.08	54.23	7.14	35.40	96.77	
Dhanbad	1	..	5.49	11.14	63.26	147.22	221.62	
Gomoh	1	..	34.42	68.86	0.77	28.20	97.83	
Hazaribagh Road ..	1	..	41.00	82.00	..	7.94	89.94	
Gujhandi	1	1	43.50	134.00	..	18.74	152.74	
DINAPORE DIVISION.								
Jhajha	1	1	35.37	70.74	26.70	25.14	122.58	
Mokameh	1	..	37.63	75.26	3.90	22.86	102.02	
Patna Junction	1	..	38.91	77.83	35.94	18.26	132.03	
Dinapore	1	..	42.61	85.17	..	16.14	101.31	
Buxar	1	..	51.00	102.00	..	6.47	108.47	
Moghalsarai	1	2	40.62	84.36	12.05	86.93	183.34	
Moghalsarai	1	1	40.21	80.40	..	9.14	89.54	
(Grand Ghord)		(Karm-nasa).						
Dehri-on-Sone	1	..	36.00	72.00	0.28	15.96	88.24	
Rafigunge	1	1	39.00	78.00	..	7.94	85.94	
Gaya	2	3	13.50	26.44	200.79	59.41	286.64	

PERMANENT WAY INSPECTORS ON THE E. I. R. AND B. N. R.—*contd.*

BENGAL NAGPUR RAILWAY.

Headquarters of Inspectors.		1938-39.							Average number of men in each gang.	
		No. of Permanent Way Inspectors.	No. of Asstt. Permanent Way Inspectors under Permanent Way Inspectors.	Length under each Permanent Way Inspector.						
				Route miles (Main line).	Track miles.					
					Main line.	Branch line.	Sidings.	Total Tracks miles.		
<i>Adjoining to Howrah-Khargpur District (Broad Gauge).</i>										
Santragachi ..	1	2	34.69	67.82	..	34.20	102.02	12		
Shalimar ..	..	1	..	..	6.93	27.95	34.88	13		
Khargpur (Lines)	1	2	37.43	74.05	..	9.79	83.84	11		
Khargpur (Yard) ..	1	2	14.25	20.88	..	85.42	106.30	12		
Garbeta ..	1	1	45.95	47.32	..	7.95	55.27	10		
<i>Adjoining to Asansol-Adra District (Broad Gauge).</i>										
Bankura ..	1	1	50.59	81.93	..	9.71	91.64	13		
Adra ..	1	2	31.47	48.97	..	48.77	97.74	10		
Damodar ..	1	2	26.41	26.41	21.51	33.78	81.70	9		
Chandil ..	1	2	55.83	98.58	..	9.19	107.77	9		
Bhojudih ..	1	2	23.38	32.38	..	27.75	60.13	11		
Bhaga ..	1	1	17.59	17.59	12.33	54.30	84.22	11		
Mohuda ..	1	..	37.15	37.15	10.45	31.62	79.22	10		
Muri ..	1	2	71.36	71.36	..	5.01	76.37	10		
<i>Narrow Gauge.</i>										
Piska ..	1	..	42.37	42.27	..	2.00	44.37	6		
Tatisilwai ..	1	2	74.17	74.17	..	9.35	83.52	7		

Information promised in reply to the Honourable Rai Bahadur Lala Ram Saran Das's question No. 121 asked on the 27th February, 1939.

LITERATE FIREMEN RECRUITED ON THE N.W.R. AND OTHER STATE-MANAGED RAILWAYS.

So far as the E.I.R. and N.W.R. are concerned, I would refer the Honourable Member to the reply I gave to his question No. 46 on the 5th September, 1938. No change has taken place since then.

Fourteen apprentice firemen were recruited in "C" class on the E.B.R. and 15 in the corresponding class on the G.I.P.R. during 1938-39.

[12TH SEPT. 1939.]

Information promised in reply to questions Nos. 140 to 143 and 145 to 148 asked by the Honourable Hajji Syed Muhammad Husain on the 7th March, 1939.

WATER-SUPPLY ARRANGEMENTS, ETC., ETC., MADE BY THE E.I.R.

Question No. 140.—(a) Moghalsarai, Allahabad, Cawnpore, Tundla, Lucknow, Barabanki, Fyzabad, Akbarpur, Shahganj, Jaunpur, Benares Cantonment, Rae Bareilly, Partabgarh, Janghai, Sultanpur, Unchahar, Dalmau, Balamau, Shahjahanpur, Bareilly, Moradabad, Najibabad, Muazzampur Narain, Lhaksar, Chandausi, Gajraula and Hapur.

(b) Water is supplied to railway employees at only those stations where the yield from the source of supply is in excess of requirements for essential services.

(c) Officers are charged, as a general rule, at a flat rate of Re. 1 for the first tap and Annas 8 for each additional tap per month. This rate is based on the cost of pumping per 1,000 gallons and includes interest, maintenance and depreciation charges on the supply installation plus similar charges on the connections. Non-gazetted staff are, as a general rule, exempted from paying for water.

Question No. 141.—(a) Yes.

(b) The E.I.R. authorities make their own arrangements for supplying water at a majority of the junction stations, in other cases they take their supply from outside sources.

Question No. 142.—(a) It is not considered to be the duty of the Railway to supply water inside each quarter. It is supplied as a matter of convenience at stations where the yield from the source of supply is in excess of requirements for essential services. The cost of supply to officers is realised from them at a flat rate on the basis of the number of taps. Non-gazetted staff are exempt from payment as a general rule.

(b) The rate of interest is 4.75 per cent. and depreciation 4 per cent. by the sinking fund method.

Question No. 143.—(a) There are no such proposals under consideration at present.

(b) No. The Honourable Member is referred to the reply given to part (a) of his question No. 142.

Question No. 145.—Charges for water supplied are recovered separately from rent charges.

Question No. 146.—Because it is not economical to do so.

Question No. 147.—Yes, where water tax is paid by the Railway to the municipality.

Question No. 148.—Yes, at Allahabad. The Allahabad Municipal Board supplies the Railway with water, in excess of the free allowance, at a rate of seven annas per 1,000 gallons against the public rate of nine annas per 1,000 gallons.

Information promised in reply to part (d) of question No. 245 asked by the Honourable Mr. Kumarsankar Ray Chaudhury on the 4th April, 1939.

CONTRACTS FOR LABOUR ON RAILWAY STATIONS, E.B.R.

The General Manager, E.B.R. reports that no specific period is fixed for contracts given to station masters on that Railway for the handling of goods and coaching traffic; the station masters are permitted to hold the contracts as long as they render satisfactory service.

Information promised in reply to the Honourable Pandit Hirday Nath Kunzru's question No. 113 asked on the 20th February, 1939.

AMOUNT OF SURPLUS FUNDS TAKEN OVER BY THE E.I.R. ON ASSUMING DIRECT CONTROL OF OAK GROVE SCHOOL AND INDIAN HIGH SCHOOLS.

(a) Yes.

(b) No such fund was available at Oak Grove School, Mussoorie, as the budget of the school was incorporated in the E.I.R. Budget from 1918-19.

As regards the Indian H. E. Schools the amounts are :—

	Rs.	A.	P.
H. E. School, Asansol	11,555	4	0
H. E. School, Sahibganj	2,130	14	7
H. E. School, Jamalpur	5,551	14	1
H. E. School, Khagaul	10,152	4	9
A. V. High School, Tundla	5,827	0	5

(c) The surplus funds were credited to railway earnings from which expenditure on these schools, in excess of school fees or grants, is now met.

(d) The reply to the first part is in the affirmative. As regards the other parts, the Government of India sanctioned in March, 1939 the provision of an additional room for Class X and a separate room for a laboratory in the school at Asansol.

(e) Yes.

Information promised in reply to part (a) of the Honourable Pandit Hirday Nath Kunzru's question No. 295 asked on the 17th April, 1939.

NUMBER OF PUPILS ON THE 31ST MARCH, 1939 IN THE H. E. SCHOOL AT SAHIBGANJ.

Class IV	41
Class V	40
Class VI	88
Class VII	60
Class VIII	54
Class IX	22
Class X	28
Class XI	21

MESSAGE FROM HIS EXCELLENCY THE GOVERNOR GENERAL.

THE HONOURABLE THE PRESIDENT: Honourable Members, I have to deliver to you a Message from His Excellency the Governor General. 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, as set out in the Ninth Schedule to the Government of India Act, 1935, 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 Rai Bahadur Lala Ram Saran Das; in the second place, the Honourable Sir David Devadoss; in the third place, the Honourable Sir Ramunni Menon; and lastly the Honourable Mr. Hossain Imam.

(Sd.) LINLITHGOW,

SIMLA;

Viceroy and Governor General."

The 2nd September, 1939.

COMMITTEE ON PETITIONS.

THE HONOURABLE THE PRESIDENT: Honourable Members, 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

[Mr. President.]

the Honourable Raja Charanjit Singh and as members, the Honourable Sir A. P. Patro, the Honourable Sir Ramunni Menon, the Honourable Mr. R. H. Parker and the Honourable Mr. P. N. Saprú.

DEATH OF RAI BAHADUR LALA NANAK CHAND.

THE HONOURABLE THE PRESIDENT: Honourable Members, since we last met in Delhi, I am very sorry to report that we have lost one of our colleagues, the late Rai Bahadur Lala Nanak Chand. He was nominated to the Fourth Council of State on the 15th March, 1939, and resigned on the 3rd May, 1939, so that he was a Member of the House for a very short time. He died at Delhi on the 2nd August, 1939. He belonged to the well-known Lohia family of Delhi. He entered into business at an early age. His charities for promoting the social welfare of the people of Delhi ran into more than Rs. 3 lakhs. For a long time he was a member of the Delhi Municipal Committee.

CONGRATULATIONS TO RECIPIENTS OF HONOURS.

THE HONOURABLE THE PRESIDENT: Honourable Members, it is now my pleasing task to offer on behalf of the Council of State and also my own personal congratulations to the recipients of Honours in the last Birthday Gazette. In this Gazette, several important persons,—Members of the Council of State,—some who are not here now, and others who are now occupying high positions elsewhere—have received high distinctions. I first wish to refer to Sir James Braid Taylor, C.I.E., who was made a Knight some years ago, but who has now received the high distinction of K.C.I.E. He was four times nominated to the Council of State off and on. He was sitting here as Additional Secretary, Finance Department, and as Financial Secretary before he took a very important part in the Reserve Bank Bill which you all remember. After the retirement of Sir Osborne Smith, he has been placed in charge of the Reserve Bank and he is now occupying the important office of Governor of the Reserve Bank. I have known Sir James Taylor for many years. He hails from my own province, the Central Provinces, where he started his official life. He has occupied very many important offices in Bombay and Calcutta, and as Controller of Currency he discharged his duties very satisfactorily. He attracted the attention of the late Finance Member and he was appointed Secretary in the Finance Department. I offer him our congratulations on the very high distinction he has obtained. (Applause.)

I also offer our congratulations to the Honourable Sir Andrew Gourlay Clow, C.S.I., C.I.E., Member of His Excellency the Viceroy's Executive Council, who has obtained a Knighthood. As you are all aware, he was for many years a Member of the Council of State and took a very prominent part in the work of this Council. He is one of the ablest young Civilians (Applause) and I can say, as I know him personally, that the Honour which he has now received as Member of the Viceroy's Executive Council is most well deserved. His Knighthood is only a precursor of other high Honours which he is likely to get very shortly.

I have also to mention the name of our friend, the Honourable Sir Abraham Jeremy Raisman who was also for some time a Member of the Council of State. On the retirement of Sir James Grigg he has been nominated to the very high office of Finance Member of the Viceroy's Executive Council. He is a very shrewd businessman and a most capable financier. I have not the slightest doubt that during the next few years the finances of India will be in safe keeping in his able hands. (Applause.)

I have next to mention with particular gratification the name of one whom you all know very well, and who was Secretary of the Council of State for many years—Sir George Hemming Spence. (Applause.) He is also a very able Civilian. The rules and regulations and everything connected with the business of the Council was at his finger tips. During the many years that I was a Member of the Council of State I found him very useful. He was always ready to render assistance and help to all Honourable Members who wanted any difficult question to be solved or who sought information on any important point. I am very glad he has received a Knighthood and I am sure that you share with me the pleasure which I feel that his Knighthood is extremely well deserved. He is a real asset to the Legislative Assembly and is very valuable to the Legislative Department of the Government of India. (Applause.)

I have much pleasure in mentioning also the name of the Government Solicitor, Mr. Dharendra Nath Mitra, who has received a C.B.E. He was nominated off and on to the fourth Council of State. He was always brought here to discuss important questions of law and he gave very valuable assistance and information to Honourable Members. (Applause.)

I have much pleasure in mentioning also one other name, and that is, of Mr. Gurunath Venkatesh Bewoor, who obtains a Knighthood. He also was a Member of the Council of State. He hails from the Central Provinces. At a young age he was nominated to such a high office as the Director General of Posts and Telegraphs, and he has fully justified the choice that the Government have made in his appointment. He is one of the most capable young Civilians and he has a very great future. (Applause.)

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, 1939, namely:

1. The Indian Tariff (Amendment) Act, 1939.
2. The Ajmer-Merwara Municipalities Regulation (Amendment) Act, 1939.
3. The Destructive Insects and Pests (Amendment) Act, 1939.
4. The Motor Vehicles Act, 1939.
5. The Indian Cotton Cess (Amendment) Act, 1939.
6. The Indian Merchant Shipping (Amendment) Act, 1939.

[Secretary of the Council.]

7. The Indian Income-tax (Amendment) Act, 1939.
8. The Dissolution of Muslim Marriages Act, 1939.
9. The Standards of Weight Act, 1939.
10. The Indian Merchant Shipping (Second Amendment) Act, 1939.
11. The Insurance (Amendment) Act, 1939.
12. The Indian Patents and Designs (Amendment) Act, 1939.
13. The Workmen's Compensation (Amendment) Act, 1939.
14. The Cotton Ginning and Pressing Factories (Amendment) Act, 1939.
15. The Employment of Children (Amendment) Act, 1939.
16. The Registration of Foreigners Act, 1939.
17. The Indian Succession (Amendment) Act, 1939.
18. The Indian Tariff (Second Amendment) Act, 1939.
19. The Coal Mines Safety (Stowing) Act, 1939.
20. The Sugar Industry (Protection) Act, 1939.
21. The Chittagong Port (Amendment) Act, 1939.
22. The Criminal Law Amendment Act, 1939.
23. The Indian Soft Coke Cess Committee (Reconstitution and Incorporation) Act, 1939.

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 meetings held on the 4th, 5th and 8th September, 1939, namely:

1. A Bill to provide for certain matters in connection with the taking of the census.
2. A Bill further to amend the Indian Salt Act, 1882, for certain purposes.
3. A Bill further to amend the Code of Civil Procedure, 1908, for a certain purpose.
4. A Bill further to amend the Indian Tea Cess Act, 1903, for a certain purpose.
5. A Bill to make the provision referred to in sub-section (1) of section 120 of the Government of India Act, 1935.

6. A Bill further to amend the Indian Tariff Act, 1934, for a certain purpose, and to validate the levy and collection of certain duty under that Act.
7. A Bill to amend the Law of Evidence with respect to certain commercial documents.

STATEMENT OF BUSINESS.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Leader of the House): Sir, for a variety of reasons the business which was put down on the agenda for the 15th has fallen through. For instance in regard to the first Resolution which my Honourable friend Mr. Sapru was to have moved, he has now learnt from a very authentic source that there is no such proposal before His Majesty's Government. The Bills are not to be moved. I therefore suggest that instead of meeting on the 15th we now meet on Monday, the 18th. I should also like to mention to the House that my Honourable friend Mr. Sapru, who has taken a very keen interest in the Report of the Pacific Locomotives Committee, has got himself rather tied up into a knot. He gave notice of a Resolution which could only be moved if the first Resolution was barred. As the first Resolution is not barred, Mr. Sapru's second Resolution is barred. But my Honourable friend Sir Guthrie Russell is willing to help Mr. Sapru in consideration of the eminent reasonableness with which he discusses railway questions. (Laughter.) He is prepared now to give notice of a Resolution on behalf of Government to discuss this Report on Monday, an official day. But I am afraid as the Adjournment Motion is also going to be taken up that day we shall only be able to devote about half a day to that Resolution. I do not think the Bills will take very long, but I would suggest for the consideration of the House and for you, Sir, that we might meet that day at 10-30 A.M. (*Several Honourable Members*: "11 A.M.") Then we shall give such time for the discussion of the Resolution as may be possible and do our best to meet the wishes of our Honourable friend Mr. Sapru, and I hope when the occasion arises that he will not forget what we have done for him. (Laughter.)

The Council then adjourned till Eleven of the Clock on Monday, the 18th September, 1939.

COUNCIL OF STATE.

Monday, 18th September, 1939.

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. Charles MacIvor Grant Ogilvie (Defence Secretary).

QUESTIONS AND ANSWERS.

INDIAN OFFICERS IN ADMINISTRATIVE DEPARTMENTS OF THE DEFENCE FORCES.

1. THE HONOURABLE MR. G. S. MOTILAL : What is the number of Indian officers in the administrative departments of the defence forces of India, except medical men ?

THE HONOURABLE MR. C. M. G. OGILVIE : Twenty-four officers are serving in the administrative departments of the defence forces.

SAVING IN THE DEFENCE BUDGET CONSEQUENT UPON THE REMOVAL OF BRITISH TROOPS FROM INDIA.

2. THE HONOURABLE MR. G. S. MOTILAL : What will be the saving in the Defence Budget consequent upon transfer of some of the troops from India ?

THE HONOURABLE MR. C. M. G. OGILVIE : The ultimate annual recurring saving in the Defence Budget on all British troops that left the Indian establishment so far will be Rs. 201 lakhs.

ROYAL INDIAN NAVAL RESERVE.

3. THE HONOURABLE MR. V. V. KALIKAR : Will Government state the number of recruits for the Royal Indian Naval Reserve and the number of Europeans and Indians who have applied up till now ?

THE HONOURABLE MR. C. M. G. OGILVIE : Nine Europeans and 39 Indians have so far been granted commissions in the Royal Indian Naval Reserve ; and 350 Indians have been recruited as ratings.

The numbers of those who have applied are not yet available. Enquiries have been made from the Flag Officer Commanding, Royal Indian Navy, and the Honourable Member will be informed when the answer is received.

DUTY REALIZED ON IMPORTED SUGAR.

4. THE HONOURABLE MR. G. S. MOTILAL: Will Government state the quantity of sugar imported by India since 1st April, 1939 up to the end of August and the amount of import duty received from this source?

THE HONOURABLE SIR ALAN LLOYD: The latest figures available are up to the end of July, 1939, and the Honourable Member is referred to pages 116 and 290 of the Accounts relating to the Seaborne Trade and Navigation of British India for July, 1939, a copy of which is in the Library.

OVER-PRODUCTION BY COTTON MILLS.

5. THE HONOURABLE MR. G. S. MOTILAL: (a) Have Government received any representation from the textile millowners for taking measures to prevent over-production by mills in India?

(b) Have any steps been taken by the textile millowners for controlling or curtailing production? If so, what concerted action has been taken by them and what action, if any, Government have suggested to them?

THE HONOURABLE SIR ALAN LLOYD: (a) No, Sir.

(b) The Southern India Millowners' Association have informed Government that they have themselves recommended curtailment of production to their members some of whom have accepted the recommendation. Government have made no suggestions to the Association.

DUTY REALIZED ON IMPORTED COTTON.

6. THE HONOURABLE MR. G. S. MOTILAL: (a) How many bales of cotton have been imported into India since 1st April to the end of August this year and what are the corresponding figures for the last year?

(b) How much import duty has been received by Government on such cotton this year and how much was received last year?

THE HONOURABLE SIR ALAN LLOYD: (a) The latest information available is for the period April to July, 1939 and the Honourable Member is referred to page 118 of the Accounts relating to the Seaborne Trade and Navigation of British India for July, 1939, a copy of which is in the Library of the Legislature.

(b) The Honourable Member is referred to the return of Indian Customs and Central Excise Revenue for the month of August, 1939, a copy of which is in the Library.

AIR-CONDITIONED COACHES ON RAILWAYS.

7. THE HONOURABLE MR. G. S. MOTILAL: (a) Will Government state whether the experiment of air-conditioned coaches on the railways has proved a success?

(b) From which station to which station are air-conditioned coaches run at present and on what trains?

(c) Do Government propose to provide air-conditioned coaches on other trains and, if so, which?

THE HONOURABLE SIR GUTHRIE RUSSELL: (a) Yes.

(b) Between Bombay (V. T.) and Howrah on the G. I. P. R.-E. I. R. mail trains and between Bombay (Central) and Delhi on the B. B. & C. I. R. Frontier Mail service. This service is extended to Kalka during the summer.

(c) Yes on the Delhi-Peshawar Frontier Mail service and on the Lahore-Karachi Mail trains. The possibility of introducing an air-conditioned service between Delhi and Howrah and between Bombay and Madras is under consideration.

AIR-CONDITIONED COACHES ON RAILWAYS.

8. THE HONOURABLE MR. G. S. MOTILAL: Have Government obtained the opinion of passengers using air-conditioned coaches as to the comparative preference between the system used by the E. I. R. from Bombay to Calcutta and the one used by the B. B. & C. I. R. from Bombay to Delhi?

THE HONOURABLE SIR GUTHRIE RUSSELL: No special steps have been taken towards this end. But from opinions expressed voluntarily by passengers, it would appear that some prefer one system and some the other.

AIR-CONDITIONED COACHES ON RAILWAYS.

9. THE HONOURABLE MR. G. S. MOTILAL: Do Government contemplate changing the system of air-conditioning of the E. I. R. to that of the B. B. & C. I. R.?

(b) Which of the two systems is cheaper?

THE HONOURABLE SIR GUTHRIE RUSSELL: (a) It is presumed that by E. I. R. the Honourable Member means the Bombay-Howrah air-conditioned service. If so the answer is in the negative.

(b) The system adopted by the B. B. & C. I. R. is the cheaper in first cost. Prevailing temperature conditions and the annual mileage of the service concerned decide which of the two system is the more economical to adopt for any particular service.

AIR-CONDITIONED COACHES ON RAILWAYS.

10. THE HONOURABLE MR. G. S. MOTILAL: Are Government aware that the E.I.R. air-conditioned coaches are uncomfortable for sleeping? Are necessary changes for improvement under their consideration?

THE HONOURABLE SIR GUTHRIE RUSSELL: With regard to the first portion of the question, a complaint has been received that the lower convertible berths are too narrow for comfortable sleeping. With reference to the second part of the question the matter has been considered and it has been decided that no change should be made in the existing carriages. The lower berths are capable of being converted into chairs for day-time use and this feature, which is generally appreciated, determines their width.

EXPORTS OF COTTON TO BRITAIN.

11. THE HONOURABLE MR. G. S. MOTILAL: Will Government state the quantity of Indian cotton exported to England since the beginning of the trade year and the corresponding figures for the last year?

THE HONOURABLE SIR ALAN LLOYD: The Honourable Member is referred to the Monthly Accounts relating to the Seaborne Trade and Navigation of British India, copies of which are in the Library.

IMPORTS OF COTTON, YARN AND PIECEGOODS.

12. THE HONOURABLE MR. G. S. MOTILAL: Will Government state the quantity of cotton, yarn and piecegoods imported into India from the United Kingdom and other countries from 1st April, 1939 to 31st August, 1939, and the corresponding figures for last year?

THE HONOURABLE SIR ALAN LLOYD: The latest information available is for the period ending July, 1939 and the Honourable Member is referred to the Accounts relating to the Seaborne Trade and Navigation of British India for that month, a copy of which is in the Library.

DETERIORATION IN POTENCY OF DRUGS.

13. THE HONOURABLE SIR DAVID DEVADOSS: (a) Has the attention of the Government of India been drawn to the complaint in the *Hindu* of Madras of the 2nd June, 1939 that owing to the hot and humid climate of India the potency of drugs greatly deteriorate?

(b) Has the Bio-chemical Standardisation Laboratory of the Government of India made experiments showing that a rapid deterioration of the most important drugs of pharmacopœia takes place?

(c) Is there any guarantee that the drugs sold by chemists and druggists are of the standard quality or of the quality mentioned by the manufacturers?

(d) Are there any means of compelling chemists and druggists not to sell drugs which have deteriorated in quality?

(e) Does the Government of India propose to take steps to ensure that drugs sold by chemists and druggists are of the standard quality and, if so, how and when?

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

(b) Experiments on the effects of climate and storage on many commonly used drugs are in progress at the Bio-chemical Standardisation Laboratory, Calcutta. The evidence so far available indicates that a certain amount of deterioration in the active principles of many drugs takes place in the climate of India.

(c) and (d). Not at present.

(e) Government propose to undertake, as soon as possible, legislation to control the import, manufacture and sale of drugs in India.

COMPLAINTS AGAINST THE WORKING OF THE OUT-AGENCY OF THE S. I. R. AT KODAIKANAL, ETC.

14. THE HONOURABLE SIR DAVID DEVADOSS: (a) Has the S.I.R. an outpost at Kodaikanal under the management of the Kodaikanal Motor Union?

(b) Have there been numerous complaints by *bona fide* passengers to the authorities of the S.I.R. in regard to the delay, hardships and inconvenience caused and high rates charged by the Kodaikanal Motor Union?

(c) Have through ticket holders been put to delay and inconvenience?

(d) Did the S.I.R. depute a representative to enquire into the complaints and to report thereon?

(e) What is the result of the enquiry?

(f) Did the railway authorities pass any orders on the report?

THE HONOURABLE SIR GUTHRIE RUSSELL: (a) and (d). Yes.

(b) No. Only two complaints were received by the S.I.R.

(c) Through ticket holders, who failed to comply with the rules regarding luggage, were caused some inconvenience.

(e) Only approved and notified charges, which had been certified by the Collector of Madura as reasonable, were found to have been levied. No delay or hardship was caused and the complaints were found to have been solicited by competitive interests which existed prior to the formation of the present Motor Union.

(f) I am advised that, in the light of the experience gained, the Administration has taken steps to ensure the efficient working of the new Out-agency which has been greatly appreciated by residents and visitors.

ESTABLISHMENT OF AN INDUSTRIAL BANK BY GOVERNMENT.

15. THE HONOURABLE MR. G. S. MOTILAL: Do Government contemplate establishing an Industrial Bank with a plan for helping the establishment of suitable new industries?

THE HONOURABLE MR. C. E. JONES: No.

EXERCISE OF POWERS BY COMMISSIONERS OF INCOME-TAX UNDER RULE 49 OF THE CIVIL SERVICES (CLASSIFICATION, CONTROL AND APPEAL) RULES.

16. THE HONOURABLE MR. P. N. SAPRU: (a) In how many cases Commissioners of Income-tax have exercised their powers under the Civil Services (Classification, Control and Appeal) Rules, rule 49, during the past five years in the United Provinces and Central Provinces and what were the penalties imposed on the officers concerned?

(b) How many appeals by Income-tax Officers against orders under the Civil Services (Classification, Control and Appeal) Rules, rule 49, have been preferred to them during the past five years in the United Provinces and

Central Provinces and in how many of them Government passed orders themselves and in how many they acted on the advice of the Federal Public Service Commission ?

(c) How many of such appeals were accepted and how many were rejected ?

(d) Do Government or the Federal Public Service Commission give an opportunity to the officer concerned to make a defence or representation or hear him if he wants to be heard ? Was any such thing allowed in the appeals mentioned in (a) ? If so, in how many of them ?

(e) In how many of the appeals mentioned in (a) above, the officers concerned were supplied with copies of the confidential records under the Civil Services (Classification, Control and Appeal) Rules, rule 49, or of other documents and of the opinions of the officers imposing penalties on them, and their explanations asked in respect of them ?

(f) If the procedure mentioned in (e) is not followed have Government considered the advisability of at least allowing an officer to be penalised to acquaint himself with the charges against him and to submit his explanation in respect of them before final orders are passed ?

THE HONOURABLE MR. C. E. JONES : (a) In nine cases—five in the United Provinces and four in the Central Provinces. The penalties imposed were suspension in one case, censure in three cases and withholding of increments or promotion, including stoppage at an efficiency bar, in five cases.

(b) In four cases in the United Provinces and none in the Central Provinces. In two cases orders were passed by the Central Board of Revenue and in two cases the Government of India acted on the advice of the Federal Public Service Commission.

(c) Two were rejected, one accepted and one withheld.

(d) In disciplinary cases which are referred to them for advice, the Federal Public Service Commission have before them the complete records of the proceedings and all connected documents. These papers include the defence, representation or appeal of the accused officer at each stage of the proceedings. In one or two exceptional cases, in the past, the Commission have heard the accused officer but it is not their usual practice to do so and it was not allowed in any of the cases of the Income-tax Department, Central Provinces and United Provinces. Government generally follow the procedure adopted by the Federal Public Service Commission.

(e) The procedure prescribed for such cases in rule 55 of the Classification, Control and Appeal Rules has been followed.

(f) Government have no reason to believe that the prescribed procedure for imposing penalties is not followed generally.

AUTHORITY EMPOWERED TO IMPOSE PENALTIES ON INCOME-TAX OFFICERS UNDER RULE 49 OF THE CIVIL SERVICES (CLASSIFICATION, CONTROL AND APPEAL) RULES.

17. THE HONOURABLE MR. P. N. SAPRU : (a) To whom have Government delegated the power of imposing penalties on gazetted officers

of the Income-tax Department under the Civil Services (Classification, Control and Appeal) Rules, rule 49 ?

(b) Have Government considered the advisability of framing rules governing the procedure in all matters relating to penalties under the Civil Services (Classification, Control and Appeal) Rules, rule 49, and specially of laying down that no penalty should be imposed without giving timely warning and an adequate opportunity of representation or defence to the officer to be penalised ?

THE HONOURABLE MR. C. E. JONES : (a) The power to impose any of the penalties specified in rule 49 of the Civil Services (Classification, Control and Appeal) Rules on Class II Officers, viz., Income-tax Officers, Assistant Income-tax Officers and Chief Examiner of Account has been delegated to Commissioners of Income-tax. No delegation has been made in respect of Class I Officers, viz., Commissioners and Assistant Commissioners of Income-tax.

(b) The procedure for the imposition of penalties is prescribed in rule 55 of the Civil Services (Classification, Control and Appeal) Rules under which adequate opportunity for representation or defence is allowed to the officer against whom penalty proceedings have been instituted.

ACQUISITION OF THE SHADRA-SAHARANPUR RAILWAY.

18. THE HONOURABLE MR. P. N. SAPRU : Will the Honourable Member for Railways please state :

(a) Whether Government has arrived at any decision regarding the acquisition of the Shadra-Saharanpur Railway in 1941 ?

(b) Whether Government has made an enquiry into the matter from a financial point of view ? If so, what are its conclusions ?

(c) Whether any step has been taken to serve the Shadra-Saharanpur Railway Company with a notice in April, 1940 for terminating the contract in 1941 ?

THE HONOURABLE SIR GUTHRIE RUSSELL : (a) and (c). No.

(b) The financial aspect of the question has not yet been examined.

REPRESENTATION FROM THE LAXMI MATCH WORKS.

19. THE HONOURABLE MR. P. N. SAPRU : (a) Will the Honourable the Finance Member please state whether his Department has received a representation from the Laxmi Match Works making suggestions for the support of Indian industry and encouragement of the use of Indian wood in the manufacture of matches as well as the manufacture of machinery for that purpose by adopting the following means :

(i) an increase in the duty by 0-11-0 annas per gross ;

(ii) imposing a heavy duty on aspen splint wood manufacture ;

(iii) a heavy duty on the import of machinery for the manufacture of matches ; and

(iv) increasing the rebate on the manufacture of matches as a cottage industry ?

(b) If the answer be in the affirmative, have Government examined those proposals and what steps do they propose to take in the matter?

THE HONOURABLE MR. C. E. JONES: (a) Yes.

(b) The proposals were examined and rejected.

ACCIDENTS ON RAILWAYS.

20. THE HONOURABLE MR. P. N. SAPRU: (a) Will the Honourable Member in charge of Railways be pleased to state whether in serious accidents on the railways during recent years, which have caused serious damage to life of passengers, they have observed that the persons who suffered most are those travelling in the first two or three bogies?

(b) If the answer be in the affirmative, have Government considered the advisability of replacing the first three bogies in all the fast trains by goods and luggage vans with a view to avoid serious loss of life and damage to the railways in case of accidents?

THE HONOURABLE SIR GUTHRIE RUSSELL: (a) This has not been observed to be always a fact.

(b) Does not arise.

SEARCHLIGHTS ON RAILWAY ENGINES.

21. THE HONOURABLE MR. P. N. SAPRU: (a) Is the searchlight in front of railway engines fixed and cannot be moved sideways and properly utilized on the curves of the track?

(b) If the answer be in the affirmative, have Government considered the advisability of getting the searchlight on the engines movable, instead of being fixed?

THE HONOURABLE SIR GUTHRIE RUSSELL: (a) Yes.

(b) The matter has been considered. It is undesirable to introduce manual control and it is difficult to secure satisfactory automatic control, but the possibility of making an experiment will be reconsidered.

ENCOURAGEMENT OF BANKING.

22. THE HONOURABLE MR. P. N. SAPRU: Have Government considered the advisability of taking steps for encouraging banking in India by consolidating small banks into bigger ones by the process of incorporation and do they intend to bring any legislation for the purpose?

THE HONOURABLE MR. C. E. JONES: No.

DELAY IN DELIVERY OF LETTERS, ETC., AT BIJNOR.

23. THE HONOURABLE MR. P. N. SAPRU: (a) Prior to 1930, was the mail for Bijnor carried via Nagina and was there a Railway Mail Service office at Nagina?

(b) Was the mail in those days carried from Nagina to Bijnor by motor lorries and delivered to the public at about 8 A.M.?

(c) Was the Railway Mail Service office shifted from Nagina to Najibabad in 1930 and is the mail now delivered at Bijnor from 12 A.M. to 3 P.M.?

(d) Are Government aware that the delay in the delivery of post at Bijnor is causing great inconvenience to the public and is causing great damage to the trade and business of Bijnor?

(e) Have Government considered the desirability of removing the complaint of the public, business and industry of Bijnor by shifting the Railway Mail Service office to Nagina and arranging lorry service for the carriage of mails from Nagina to Bijnor?

THE HONOURABLE MR. J. D. TYSON: (a) and (b). Yes. The mails used to be delivered at Bijnor at 8-30 A.M.

(c) The Sorting Mail Office was removed from Nagina to Najibabad in 1931. Prior to 1931 the whole mail was delivered at Bijnor only once in the day, namely, at 8-30 A.M. At present mails from the Eastern United Provinces, Bengal and Bihar are issued for delivery at 8 A.M. and those from the rest of India are issued for delivery at 12 noon.

(d) Complaints have been received that the present arrangements cause some inconvenience to the public as compared with the arrangements which existed eight years ago.

(e) No. As Bijnor is now linked by railway with the main line and as Nagina is no longer a stopping place for the E.I.R. Mail trains, no purpose would be served by re-establishing the Mail Sorting Office at Nagina.

THE HONOURABLE SIR MUHAMMAD YAKUB: Is the Honourable member aware that the E.I.R. Mail now stops at Nagina at the instance of the United Provinces Minister, the Honourable Hafiz Muhammad Ibrahim, who is himself a resident of Nagina?

UNHEALTHY COMPETITION AND OVER-PRODUCTION IN THE CEMENT AND OTHER INDUSTRIES.

24. THE HONOURABLE MR. G. S. MOTILAL: (a) Are Government aware of unhealthy competition and over-production in cement and other industries?

(b) Have Government considered the desirability of taking steps to prevent uneconomic over-production? If so, what steps do Government propose to take in the matter?

THE HONOURABLE SIR ALAN LLOYD: (a) Government have received complaints on the subject from certain units of the steel rolling industry. As regards other industries, they have no information beyond what has appeared in the newspapers.

(b) Government's policy in the matter was referred to by the Honourable the Commerce Member in his speech at the Conference of rolling and re-rolling mills on the 16th August, 1939. The speech was fully reported in the press.

ISSUE OF INFORMATION AS TO THE FIELD OF NEW INDUSTRIES AND EXPANSION OR CONTRACTION OF THE EXISTING INDUSTRIES.

25. THE HONOURABLE MR. G. S. MOTILAL: Do Government propose to guide the public by issuing information as to the field of new industries and expansion or contraction of the existing industries?

THE HONOURABLE SIR ALAN LLOYD: The development of industries is primarily a provincial subject. The Government of India issue the following publications which contain information on some of these points:

1. Proceedings of the Industries Conferences.
2. Annual Reports of the Industrial Research Bureau.
3. Bulletins of Indian Industrial Research.

PEONS IN THE INCOME-TAX DEPARTMENT, UNITED PROVINCES.

26. THE HONOURABLE MR. P. N. SAPRU: (a) Are the peons in the Income-tax Department in the United Provinces paid only Rs. 10-8-0 as pay and granted one warm coat for uniform once in four years?

(b) Were a number of peons in the Income-tax Department taken from the Revenue Department (Collectorate)?

(c) Were the rates of pay for peons mentioned in (a) the same as those of the peons in the Revenue Department?

(d) Have the Revenue Department in the United Provinces recently given increments to the peons at As. 8 in two years up to a maximum of Rs. 14 and Re. 1 to Rs. 2 as city and hill allowances and have they given these increments a retrospective effect?

(e) Have Government considered the advisability of granting increments to the peons of the Income-tax Department similar to those granted by the United Provinces Government?

THE HONOURABLE MR. C. E. JONES: (a) The pay of office peons in the Income-tax Department, United Provinces, is Rs. 10-8-0 and Rs. 12 per mensem and their cold weather liveries are renewable after every third year.

(b) Yes.

(c) It is understood that the pay of the peons attached to Deputy Collectors was Rs. 10-8-0 per mensem.

(d) Yes.

(e) The matter is under consideration.

COMPETITION BY THE IMPERIAL BANK OF INDIA WITH LOCAL BANKS.

27. THE HONOURABLE MR. P. N. SAPRU: (a) Does the fact of the Imperial Bank being an agent of the Reserve Bank entitle it to use that position for competing with the local banking?

(b) Does the Imperial Bank use that position for that purpose?

(c) If the answer to (b) be in the affirmative, have Government considered the advisability of stopping this competition?

THE HONOURABLE MR. C. E. JONES: (a), (b) and (c). The attention of the Honourable Member is invited to the provisions of the Imperial Bank of India Act, section 45 of the Reserve Bank of India Act and the agreement provided therein. The Government of India have no power to interfere so long as these provisions are not contravened.

BROADCASTING STATION AT NAGPUR.

28. THE HONOURABLE MR. V. V. KALIKAR: (a) Did the Provincial Government of the Central Provinces and Berar make a representation to the Government of India to establish a Broadcasting Station at Nagpur?

(b) Did the Government of India turn down the recommendations of the Provincial Government? If so, why?

(c) Has the attention of the Government of India been drawn to the reply given by the Honourable Mr. C. J. Bharuka, Minister in charge of Industry, Central Provinces and Berar, in regard to the establishment of a Broadcasting Station at Nagpur in answer to a question by the Honourable Mr. R. M. Deshmukh, M.L.A., on 14th August, 1939, in the Central Provinces Assembly?

THE HONOURABLE MR. J. D. TYSON: (a) and (c). No.

(b) Does not arise.

ABNORMAL IMPORTS OF YARN FROM CHINA AND JAPAN.

29. THE HONOURABLE MR. V. V. KALIKAR: (a) Have the Southern India Millowners' Association made a representation to the Government of India that the imports of yarn from China and Japan should be immediately reduced?

(b) Have the Government of India taken any action on the representation? If not, why not?

(c) Has the Provincial Government acquainted the Government of India of the difficulties experienced by the Southern India Millowners' Association regarding the urgent necessity of helping the industry by placing an embargo on the imports of Chinese and Japanese yarn and also reducing the import duty on raw cotton by half? If so, what action do the Government of India propose to take on the representation of the Provincial Government?

THE HONOURABLE SIR ALAN LLOYD: (a) Yes, Sir.

(b) and (c). A representation on the subject has been received from the Provincial Government and the question is under consideration.

RECENT ASIATIC SEGREGATION LEGISLATION IN THE UNION OF SOUTH AFRICA.

30. THE HONOURABLE MR. V. V. KALIKAR: Will Government make a short statement on the negotiation that they have been carrying on

with the Union Government regarding the Asiatic segregation legislation and the result of the negotiation?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: Towards the end of last year it was reported that the Minister of the Interior of the Government of the Union of South Africa was contemplating a scheme of servitude in order to protect Europeans in the Transvaal against the alleged penetration of Asiatics into predominantly European areas. As the House is well aware, the Government of India are opposed in principle to any form of segregation on racial grounds, and suitable representations were made by the Government of India to the Union Government in the matter. An Act, designed mainly to restrict Asiatics in the Transvaal to their present trading licences and residential sites during the next two years, was passed in the Union Parliament on the 12th June. Negotiations on the objections of principle raised by the Government of India are still in progress and are of such a nature and at such a stage that I regret I am unable to make a more detailed statement.

INCREASE IN CUSTOMS REVENUE.

31. THE HONOURABLE MR. V. V. KALIKAR: (a) Have the revenue receipts under customs duty brought an increase of over Rs. 3 crores during the last four months?

(b) Are unprecedented imports of sugar and motor spirit responsible for the increase in receipts?

(c) If the answers are in the affirmative, do Government propose to abolish the newly imposed duty on raw cotton? If not, why not?

THE HONOURABLE MR. C. E. JONES: (a) As compared with the corresponding period of the last financial year, there has been an increase of over Rs. 3 crores in net customs revenue.

(b) Larger imports of sugar and motor spirit are responsible for a substantial portion of the increase.

(c) Government are unable to give any indication of their attitude towards this proposal beyond pointing out that in present conditions there is no warrant for the suggestion implied in the question that total customs receipts will continue to show an increase over last year's figures.

TRADE RELATIONS WITH BURMA.

32. THE HONOURABLE MR. V. V. KALIKAR: (a) Have the Indian Merchants' Chamber in the course of a letter to the Government of India on the proposed Indo-Burma trade talks represented to the Government of India that they should secure from the Government of Burma proper compensation for the loss of Indian life and property during the recent riots in Burma and a guarantee of protection in future before any trade negotiations are undertaken between the two countries?

(b) If the answer is in the affirmative, do Government propose to take any action on the representation made by the Indian Merchants' Chamber?

(c) Do Government propose to give notice to the Government of Burma for termination of the agreement between Burma and India? If so, when?

(d) Do Government propose to appoint non-official advisers of the commercial community to advise the delegates of the Government of India during the trade talks? If not, why not?

THE HONOURABLE SIR ALAN LLOYD: (a) Yes, Sir.

(b) and (d). These questions will be duly considered by the Government of India if and when it is decided to enter into negotiations with the Government of Burma for the drawing up of a trade agreement.

(c) The matter is still under consideration.

MOTION FOR ADJOURNMENT *RE* RECOMMENDATIONS OF THE CHATFIELD COMMITTEE.

THE HONOURABLE THE PRESIDENT: Honourable Members, the Honourable Mr. Kunzru has given notice of a Motion for Adjournment. As I think that Motion is in order I will read the statement to you:

"To the President of the Council of State. I beg to give notice hereby of my intention to move a Motion for the adjournment of the business of the Council on the 12th September" (which, with my consent has been put off till today), "to discuss a definite matter of urgent public importance, viz., the unsatisfactory character of the announcement made by His Majesty's Government regarding the recommendations of the Chatfield Committee".

Is there any objection on your part?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Leader of the House): No, Sir.

THE HONOURABLE THE PRESIDENT: I don't think there is any objection to the Motion in the House? In that case, I admit this Motion of Adjournment. As to the time it will be discussed, I cannot state at present. It will be either after the termination of today's business or after lunch, when we hope to take it up immediately, or otherwise at 4 P.M.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: Sir, I gather that it will be convenient for us and will also suit the Honourable Member if it is taken up after lunch.

THE HONOURABLE THE PRESIDENT: Provided we finish the business of the House before lunch.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: But even if we finish before lunch, I would request you to take it up after lunch.

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

[Secretary of the Council.]

which were passed by the Legislative Assembly at its meeting held on the 12th September, 1939, namely :

1. A Bill to amend the Indian Carriage by Air Act, 1934, for a certain purpose.
2. A Bill further to amend the Indian Rubber Control Act, 1934.
3. A Bill further to amend the Indian Railways Act, 1890, for a certain purpose (*insertion of new section 42B*).
4. A Bill to amend certain enactments and to repeal certain other enactments.

INDIAN CENSUS BILL.

THE HONOURABLE MR. E. CONRAN-SMITH (Home Secretary) : Sir, I beg to move :

"That the Bill to provide for certain matters in connection with the taking of the census, as passed by the Legislative Assembly, be taken into consideration."

Sir, I believe that this Bill requires no very persuasive oratory to commend its provisions to this House. The object of taking a census and the value of the statistical information thereby obtained are widely known and, if many Honourable Members have not themselves been called upon to perform functions under the Census law, it is probable that most of them have been required to answer the questions set out in the schedules with which enumerators are armed and they are therefore aware of the general nature of the information sought to be obtained. The census represents (I quote the words of the present Census Commissioner for India) :

"a great national effort in which all citizens take their part with the object of producing material which would be of service to all".

This is especially true in India with its many millions of population. It is only by securing the widest co-operation that the mass activity involved can be carried through. Without such co-operation, the possibility of holding a census in India at all would be ruled out on the score of expense. Before, however, embarking on the legislation which comes before this House today, the Government of India consulted Provincial Governments and I am glad to be able to inform Honourable Members that all Governments have promised full and willing co-operation and have given an assurance that provincial officers and provincial administrative machinery will be made available for the work connected with the holding of the census. Moreover, they have agreed to impress upon all their people the voluntary nature of census work. But even with this assurance of free and willing co-operation it is only by restricting the nature of the information to be collected within very circumscribed limits that the cost can be kept within manageable proportions. Honourable Members will not expect me at this stage to detail the various heads under which information will be collected. I will only say that certain changes are proposed as compared with the last census and that we are in consultation with Provincial Governments on that matter. The whole question will in due course be considered by a Conference of Provincial Census Superintendents with the Census

Commissioner for India. The information which has been collected on previous occasions when a census has been held constitutes a valuable storehouse on which authorities in India continually draw. But it has to be remembered that the questions which can be put and answered have to be related to the average intelligence of the enumerator and of the person enumerated. It follows, therefore, that it is useless to endeavour to collect information based on questions of an abstruse or theoretical nature, and that is a limitation which has to be borne in mind.

The provisions of this Bill now before the House follow in the main those of the Act of 1929 which regulated the census held in 1931. There are a few differences partly in drafting and partly in substance. With the former I need not deal. As regards the latter, there are four changes. In clause 5 of the Bill the attempt to enumerate in detail the classes of local authorities whose services may be requisitioned has been abandoned and the clause has been drafted in wide terms so as to cover all authorities whose assistance is likely to be required. Secondly, the maximum permissible penalty for offences under the Act has been increased from Rs. 50 to Rs. 200 with the object of giving a wider discretion to courts. Thirdly, clause 12 of the Bill provides that no court inferior to that of a Presidency Magistrate or a Magistrate of the second class shall have jurisdiction to try offences under the Act.

Finally, clause 13 has been drafted so as to afford greater protection to census records than was previously given. Experience has shown that attempts were made to secure the production in court of census schedules both in connection with prosecutions under the Child Marriage Restraint Act and also to rebut or sustain an *alibi* in criminal cases. The intention of clause 13 as drafted is to make such procedure impossible. I would also draw the attention of Honourable Members to the addition which has been made to the previous law by clause 16 which implements a recommendation of the former Census Commissioner, Dr. Hutton, that power should be given to Census Commissioners to abstract and supply to approved persons available statistical information on payment of the extra cost of supply.

I have two other observations to make, Sir, before I conclude. Honourable Members will be interested to learn that our present Census Commissioner has been enabled through the good offices of an American Foundation to combine with his leave a tour of certain places and a study of the methods employed in the taking of the census in other countries, and I have no doubt that India will benefit materially from the knowledge and experience thus gained. My second and final observation is this. We meet this session under the shadow of a wicked and a needless war. I have no doubt Honourable Members are asking themselves whether that war and the consequences flowing from it will permit the carrying through of the activities which this legislation is designed to promote. That is a matter on which no one can prophesy. We can only proceed on the assumption and in the fervent hope that conditions when the time comes will be such as to make possible the completion of the work of which we are now laying the foundations.

Sir, I move.

THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa : Muhammadan) : Mr. President, this is one of those legislations which usually crop up

[Mr. Hossain Imam.]

at stated intervals and as such it would not require any criticism or very great detailed study because they are usually modelled on previous enactments and experiences. I intervene at this stage simply to draw the attention of the Honourable Member to a few facts which I hope will receive his favourable consideration. Firstly, Sir, I welcome the opportunity given to the Honourable Mr. Yeatts to visit America and other countries and thereby get experience of census work in other countries. I hope, Sir, that as we are very poor in statistical information about the economic condition in the countryside, if possible the Honourable Member will give us a more accurate picture of the agricultural population, how they live, what is their material condition, and so on. Secondly, Sir, I wish to draw the attention of the Honourable Member to a reality of the situation. At the moment, I have to admit with some shame that there is bitter communal feeling. In that condition, it is possible that census records may be tampered with. The question of language and religion—these two items have in the past been subject to the vagaries of the enumerators. Sometimes it has happened that people who happened to be of a different nationality than the enumerator himself were left out from the census. Sometimes it has happened that instead of writing down the language which the man speaks, another language has been written. I do not say that this is the general condition of things. But the possibilities are there, and it would have been better and prudent if Government had thought it proper to provide specifically for such offences, although I find that there is a provision in clause 9—“knowingly makes any false return”. This covers my objection, and therefore I am not moving any amendment on the point. My desire is only this that the Superintendents should be men of absolute integrity and great care should be taken in selecting them. We should rely not only on the enumerators but we should rely also on checks. There should be, if not cent. per cent. check, at least a good check so that such vagaries do not happen. Thirdly, Sir, I should like to ask the Government to see that the reports are published a little earlier than they were done the last time. The statistics lose much of their intrinsic value if they come too late. I know that it is a difficult job to go through 35 crores of people—probably by 1941 there may be 400 millions. I admit that the task is difficult and it does involve time, but if you employ additional hands for a shorter period you might finish the work quickly. It does not involve a larger expenditure if you keep 100 men for one month rather than 10 men for 10 months. It would be a very good thing if these reports are published as early as possible.

THE HONOURABLE SIR RAMUNNI MENON (Nominated Non-Official) : Sir, notwithstanding the Honourable Mover's expression of inability to forecast the future trend of events, I think it is a source of comfort to all of us to find that the Government of India in the face of what threatens to be a very grim and long-drawn struggle are making preparations for an event which presupposes the existence of normal conditions of life in the year 1941. Let us all hope that the anticipation of the Government of India will be fully realized. There is only one point which I should like to mention in regard to the census. The Honourable Mover has already referred to the well-known fact that a Census Report is a store of useful information. In certain recent debates

in this Council and elsewhere the value of the Census Report has been brought into particular prominence in regard to certain social questions, such as infant marriage, the prevalence of polygamy, polyandry, and so forth. It is obvious that the information furnished in a Census Report, if it is to be very useful, must be accurate, and while I do not in the least wish to cast any reflection on the achievements of past census officers, I would like to emphasise the importance of ensuring that as far as possible accurate and extensive information should be collected at the ensuing census. Now, it seems to me, and I think it will appear to other Honourable Members also, that it is probable that the war and other events connected with the war will compel the Government to embark upon a campaign of economy. Whenever an economy drive is started it generally happens that it is the cultural activities of the Government that are the first to suffer. I do hope that if any such economy drive is found necessary there will be no occasion to restrict the scope of the activities of the ensuing census. I should like, as far as the limited conditions of a census operation would permit, as full and as accurate information as possible to be collected on what is generally known as the civil condition of the population of India, matters relating to marriage, infant marriage, widowhood, polygamy, and so forth; because it seems to me that in the years to come the legislative activities of India will be marked more and more by the incursion of social questions, and it would be extremely important for legislators and public men to have at their disposal important and reliable data on these questions.

With these few words, Sir, I support the Bill.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan) : Sir, during the last census my information was that political and communal considerations played a large part, and the enumerators, if I mistake not, were ordered to perform a certain political mission. As far as my information goes they were made to class some Hindus as non-Hindus, and the actual position was different to that which they made it out to be. At the present time it is essential that the census should be a true record of facts. I therefore request the Government and particularly the new Census Commissioner to see that such mistakes be not committed in future and that the records of the census be such as cannot be questioned later on.

With these words, Sir, I support the Bill.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU (United Provinces Northern : Non-Muhammadan) : Sir, I should just like to add one word to what has already fallen from Sir Ramunni Menon. In view of the importance of social questions in the future, particularly those relating to social justice in the economic sphere, it is desirable that the census returns should supply fuller information about the wage-earning classes than they do at the present time. What I have in mind is an industrial census. I know that the census authorities cannot undertake a census of the kind that I have in view, a census of the kind that has been undertaken in many European countries. Yet I think that if they were to pay more attention to the importance of this question they could easily ask their agents to supply more information on this subject than is done at present either in the all-India census or the provincial census reports. I do not think, Sir, I need say more in order to enable Government to realize the value of the information that I have asked for both in the

[Pandit Hirday Nath Kunzru.]

immediate present and in regard to questions that may arise a few years later. As census operations take place only once in 10 years, I think it is very desirable that we should look ahead and as far as possible provide such facts and figures in the Census Reports as will enable us to understand the social condition of our population, particularly in those spheres where urgent and difficult questions are likely to arise.

THE HONOURABLE SIR A. P. PATRO (Nominated Non-Official): Sir, I have just a few words to say on this Bill which we all welcome and which has been very rightly described as a national effort for the purpose of ascertaining the real state of affairs in the population. But unfortunately it is very disheartening to find in this House the old question of the communal struggle has been raised. One section asks for greater care in enumeration of their particular community, another section asking similarly that there should not be any incorrect estimation of the population in their own provinces or in their own districts. Is it possible in a Census Report to solve this long-standing and complicated communal question? When the enumerators go to the villages and when they have got inspectors supervising them, the best thing for the communities concerned who suspect that an accurate estimation of the population and the language will not be made to have their voluntary associations, independent men who would help the enumerators, who would help the inspectors. Instead of doing their duty in the matter of assisting and co-operating with such inspectors, supervisors and enumerators, to throw the burden on the low-paid enumerators and expect that they should be above board is a thing which is not sensible or wise. Therefore it is necessary for those communities who entertain such suspicions of the accuracy of the enumerators to have voluntary associations to aid the enumerators to arrive at a correct conclusion. I therefore deprecate any attempt made that the Government and the enumerators should decide the question of the existing differences between the communities. In another place both communities raised the question of the accuracy of the last census estimate. Till now no effort has been made by the communities concerned to ascertain what is the real state of affairs. In another place also the question of the languages spoken was also raised. In these two matters it is not right to charge that the Census Report does not give them the solution required, instead of making efforts themselves and arrive at a correct conclusion. I agree with the Honourable Mr. Hossain Imam when he said that in regard to the agricultural population we have to note various details concerning their economic condition and their social condition. The Census Report is not a survey of the economic condition of the people; it is not a survey of the educational condition of the agricultural population. It is intended primarily and essentially for the purpose of obtaining the strength of the population, how far it has grown; incidentally the civic condition is also noted; but the primary object of the census is not to enter into the social and economic condition of the people. A separate survey would be necessary if such information is desired. It has been pointed out that in regard to certain classes and communities we should know what their social position is, and in matters which may come hereafter in political discussions, we may look into and search Census Reports

to help us in the matter. But I always considered that the Census Report is not a treatise on languages, is not a treatise on economics, is not a treatise on the social conditions of the people. Therefore it is too much to expect the Census Report to contain all the information. Information for the various objects and various purposes which we have in view may otherwise be obtained. For instance, we have got the statistical society, we have got private, voluntary, association. We have also got the Government Statistical Department. Why not insist upon the Statistical Department helping in the matter and obtaining a separate review on that? Similarly we have got the economic section of the Government. Insist on the economic section of the Government to supplement what the Census Report would say. With Reports from the economic societies and the Economic Department of the Government and also from the Statistical Department of the Government, if they are actively engaged in these matters, we will be able to obtain a better and a more comprehensive idea of the matters than what a Census Report would give. Therefore it is too much, I submit, to expect the Census Report to contain all the information we want. With regard to communal differences, which are the bane of our country and which every reasonable man thinks should be minimised as much as possible, I say that in this matter it is the voluntary associations that could help more than the Government report can.

THE HONOURABLE SIR ALAN LLOYD (Commerce Secretary): Sir, I venture to intervene in this debate merely in order to support the point of view which has been expressed by my Honourable colleague on my right with reference to that part of the Honourable Mr. Kunzru's speech which referred to an industrial census or industrial survey. I feel convinced that the Honourable Mr. Kunzru himself fully recognizes that a survey of that sort could not be efficiently carried out by the machinery which is appropriate for the larger census and also he would agree with us that a survey of that sort is of little use if it is only carried out only once every 10 years. Industrial survey work should be carried out, if possible, almost continuously. I make these remarks because I wish him to understand, and the House to understand, that the question of an industrial survey as distinct from the ordinary census is a matter which has not only been repeatedly considered by the Government of India in the past, but has by no means dropped out of sight. Our recent consideration of the question has no doubt had to be interrupted by the violent wrench given to economic conditions by the outbreak of war, but I feel confident that the Government of India will take this matter up again as soon as times are propitious.

THE HONOURABLE MR. P. N. SAPRU (United Provinces Southern: Non-Muhammadan): Sir, the Honourable Sir A. P. Patro has on this, as on most other questions, a narrow outlook and if I may just say what I feel about the census it would be something like this. It is not only figures of population that we want; we want some life also in the Census Report. We want the Census Report to be a useful guide for us so far as future legislation is concerned. We want to have some idea of the social conditions under which our people live; we want to have an idea of the improvements which

[Mr. P. N. Saprū.]

have been effected, if any, in the social customs of the people. For example—

THE HONOURABLE SIR A. P. PATRO : What a great outlook !

THE HONOURABLE MR. P. N. SAPRU : It is a greater outlook than that of Sir A. P. Patro, and we want to have, as Sir Ramunni Menon very wisely pointed out, some data about these social customs, because, as years go on, we shall be busy with legislation in regard to these social matters. We want to know, for example, whether there has been any change of opinion in regard to child marriage ; we want to know whether there has been any change of feeling in regard to the position of women, and what the condition of women is in the various strata of society. We want to have full light on all these matters and we want a comparative study. We want to know what has been the progress effected between 1931 and 1939 or 1941 with regard to these social matters. So far as the wage census, which was suggested by the Honourable Mr. Kunzru is concerned, Sir Alan Lloyd did not quite understand him. He does not for a moment suggest a very detailed survey of industrial conditions ; what he wants is something to be said in the census about these industrial conditions also. We want to know what is the average wage, for example, during the last 10 years has been, so that we may be able to deal with these problems of social justice.

THE HONOURABLE SIR A. P. PATRO : A Daniel come to judgment !

THE HONOURABLE MR. P. N. SAPRU : I cannot hear the Honourable Member.

So far as the point raised by Mr. Hossain Imam and Lala Ram Saran Das is concerned, I would like to say that there is no question of communalism there at all. We want an accurate census both of the religions and the languages of India, an accurate census of the populations of India. Sometimes it happens that the census officers do their work in a very cursory manner. They just come and ask some servants, "How many people are living in this house and what is their religion" ? and they just go away. Now, that is a sort of thing that must be put a stop to. Of course, voluntary effort is also necessary. There I agree with Sir A. P. Patro. Sometimes I have to agree with him ! I think voluntary efforts can be useful in this direction but we want a better class of census officer, a more intelligent class of census officer, and even though we will be passing through critical times, I hope it will be realized by the Government that the census of the country is a very important matter, a matter which affects vitally the life and conditions of the people of this country.

THE HONOURABLE THE PRESIDENT : Motion made :

"That the Bill to provide for certain matters in connection with the taking of the census, as passed by the Legislative Assembly, be taken into consideration."

Question put and Motion 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. E. CONRAN-SMITH : Sir, I move :

"That the Bill, as passed by the Legislative Assembly, be passed."

THE HONOURABLE MR. HOSSAIN IMAM : Mr. President, I would not intervene at this stage but for the remarks made by Sir A. P. Patro and the silence of the Honourable Member in charge of the Bill. The Honourable Sir A. P. Patro suggested that public bodies could co-operate and thereby rectify any mistake which crept into the records of the census officers. But perhaps he did not give his attention to clause 13 which provides that no person shall have the right to inspect any book, register or record made by a census officer in the discharge of his duties. How does he get over that ? Are we entitled to override the statute and go and inspect the records and suggest amendments and find out mistakes ?

THE HONOURABLE SIR A. P. PATRO : I said "co-operate" with them, assist the enumerators who are the people whom you know.

THE HONOURABLE MR. HOSSAIN IMAM : Mr. President, as I pointed out, the whole trouble arises because of the *male fide* intentions of certain people. If it were a *bona fide* mistake no trouble would arise, but what I wanted to check and what criminal law always tries to check is wrong motives and that cannot be provided until you have either a penalty or a check for it. Secondly, Sir, the Honourable Sir A. P. Patro again objected that a census is not a statistical survey and we should have another machinery to do that work. May I point out to him that at the present moment the Census Reports do give information on economic lines, e.g., so many people are engaged in agriculture, so many people are engaged in labour, so many people in subsidiary industries, all this sort of information is available. What I wanted was that a little elaboration should be made. I do not want any new information to be given but an elaboration of the existing tables and I would have suggested that the Government should ask the economists or the public men to suggest what useful materials could be collected by these census officers. It is for executive action. They have to decide. We can only inform them what we want and it is not for us to dictate exactly what should be included. Perhaps he also questioned my suggestion about literacy—that the Census Reports are not a literacy survey. They are a literacy survey as well. There you find enumeration of literates given in the census register. Those who are literate in English, those who are literate in their own language. That information is already in the Census Report. My only idea in making the suggestion was not so much to include new information as to elaborate the existing information as available and therefore, Sir, I hope that Government would not be as contrary as my Honourable friend.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Sir, I had no mind to speak at this stage. But it is my friend Sir A. P. Patro who makes me do so. I can produce facts which Sir A. P. Patro cannot deny, because facts are facts. I know of instances where grave changes have been made in the classification or the religion of various communities in the Punjab. I know

[Rai Bahadur Lala Ram Saran Das.]

from my own personal experience that on the day of enumeration in the last census over 100 people who were living in my Lahore residence were not counted. I find that checking authorities or the checking agencies are not generally competent. I do say that because after all the census is a useful document for the public and from the study of that we ought to know how things are going on. For example, we must see from the Census Report how many artisans from each class have changed their profession and so on and so forth and whether Muslims are classed as Muslims or non-Muslims and similarly the other communities. Efforts have been made and my information as far as I have been able to verify seems to be correct. Therefore, I think my friend Sir A. P. Patro's remarks were not justified because he has not in his observations quoted any authority or any document from which he has made this unwarranted attack.

THE HONOURABLE SIR A. P. PATRO: Sir, my justification for speaking on this occasion is because I am not a socialist as the Honourable Member professes to be. If, from the socialist point of view, I take a narrow view of things, then I am perfectly satisfied with myself. I am not a socialist of that type,—pretend to be a socialist and yet in practice carry on contrary to the ideals. Therefore, from that point of view, from the socialist point of view, I may be narrow but I cannot be a socialist because I have got a stake in the country.

Then as regards quoting section 13, it is not at all helpful. On the other hand, clause 17 of the Bill provides for the making of rules. What I suggested was that there can be a rule made. It is quite possible both for the Government of India as well as others to make the necessary provision in the matter. Therefore, it is not at all a thing that is prevented under the Bill itself. No prevention is there. As regards quoting authorities, I know that the Honourable the Leader of the Opposition is accustomed to quote irrelevant authorities. I do not want to indulge in such speculation. Therefore, I say that no authority is needed except what we have to conceive by common sense. Therefore, all this talk is beside the proposition before the House.

THE HONOURABLE MR. E. CONRAN-SMITH: Sir, I rise again only because of the implied reproach in the observations of the Honourable Mr. Hossain Imam that I had not dealt with the points which he and other Honourable Members had made. I rise now to give the assurance, which I felt was unnecessary, that Government welcome the advice which he and other Honourable Members have given and will give it the fullest consideration. But, having said that, I should repeat, in view of the trend of Honourable Members' remarks which were to the effect that greater accuracy and fuller information was required, that we are limited by the material available for conducting the census and by the financial implications involved. Subject to that, Government share the desire of Honourable Members that any avoidable mistakes in the census schedules should be prevented.

THE HONOURABLE MR. HOSSAIN IMAM: I can assure the Honourable Member that the Assembly will be generous in that respect if fuller information costs more money.

THE HONOURABLE THE PRESIDENT: Order, order. You cannot make a second speech. The Question is:

"That the Bill, as passed by the Legislative Assembly, be passed."

The Motion was adopted.

INDIAN SALT (AMENDMENT) BILL.

THE HONOURABLE MR. C. E. JONES (Finance Secretary): Sir, I move:

"That the Bill further to amend the Indian Salt Act, 1882 for certain purposes, as passed by the Legislative Assembly, be taken into consideration."

It is hardly necessary for me, Sir, in respect of a simple measure of this sort to take more than a few moments of the Council's time. The Bill is simple in scope, simple in intention, and it has been necessitated by a very simple consideration. It arises from the fact that in the interests of efficiency and of administrative convenience it has been found desirable to combine the administration of Central Excises with the administration of Salt in Northern India. The result of this combination has been that the duties and functions of the Officer in charge of the Department over this vast area has increased beyond the capacity of one officer to deal with. Therefore, it has been found desirable to split this Northern India Salt Revenue Department, now called the Northern India Central Excise and Salt Department, into two independent charges and to appoint two officers to hold these two charges respectively. There is a provision unfortunately in the Indian Salt Act in section 5 which puts the whole Department statutorily in the charge of one officer. Therefore, if we are to give effect to this desirable administrative change, it is unavoidable that this particular section should be amended to enable us to have two officers to run the Department instead of one. The whole matter has been explained in the Statement of Objects and Reasons which, short as it is, covers the whole ground. The substance of the Bill will be found in clause 4 and the rest of the provisions are purely formal and consequential. I do not think that more need be said in respect of this simple measure.

Sir, I move.

THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa: Muhammadan): Mr. President, I wish to say a few words about this administrative change. Apparently, in the manner in which the Honourable Member has put it, it is a very innocent and very desirable amendment. But he wisely refrained from giving us the details of the division which he is going to make. I am told, Sir, that a man will be stationed at Calcutta who will be in charge of sugar factories situated at more than 600 miles to the west from the headquarters, whereas the man who will be stationed in Delhi will not look at the industries which are only 40 or 50 miles from his headquarters. I do not object so much to the basic fact that there should be a division. But the line of demarcation which the Department has in view and which has not been brought before us shows some sort of irregularity or that it has not shown full consideration to the fact that the ease of inspection should be the first criterion. Probably the idea behind was that there should be an equal division of the income so that while Salt and partially sugar should come under the supervision of the Delhi Headquarters, Calcutta should be in charge of steel, majority

[Mr. Hossain Imam.]

of sugar and a good bit of matches. That might be convenient. But it would have been better if economy had been the guiding principle, to retain Deputies only under the man in charge. A Deputy might have worked in Calcutta. At present, too, there are Deputies working in other parts. There was no necessity for creating two highly paid officers if economy had been their guide, as it is said that it is the guide of the Government of India.

THE HONOURABLE THE PRESIDENT: Motion made:

"That the Bill further to amend the Indian Salt Act, 1882 for certain purposes, as passed by the Legislative Assembly, be taken into consideration."

Question put and Motion 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. C. E. JONES: Sir, I move:

"That the Bill, as passed by the Legislative Assembly, be passed."

I might perhaps take this opportunity of saying, with reference to the Honourable Mr. Hossain Imam's remarks, that I made no mention, while speaking on the Motion for Consideration, of the administrative arrangements that we proposed to make in detail, because it seemed to me rather irrelevant to the principle of the Bill, which was merely to enable Government to appoint two officers instead of one. As a matter of fact, I think the division contemplated is a territorial division by a line running south from Hardwar. The proposal simply is that instead of having one Commissioner at Delhi, one Deputy Commissioner at Delhi and one Deputy Commissioner at Calcutta, we should have one Collector at Calcutta and one Collector at Delhi. The financial consequences of the changes are more or less negligible and I think the executive Government can be trusted to make a suitable division between the charges of the two officers to give them each an approximately equal amount of work and responsibility.

THE HONOURABLE THE PRESIDENT: The Question is:

"That the Bill, as passed by the Legislative Assembly, be passed."

The Motion was adopted.

CODE OF CIVIL PROCEDURE (AMENDMENT) BILL.

THE HONOURABLE MR. E. CONRAN-SMITH (Home Secretary): Sir, I move:

"That the Bill further to amend the Code of Civil Procedure, 1908 for a certain purpose, as passed by the Legislative Assembly, be taken into consideration."

Sir, this is a simple, but from the point of view of Government, a necessary little Bill, the intention of which is so clearly explained in the Statement of Objects and Reasons attached to the Bill as introduced that I need not take

up the time of the House in explaining its provisions in any detail. Honourable Members will find the reason why Government regard the Bill as of some importance in the last paragraph of the Statement of Objects and Reasons from which it is clear that the amendment which the Bill makes in the First Schedule to the Code of Civil Procedure is required for the protection of the public revenues. Rule 48 of Order XXI of the First Schedule to the Code deals with the procedure in the case of attachment of the salary or allowances of a public officer or servant of a railway company and provides for deduction being made by the disbursing officer from such salary or allowances in satisfaction of the attachment order. The legality of the procedure hitherto followed in regard to the salary or allowances of an officer on leave in England whereby the High Commissioner made the required deduction from the officer's leave salary has been questioned on the ground that no attachment order, or direction made as a result thereof, could bind the High Commissioner in England. The amendment made by the Bill in sub-rule (1) of rule 48 is designed to remove that doubt and to ensure that the disbursing officer wherever he may be, is empowered to reduce by the requisite amount the salary or allowances of an officer on leave while he is absent from India. The procedure under the rule as proposed to be amended will be that the accounts officer in India on whom the attachment order is served will issue a fresh certificate to the High Commissioner in London making the deduction required and the accounts officer will remit the money to the court. Without the amendment now proposed to be made Government might, by virtue of sub-rule (3) of rule 48, become liable for the amount or for part of it. The passage of the Bill which is now commended to the House will avert the danger of that liability falling on the public revenues.

Sir, I move.

THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa: Muhammadan): Mr. President, I welcome this measure because though it may be insignificant in itself, it is of very great constitutional importance to us, as it recognizes the power of the Indian Legislature to legislate for disbursements made outside India. This kind of matter has been the subject of debate in this House many times, e.g., on the consideration of a Resolution by Sir David Devadoss when he moved that pensions and pay issued to our officers in England should be subject to Indian income-tax, long before the Act of 1935 was passed. The Government then took objection that the territorial jurisdiction of the Legislature in India did not extend to that limit. I welcome, Sir, this admission by the Government of India that it has power to legislate for disbursements outside India if they are met from the revenues of India. This will be useful to us when we are considering the question of subjecting to income-tax our loans which will be issued no longer by the Secretary of State but by the Governor General under the new Government of India Act. I welcome this measure.

THE HONOURABLE THE PRESIDENT: Motion made:

"That the Bill further to amend the Code of Civil Procedure, 1908 for a certain purpose, as passed by the Legislative Assembly, be taken into consideration."

Question put and Motion adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. E. CONRAN-SMITH: Sir, I move:

"That the Bill, as passed by the Legislative Assembly, be passed."

I must I feel take this opportunity to disabuse the mind of my Honourable friend Mr. Hossain Inam of a misconception and I hope that he won't welcome the Bill any the less on that account. What this Bill does is to control our accounts officers out here. It does not purport to give any jurisdiction over the disbursing officer in England. The effect however which Government desire to achieve is achieved by the Bill.

THE HONOURABLE THE PRESIDENT: The Question is:

"That the Bill, as passed by the Legislative Assembly, be passed."

The Motion was adopted.

INDIAN TEA CESS (AMENDMENT) BILL.

THE HONOURABLE SIR ALAN LLOYD (Commerce Secretary): Sir, I move:

"That the Bill further to amend the Indian Tea Cess Act, 1903 for a certain purpose, as passed by the Legislative Assembly, be taken into consideration."

The Indian Tea Cess Act of 1903 was amended in 1936 in order to provide for the creation of an Indian Tea Marketing Expansion Board, and the constitution of that Board provided for a membership, or at least now provides for a membership of 28, all of whom are appointed by the Central Government, 24 on the nomination of the various commercial bodies and tea associations interested in the subject, and four on the recommendation of the Provincial Governments concerned. The reason why the whole lot were not appointed on the recommendation of commercial bodies and the like was that in some cases it was found that the interests concerned were not sufficiently well organized to be able to produce satisfactory representation. It is now reported to us by the Bengal Government that the Indian tea planters of the Terai are sufficiently organized to be added to the list of those whose representatives are nominated by a commercial body and not by the Provincial Government. The Government of Bengal has therefore asked that the power of nominating this particular representative should be transferred from them to the Terai Indian Planters Association, and this Bill gives effect to that recommendation. I do not think I need say anything more to commend it to the acceptance of the House.

Sir, I move.

The Motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE SIR ALAN LLOYD: Sir, I move:

"That the Bill, as passed by the Legislative Assembly, be passed."

The Motion was adopted.

MEDICAL DIPLOMAS BILL.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Education, Health and Lands Member): Sir, I move:

"That the Bill to make the provision referred to in sub-section (1) of section 120 of the Government of India Act, 1935, as passed by the Legislative Assembly, be taken into consideration."

Honourable Members must have seen from the Statement of Objects and Reasons that this Bill has been introduced at the request of the Indian Medical Council. The main object of the Bill is that if we consider that any particular diploma given in the United Kingdom does not indicate a sufficient skill in the practice of medicine, then we should have the power of preventing such a diploma holder from either being registered or being allowed to practise in this country. Under the Government of India Act, section 120, before we can take such action, certain conditions are laid down, and it is with the object of conforming to the conditions laid down in the Government of India Act that we have brought in this legislation. We have also included Burma in it because the position is the same. If a medical diploma is given by the Burma Government, we cannot prevent the holder of such a diploma from practising in this country, even if we think that his diploma does not indicate a sufficient skill in the practice of medicine, unless we also make provision for an appeal to the Privy Council. Therefore, we have also included Burma in the Bill. I may inform Honourable Members that the holder of an Indian diploma can practise in the United Kingdom but if the British Medical Council wish to challenge his right of practice, then he has a right of appeal to the Privy Council. Our object is to put ourselves in a similar position by complying with the provisions of section 120 of the Government of India Act and it is for this purpose that we have introduced this Bill.

Sir, I move.

THE HONOURABLE MR. P. N. SAPRU (United Provinces Southern: Non-Muhammadan): Sir, the object of this Bill has been lucidly explained by the Honourable the Leader of the House and I desire to give this Bill my support. But there are just one or two points on which I should like to be enlightened. The Honourable the Leader of the House says that Indian medical diplomas are recognized in England. So far as I know Indian medical degrees of certain Universities are registrable in England but so far as the diplomas are concerned they are not registrable in England—for instance the L. M. P. Diploma of Agra or the L. M. P. of Amritsar; they cannot be registered in England.

THE HONOURABLE THE PRESIDENT: Are they sufficiently qualified?

THE HONOURABLE MR. P. N. SAPRU: I should not like to have any L. M. P. at all. What I wanted to ask the Leader of the House—I think I am entitled to put the question—is whether it is or it is not a fact that these L. M. Ps. are not recognized in England? I do not know whether the apothecary's qualification in England is higher than the qualification of the L.M.P. in India. The apothecary's course is only a four years' course and it is the lowest medical qualification as far as I know.

[Mr. P. N. Saprū.]

Then, there is another question on which I should like just to say one or two words. I hope the Government will do something to deal with this problem of foreign non-British practitioners in India. You have got a large number of Jewish practitioners now earning a large income in Calcutta and Bombay, and they have sprung up in Delhi and Lucknow also, and they are cutting into the practice of the Indian and European practitioners who are *bona fide* residents of this country. We have got a great deal of sympathy with the Jews—they are the victims of Hitlerism—we have got a great deal of sympathy with this oppressed race; we have got a great deal more sympathy with ourselves. I think some legislation ought to be introduced which would put these medical qualifications on a sound basis. Everybody ought not to be allowed to practise medicine in this country. We have got here the largest number of quacks; we have got hakims, vairs, homœopaths. I think something ought to be done to put matters right so far as the practice of medicine in this country is concerned.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan) : Sir, apothecaries, so far as my information goes, are not allowed to practise in England. In India apothecaries are posted even as civil surgeons of districts. I know the case of a Government official who was being treated by an apothecary civil surgeon and the poor fellow had to be confined to bed for over three months.

THE HONOURABLE SIR DAVID DEVADOSS (Nominated Non-Official) : Whose fault ?

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : The apothecary's. Then to the good fortune of the patient the apothecary civil surgeon was transferred from the district and an I.M.S. officer came in. He diagnosed the disease aright and he addressed the patient, "You will be cured in a week or so" and in a week that officer was cured. So the inference from this incident is that apothecaries, generally speaking, are not as competent as I. M. S. or M.B.B.S. officers and that the system of making apothecaries civil surgeons or asking them to treat patients ought to be discontinued. As far as foreign doctors are concerned, I may say that as long as they are experts and as long as they are capable of curing many hopeless cases, no restriction should be placed against them, but for those who are not very efficient or hold bogus degrees there must be certain restrictions in the interests of our medical graduates who are finding it very hard to make two ends meet and in maintaining soul and body together. I would at this stage say that the system of having those people who are not fully qualified to practise in England their practising in the civil department must be discontinued in the interests of the public.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : Sir, I am afraid that the questions that have been raised really do not concern the Bill which is before the House : whether legislation should or should not be introduced to restrict the practice of Jews who have taken refuge in this country through the persecution of the Nazi Government is quite beside the point. The point that I wished to emphasise was that, unless this provision is made as

stated in the Bill, it is not possible for us here to prevent a man from practising medicine who has a United Kingdom diploma, even if we think that that diploma does not indicate that he has a certain medical skill. That is to say, unless this legislation is passed, we cannot prevent him from practising, since, under the Government of India Act, section 120, it is enjoined that this power of appeal to the Privy Council should be laid down by legislation of the Federal or Provincial Legislature and it is in order to comply with that provision that this Bill has been introduced.

THE HONOURABLE THE PRESIDENT : Motion made :

"That the Bill to make the provision referred to in sub-section (1) of section 120 of the Government of India Act, 1935, as passed by the Legislative Assembly, be taken into consideration."

Question put and Motion 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 KUNWAR SIR JAGDISH PRASAD : Sir, I move :

"That the Bill, as passed by the Legislative Assembly, be passed."

The Motion was adopted.

INDIAN TARIFF (FOURTH AMENDMENT) BILL.

THE HONOURABLE SIR ALAN LLOYD (Commerce Secretary) : Sir, I move :

"That the Bill further to amend the Indian Tariff Act, 1934 for a certain purpose, and to validate the levy and collection of certain duty under that Act, as passed by the Legislative Assembly, be taken into consideration."

This may be called a two-clause Bill. The proposal contained in clause 2 is designed to provide a minimum *ad valorem* duty in the case of perfumed spirits which are liable to a specific standard rate of duty. Before the recent amending Act was passed, all the items contained in Item No. 22 (5) of the Tariff Act were subject to preferential duties. There was, however, a higher and a lower rate of duty. By the amending Act recently passed, the lower rate of duty was abolished in the case of perfumed spirits. There is a proviso to item 22 (5) saying that where there is a higher and a lower rate of duty there should be a minimum *ad valorem* duty of 30 per cent. corresponding to the higher specific duty and a minimum *ad valorem* of 20 per cent. corresponding to the lower specific duty. That proviso was not applicable where there was a single rate of duty. This point was overlooked; had it been noticed at the time, the change which is now proposed by the present amendment would have been made. A minimum *ad valorem* duty would have been imposed and it would have been 25 per cent. which is the rate to which the other preferential duties of 20 and 30 per cent. which were recently abandoned were changed.

As regards clause 3, this is the result of a rather curious legal nicety. The Tariff Act, before the end of last year, imposed a protective duty on wood pulp. In the recent amending Bill it was proposed to change it to a revenue duty of 25 per cent. That amending Bill contained other provisions relating

[Sir Alan Lloyd.]

to protective duties and had a declaration under the Provisional Collection of Taxes Act which said that the new rate of protective duties should have force from the date from which the Bill was introduced. No reference was made to revenue duties because the rate of 25 per cent. would in any case apply in the absence of any other rates because, if there was no rate prescribed at all for wood pulp, 25 per cent., the general rate for articles not otherwise specified, would apply. In the course of passage through the Legislature this duty was however changed from a revenue duty of 25 per cent. to a protective duty of 25 per cent. or Rs. 30 per ton, whichever is higher. It therefore called for the declaration under the Provisional Collection of Taxes Act which made provision for protective duties; but that could not be done retrospectively without special legislation. It is that special legislation of a retrospective character which is contained in clause 3 of this Bill. There is nothing in either part of this Bill beyond the rectification of what may be described as natural but unfortunate mistakes.

Sir, I move.

The Motion was adopted.

Clauses 2 and 3 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE SIR ALAN LLOYD: Sir, I move:

"That the Bill, as passed by the Legislative Assembly, be passed."

The Motion was adopted.

COMMERCIAL DOCUMENTS EVIDENCE BILL.

THE HONOURABLE MR. E. CONRAN-SMITH (Home Secretary): Sir, I move:

"That the Bill to amend the Law of Evidence with respect to certain commercial documents, as passed by the Legislative Assembly, be taken into consideration."

Sir, the genesis of this Bill is to be sought in certain observations of the High Court of Bombay made in the year 1925 on the inconvenience and delay resulting from the absence of any provision in the existing law of evidence whereby such commercial documents as are accepted as *prima facie* correct in commercial circles are made admissible as evidence without requiring further proof of authenticity. My first acquaintance with this Bill was when two chaprasis staggered into my room under a load of files which on further inspection turned out to be samples of commercial documents. I state this fact merely as a partial explanation of the delay which has occurred in bringing this Bill finally before the Legislature.

Scrutiny of an immense number of documents with the help of experts was involved, and this is also an explanation of the comparative length of the Schedule to the Bill. Moreover, the fullest consultation with Provincial Governments and commercial bodies had to take place, as their views were required on the actual documents to be included in the Schedule. The result of

these labours is now embodied in the Bill before the House. As regards the Bill itself there is only one clause which calls for particular comment. Honourable Members will observe that in clause 3 a distinction is made between documents which the Court shall presume, and documents which the Court may presume, to have been duly made by or under the appropriate authority and to contain accurate statements. The words "may presume" and "shall presume" are used in the sense in which they are used in the Indian Evidence Act. In the case of documents with regard to which the Court may presume, the Court may either regard the document as proved until it is disproved or may call for proof. In the case of documents with regard to which the Court shall presume, the Court shall regard those documents as proved unless and until they are disproved. An examination of the documents proposed for inclusion in the Schedule showed that in some cases while there was no ground for excluding the documents altogether, nevertheless, their nature was not such as to justify an obligation on the Court to presume their authenticity. It may interest Honourable Members also to know that there was a clause in the original Bill as introduced which gave the Governor General in Council power to direct by notification that any document should be added to, or removed from, the Schedule. On further consideration, however, it was realized that that clause was *ultra vires* of the Constitution in that it purported to confer on the Central Government executive authority in the exclusively provincial field. The clause was, therefore, omitted and as a result, a change in the Schedule can only be made by legislative action either at the Centre or in the provinces. The provisions of the Bill, I think, call for no further comment, and I commend them to the House.

Sir, I move.

The Motion was adopted.

The Schedule, Parts I and II, were added to the Bill.

Clauses 2 to 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. E. CONRAN-SMITH: Sir, I move:

"That the Bill, as passed by the Legislative Assembly, be passed."

The Motion was adopted.

MOTION RE REPORT OF THE PACIFIC LOCOMOTIVE COMMITTEE.

THE HONOURABLE SIR GUTHRIE RUSSELL (Chief Commissioner for Railways): Sir, I move:

"That the Report of the Pacific Locomotive Committee be taken into consideration."

Sir, I would like to say at the outset that but for his pre-occupations in the Assembly, the Honourable the Railway Member would have been here for this debate today. Whether he will be able to manage to get here this afternoon, I cannot say. That will depend on the course of business in the Assembly.

[18TH SEPT. 1939.]

[Sir Guthrie Russell.]

Sir, exactly a week ago today I had the pleasure of listening to a debate in the Assembly from the Official Gallery on a similar Motion to that which I have just moved. One of the Honourable Members of that House, in thanking the Honourable the Railway Member for postponing the debate for 10 days in order to give Members an opportunity of studying the Report, frankly stated that if he—and he included other Members of that House—had been given 50 years to study the Report, they would still not have understood the technical portions leading up to the recommendations of the Committee. Whether the Honourable Member was correct in his estimate of the technical knowledge of the Members of the Lower House, I know not, and though I am quite sure the same statement could not have been made with truth in this House, I do think that all Honourable Members will agree that there are many portions of the Report which are very difficult for an ordinary layman to understand, and the interpretation of these must be left to skilled engineers. In this we are quite safe, for it is clear from the reception which the Report has had in the technical press that it is looked upon as a great contribution to the science of locomotive practice and design. I would like here, on the floor of this House, to pay my tribute to the members of the Pacific Locomotive Committee for the vast amount of work they have done for us. I have little doubt that their recommendations will go a very long way towards the solution of our particular problems in India. I may say that such experiments as we have already carried out lead us to hope that the alterations to the locomotives which have been recommended by the Committee will be the final solution of our problems. I would point out, however, that the Committee themselves sound a note of warning and emphasise that until we are satisfied by experiments that their recommendations are correct, and that these locomotives are fit to be put back on fast services, we should retain the speed restrictions which are at present in force. This, I may say, will be the policy of the Railway Board. In my speech today, I propose to avoid as far as possible abstruse technical matters. But if any Honourable Member of this House raises a question which involves a technical explanation, I shall do my best to reply to it.

I propose to divide my remarks into three general parts—past, present and future. First the past. No one hates *post mortems* more than I do. It is easy to be wise after the event. Since the Report of this Committee has come out, I have often said to myself, “What would you have done if you had been the Chief Commissioner of Railways when the decisions which were taken had to be taken?” and quite honestly I have found it very difficult to answer that question. It is quite impossible to place one's self in the position of those who were responsible for the decision that was come to and know what was in their minds. Of one thing I am quite certain, and that is, that what they did they did for the best. We do know what the position of Railways was then. India had come through the turmoils of the Great War, the Indian Railways had done their bit. The Indian Railways had done their bit, but they had done this perforce at the expense of repairs, maintenance, renewals and essential additions to their assets. I cannot sum up the position better than by a quotation from the Acworth Committee Report. This is as follows :

“There are scores of bridges with girders unfit to carry train loads up to modern requirements. There are many miles of rails, hundreds of engines, and thousands of wagons whose rightful date for renewal is long over-past”.

THE HONOURABLE MR. HOSSAIN IMAM : When was this Report made ?

THE HONOURABLE SIR GUTHRIE RUSSELL : In 1920-21. That was the position as assessed by a Committee which had as its Chairman probably the world's greatest railway economist, Sir William Ackworth and the Committee had among its members various notable Indian business men.

This however was not the only problem with which Railways were faced. Between 1913-14, the year the war started, and 1922-23, the fuel bill had gone up by just over Rs. 5½ crores, or by considerably more than 100 per cent., with an increase in train mileage of only 9 per cent.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Could he give us the figures for coal for 1927-28 ?

THE HONOURABLE SIR GUTHRIE RUSSELL : It was in 1922-23 that the Railway Board committed themselves to the policy which is under consideration at the present moment, but if the Honourable Member wishes the figures for 1927-28 I can probably get them for him this afternoon. As I was saying, the train mileage had increased by 9 per cent. only whereas the coal bill had increased by 100 per cent., a remarkably serious position. These were the two major problems before the Railway Board, the general question of rehabilitation of the Railways and the question of reducing working expenses. How did they tackle these problems ? First, the Legislative Assembly voted a programme of Rs. 150 crores to be spread over five years for rehabilitation. The Railway Board drew up a programme of bridge, rail and locomotive renewal. All these were co-ordinated, that is, bridges and rails were designed to carry the axle load of the proposed new locomotives. It is well known that at that time, so long as the track and bridges were capable of supporting the virtual load of a locomotive everything was considered to be well. Little was known of the transverse forces that were set up by moving loads and nothing was known of the flange forces with which we are all now so familiar, as a result of research—research to which India has contributed in no small measure, I may say here that two of our officers during the past summer have been spending their leave carrying out experiments to determine the flange forces set up by the great Pacific locomotive on one of the railways of Great Britain.

I shall now turn for a moment to the policy of standardization. As far as can be traced, from 1901 onwards Indian Railways had been making attempts to introduce standardization of locomotive types with the help of the British Engineering Standards Association. With their help certain types were evolved and in 1910 1,313 of these types were in service in India. Initial troubles were experienced with a certain number, but after these were eradicated they were all successful. Naturally, the intervention of the Great War slowed up this process, but in 1922 the Railway Board took up the question again, and in 1923 all Railways in India accepted the policy of complete standardization of all types of locomotives, coaching and goods stock and a Committee was set up to prepare designs to carry out this policy and to put Railways in a position to meet what were considered then to be the needs of traffic in prospect.

Now, at this point I should like to emphasise that practically all the standard locomotives were renewals. They were not additions to our stock. I

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believe that roughly 90 per cent. of the locomotives ordered were renewals, not additions. I would also like to say that when the Rs. 150 crores programme was evolved it was estimated that 600 locomotives would be required per annum to meet the anticipated needs of traffic. This was undoubtedly too optimistic a view, but I hardly think Railways can be entirely blamed for this. It was the general view of the business community at that time that India was in for a very long period of prosperity.

Now, as Honourable Members are aware, the chief duty of the Pacific Locomotive Committee was to inquire into the design, purchase and continued purchase of the Pacific class of locomotives. There were also a certain number of technical details which they were asked to inquire into, but those were all involved in their three main duties. As regards design the first thing the Locomotive Standards Committee, that is the Committee which I have just referred to, which was set up when it was decided to go ahead with this rehabilitation programme—the first thing they had to do was to decide on what were the best types of locomotives to adopt for each class of service and to prepare designs for these. In doing this they had to bear in mind that the fuel bill had to be reduced, and the only way to reduce this was to order locomotives which were capable of handling heavier loads, thus reducing train mileage and at the same time burning lower grades of fuel. This meant that the locomotives had to have larger grate areas. It was not possible to obtain these larger grate areas within the limits of the frames of the existing B.E.S.A. standard locomotives. The fire box had therefore to be located behind the driving wheels; the weight of this had to be supported by an extra pair of wheels which are called the hind truck, and thus we got the famous Pacific locomotive. There was no alternative, so far as passenger locomotives were concerned, to get the power we wanted, but to adopt the Pacific locomotive type. That is admitted by the Pacific Locomotive Committee. Now, there was nothing new in the type. It was fast becoming the most popular type for fast passenger services throughout the world. It was in use on one of the great railways of Great Britain. Now, as to the detailed design of particular locomotives, Honourable Members who have made a study of the Pacific Locomotive Committee Report will have noted that the alterations recommended by the Committee mainly centre round the bogie and the hind truck. I have studied the correspondence which went on between the then Railway Board and the Consulting Engineers. They had differences of opinion on various points but there was practically no difference of opinion in regard to the design of the bogie and the hind truck. The bogie adopted was the bogie which had been in use for 20 years on the B.E.S.A. 4-6-0 standard and is still in use on these locomotives. Of the hind truck we had no experience except for two locomotives which were then on the B.B. & C.I.R., two on the E.I.R. and, I think, two on the M. & S.M.R. The hind truck adopted was—

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: The M. & S.M.R. was not allowed to buy X class Pacific engines. They had two Pacifics which
1 P.M. were of American make.

THE HONOURABLE SIR GUTHRIE RUSSELL: Perfectly correct; they had two, the B.B. & C.I.R. two and the E.I.R. two. The design of hind truck adopted was the same as that which has been adopted by the London & North Eastern Railway in Great Britain, and, as I said, there was nothing new about either the bogie or the hind truck. With the knowledge that was then available neither our people out here, nor our Consulting Engineers nor the builders had any reason to believe that what had been successful before would not be successful in India. Events have proved them wrong, but, as I have already said, it is very easy to be wise after the event. In assessing responsibility, we have got to consider the state of the knowledge existing at the time the original designs were prepared. In all the circumstances I have explained, I trust the Council will agree that at least the designers cannot be held responsible for such failure as there has been.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: I want to know whether or not your consultants consulted French engineers who finding a similar defect in such engines did put it right at a much earlier time.

THE HONOURABLE SIR GUTHRIE RUSSELL: I believe they did. Knowledge from all parts of the world is available with our Consulting Engineers.

Now, coming to the second charge, the purchase of the locomotives without trial, I have already explained the position the Railways were in when the decision was made. In justice to those who made this decision, this position must be taken into account. Bulk purchases had to be resorted to or a design which was then considered to be obsolete would have had to be perpetuated, and it has to be remembered that the life of a locomotive is from 35 to 40 years, so that the Railway Board then would have committed themselves to locomotives then considered obsolete for from 35 to 40 years. Complete trial would have taken from five to six years. Preparation of the design and building the first batch of locomotives would take two years, two years for trial and probably a year or 15 months for the second batch to be made. That would have further meant a delay in reducing our working expenses and delay in the use of low grade fuels. Further, the Pacific Locomotive Committee themselves have pointed out that even trial with the knowledge we then had would probably not have eradicated all our troubles, though the chances are that fewer of this type of locomotives would have been in service than at present. There is one strange feature about these locomotives. It is their behaviour on different Railways. If XCs had been tried on the B.B. & C.I.R. and the N.W.R. they would have been voted a complete success, and there would have been justification for placing the order. The same is true of XBs on the M. & S.M.R. XAs, after removal of one small error in design, would have also been voted a success by almost any railway, and certainly by the two railways on which they have been mainly employed the N.W.R. and the G.I.P.R. As a result of research, engineers would realize much more fully than they did in the past that the locomotive and track are to all intents and purposes part of one machine. A locomotive in good repair will not hunt on track also in good repair. If a locomotive is run over the same section of track several times, it will always oscillate at the same place until the defect in the track is removed. Personally I believe—and this is my own opinion—it is questionable whether the purchase of two trial engines would have enabled

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the Railway Board to come to a definite decision as to whether the particular type of locomotive was a success or not. I will take the link on the Lahore-Karachi Mail service and the Lahore-Karachi Express service. By link I mean the number of locomotives which works a particular train or number of trains.

- If two Pacific locomotives had been placed on this link, it would have meant that only one locomotive would have run over the same section of track each day; if you have a complete link of Pacific locomotives, four locomotives pass over the same section every day, and the effect of four locomotives passing over a particular section of track on one day is entirely different from the effect of one locomotive. One locomotive might not show up the defects in the track, whereas four locomotives might. Actually of the 284 Pacific locomotives in service in India today, 65 out of 113 of the XA type were ordered without any trial; 54 out of 99 XB type were ordered without any trial; and all the 72 XC type locomotives were ordered without any trial. Of the remainder 27 XA type locomotives were ordered after the first batch had been in service for about six months up to which time no complaints had been received. The remaining 21 were ordered after the first batch had been in service for just over a year within which period a certain amount of trouble had been experienced, but this was looked upon as teething trouble which could be put right very much in the same way as the trouble with the B.E.S.A. standards had been put right. In the last two batches the rear truck spacing was altered with the object of improving the riding of the engines and damping out oscillation. As regards the XB type, the second batch of 27 was ordered after the first batch had been in service for a few months within which time no complaints had been received. The purchase of the next batch of 16 was authorized after a certain amount of trouble in the first batch had been experienced but here again as in the case of the XA type it was not realized that extensive research would be necessary to trace the real source of the trouble, and there was no reason to believe that the locomotives were in any way inherently unsatisfactory. The last two were ordered in 1934 at the special request of the M. & S.M.R. to complete a link and I must claim responsibility for the purchase of these two. The M. & S.M.R. never had any trouble with these locomotives and in fact up to the date of the Bihta accident, the locomotives were running at unrestricted speed at all times of the year—70 miles an hour.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: I want to know whether any mechanical tests were carried out on the front bogie and hind truck. You were speaking of experience. What is the experience?

THE HONOURABLE SIR GUTHRIE RUSSELL: When these locomotives were purchased the only method of deciding whether a locomotive was suitable or not was to see what it felt like on the footplate. There was no apparatus in those days to find out what the flange forces were which have proved to be the root of the trouble.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: How did they—

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Leader of the House): May I suggest, Sir, that the Honourable Member will have an

opportunity to put all the questions when he speaks; it will be more convenient for the House to have all questions answered together.

THE HONOURABLE SIR GUTHRIE RUSSELL: Excluding, therefore, the two XBs purchased in 1934 for the M. & S.M.R., for which I claim responsibility, the actual continuous purchase boils down to the purchase of a batch of 16 XB locomotives, six of which were for the M. & S.M.R., where, I think, they can be considered to have proved a really great success.

The position today is that Railways in India have close on 1,000 standard locomotives in service or on order, of which 284 are Pacific standards—the locomotives for which the justification is now under consideration. With the exception of these X class Pacifics, or a certain number of them, the other types are a success and fulfil the requirements for which they were designed. Now, let us assume for one moment that the Railway Board had stuck to their policy of trial before purchase, what would our position have been today? This, of course, must to a certain extent be surmise but I think we can make a fairly reasonable guess. If trials had been carried out, these would not have been completed till about 1930-31. By that time there were ominous signs of the depression which were ahead of us, and we would have had considerable difficulty in justifying the purchase of new locomotives. As it was in 1930-31 we had a "nest egg" of powerful locomotives, not only Pacific types, but all other types, which was gradually increased during the depression. As when it was possible, we purchased new locomotives, so that when trade began to revive with its increasing traffic we were in a position to meet the needs of traffic.

Now, Honourable Members would probably like me to say something about the performance of the different types of Pacific locomotives. First, the XAs. When these were used on the services for which they were designed, namely, mixed traffic and branch line traffic, they gave little or no trouble. They had, however, in an emergency to be utilized on the main line of one railway. The reason for this was that on account of the slowing up of relaying partly due to the depression and partly for traffic reasons, it was not possible to place the heavier B.E.S.A. type locomotives on certain sections of the line because the rails could not carry the load as the axle load of the B.E.S.A. wheels is $17\frac{1}{2}$ tons to the $13\frac{1}{2}$ tons of the XA. The locomotives then in service and which were replaced by XAs were between 40 to 45 years old and to have continued running them would have necessitated renewing their boilers. Now, a boiler lasts for about 20 years, so it was an entirely uneconomical proposition. These XAs on five occasions, while operating on fast services, had a pair of their bogies wheels derailed. The cause of this was found to be either a previous defect in design or construction and when this was put right no further trouble occurred. There was only one occasion on which an XA has been fully derailed and that has been put down to defective track. And it is interesting to note that when these XAs were finally transferred from the section which I have mentioned, the drivers appealed *en masse* to the local officer in charge not to remove XAs from that section because they were the best engines they had ever driven. They said they were infinitely better than the B.E.S.A. type.

Now for XCs. No XC has ever been derailed. A speed restriction of 45 miles an hour on the E.I.R. has been enforced, but the necessity of this is,

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I think, mainly due to the fact that the E.I.R. runs through vast tracts of black cotton and other unsuitable soil and the formation is not as good as one would like. On the N.W.R. and the B.B. & C.I.R., after certain initial trouble when they came out and the removal of track defects, they have given no trouble whatsoever. They have been running up to 60 miles an hour and on the N.W.R. main line up to Karachi the speed today of XC engines is 60 miles an hour. It is estimated that the employment of XC engines on the Lahore-Karachi service of the N.W.R. has saved at least Rs. 5½ lakhs a year. By their employment it has been possible to turn what was before a first, second and inter train only into a first, second and third class train. It actually now carries 483 third class passengers. On the B.B. & C.I.R. it has enabled the Railway to save the double heading of the Frontier Mail on many occasions. And anybody who is familiar with railway operations knows what a saving that means. We again come down to the question of track. The success of these engines on the N.W.R. and B.B. & C.I.R. has been mainly due to the fact that the track is on a first class formation.

Finally, we come to the XB engines. There is no question that these have caused trouble. We have had three serious accidents culminating in the great disaster at Bihta in 1937. But here again, I would remind the House that the Honourable Sir John Thom in his Report made it clear that the Bihta accident would not have occurred had the speed limits then in force been strictly observed. What he said was :

“ There is nothing in the evidence to justify the conclusion that the track at the site of the accident would have been distorted by an engine running steadily or by an XB engine running at 45 miles per hour or under ”.

The 45 miles mentioned by Sir John Thom is the actual speed restriction that was in force when the accident happened.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: Sir John Thom's finding is that that speed was considerably exceeded by the driver.

THE HONOURABLE SIR GUTHRIE RUSSELL: What I said was that that speed restriction was in force. Now, I would like to assure the House again that, until these experiments which the Pacific Locomotive Committee have suggested have been carried out, no relaxation of the speed restrictions will be allowed. No one deplores the Bihta disaster more than I do. Nothing can compensate for the loss of life involved in this. With this behind us it may seem inappropriate to refer to the financial effect of the purchase of these locomotives. But I feel that I must do so in passing. I have no doubt in my own mind that the purchase of these locomotives despite the trouble which a certain number have given was justified on financial grounds. I have already given examples of the savings which have been effected on one of our services—savings which have paid for the locomotives employed at least two or three times over. Now as to the future. When these locomotives have been altered in accordance with the recommendations of the Pacific Locomotive Committee, I have every hope that they will have many years of useful life before them in the services for which they were originally designed. If I had been making this speech this time last month, I would have concluded here. But during

the past three weeks the future has entirely changed. If the war is prolonged, the same situation may arise as did in the Great War, 1914—1918, when the resources of Railways were taxed to their utmost. If that contingency arises, it may be necessary to curtail our passenger services as our capacity may be occupied by goods traffic. If this is so, it will be possible to divert at least the XC and XB locomotives from passenger to fast goods traffic for which they are eminently suitable in a way that no other passenger locomotives in India are. So what the Pacific Locomotive Committee have described as an error of judgment—and I do not want to contest their opinion—may end by helping us to solve our difficulties in the near future.

Sir, I have endeavoured to confine myself to facts, and not to the defence of the policy adopted by the Railway Board in the past. Having given the facts and having described the position of Railways when these purchases were made, I shall leave it to the Council to decide whether there was any serious failure on the part of the Railway Board as custodians of the Railways of India.

THE HONOURABLE THE PRESIDENT: Motion made :

“ That the Report of the Pacific Locomotive Committee be taken into consideration.”

I shall adjourn the House at this stage till a Quarter to Three of the Clock, when the debate on this Motion will proceed.

• THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: This question is very important, Sir. I suggest we meet again at 2-30 P.M.

(The Honourable Rai Bahadur Lala Ram Saran Das supported the Honourable Mr. Kunzru.)

THE HONOURABLE THE PRESIDENT: I suggested 2-45 P.M. for the convenience of Members.

THE HONOURABLE SIR A. P. PATRO: 2-45 P.M. will be all right, Sir.

(Some Honourable Members at this stage suggested 2-30 P.M. and others 2-45 P.M.)

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: The general opinion is 2-30 P.M. The Honourable Sir A. P. Patro probably does not represent the general opinion of the House.

THE HONOURABLE SIR A. P. PATRO: I do not follow you ?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: I may say, Sir, that as far as we are concerned, we are prepared to meet at 2-30 P.M.

THE HONOURABLE MR. HOSSAIN IMAM: I agree, Sir.

THE HONOURABLE SIR A. P. PATRO: It will not be convenient for us to come at 2-30 P.M.

THE HONOURABLE THE PRESIDENT: You can come a few minutes later.

The Council then adjourned for Lunch till Half Past Two of the Clock

The Council reassembled after Lunch at Half Past Two of the Clock, the Honourable the President in the Chair.

THE HONOURABLE THE PRESIDENT: The debate will now resume on Sir Guthrie Russell's Motion. I may, however, point out that Sir Guthrie Russell's Motion is in the nature of a Resolution and is covered by rule 24A and therefore the time limit regarding speeches on resolutions applies to this Motion also. I had to allow 15 minutes extra to Sir Guthrie Russell because he had to place before the Council the whole history of the policy of the Government of India regarding the purchase of engines for the last 45 years. I therefore request Honourable Members to confine themselves to 15 minutes.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU (United Provinces Northern: Non-Muhammadan): Mr. President, I am sure every one here will join my Honourable friend the Chief Commissioner for Railways in bearing testimony to the valuable character of the work done by the Pacific Locomotive Committee. This Committee, let us however remember, was the outcome of the recommendation made by Sir John Thom in his Report, for which he has not yet received a word of thanks from the Government of India. Those of us who sit on this side of the House however feel greatly indebted to Sir John Thom for having recommended the initiation of an inquiry regarding the utility, purchase and continued purchase of engines of the X class. The Railway Board might themselves in view of the findings of Sir John Thom have taken such a step, but the fact remains that the Report to which we are now devoting our attention was due to the recommendation of Sir John Thom.

Sir, the Committee seems to have proceeded on the principle that nothing but good ought to be said about those who have departed from the scene of their labours. We ought to bear this in mind in assessing their criticism at its proper value. They have tried to look at past events in the best possible light and to give the benefit of every conceivable doubt to those who were responsible for the purchase of engines of the X class. Their language is therefore one of great self-restraint, but this very fact ought to go to show that even a slight criticism on their part should be regarded as a greater condemnation than the stronger criticism that might have been made by a Committee differently constituted.

Sir, in considering the Report of the Committee we are concerned with two things, first, the character of engines of the X class and the responsibility for their purchase, and second, with regard to the steps that should be taken in future in order to prevent a repetition of the mistakes that have been made in the past. Now, my Honourable friend the Chief Commissioner for Railways dealt with the question mainly from the technical point of view. I am afraid I cannot follow him there, but I am bound to tell him that even after taking into consideration all the extenuating circumstances on which he dwelt the Pacific Locomotive Committee have definitely come to the conclusion that it was incautious on the part of the Railway Board and inconsistent with their past policy to have gone in for the purchase of as many as 218 engines in the course of three years without having given them a proper trial.

My Honourable friend made very skilful use of the statement made by the Committee that even if a longer trial had been given the troubles which the Committee was required to consider would not have been cured. Well, nobody can be certain on this point. They might not have been cured but at the same time a smaller number of such engines would have been purchased. This fact assumes special importance in view of the warning repeatedly given to the Railway Board by the Consulting Engineers in London. Both in 1926 and in 1927 they strongly impressed on the Board the necessity of greater caution and of purchasing only a small number of engines in order that any hasty action might not have to be repented at leisure. But the Chief Commissioner for Railways, while not referring to this criticism, dealt with it by saying that if a small number of engines had been purchased the trial would not have been adequate. Now, as the time at my disposal is limited I cannot go into any details on this question, but I would draw his attention to the White Book containing their decision on the recommendations of the Committee circulated by Government to Members of the Legislature. It is stated here, Sir, that—

“The number of engines of any new type to be ordered will be restricted to not more than two for each railway requiring them, and no further orders for the particular type will be placed until the trial engines have been fully tried out and proved satisfactory for the services for which they are required”.

This is a sufficient answer to the Chief Commissioner for Railways and this indeed was the policy of the Railway Board in 1921. Sir, the B.B. & C.I.R. wanted to buy as many as 20 engines then. But the Railway Board themselves repeatedly advised caution and would not allow the purchase of more than two Pacific engines. They enforced the same restriction in the case of the E.I.R. Later on the M. & S.M.R., which had two Pacific engines of an American make known as Baldwin Pacifics asked for permission to buy two English made Pacific engines in order to compare engines of both the makes; the Railway Board still demurred to the request and thought that six engines whose purchase they had already allowed, namely, 4 British Pacific and two American Pacific engines, would be quite enough. Now, Sir, these facts go to show that the case of those who regret the hasty action taken by the Railway Board is not as feeble as the Chief Commissioner for Railways tried to make out. I dwell on these facts, particularly because of the inquiry instituted into the Bihta case. There, prominent officers of the E.I.R., even denied that the XB engines hunted. They proceeded to discuss questions of scientific theory when the inquiry was concerned with matters of fact which placed the hunting of these engines beyond all possible doubt. However, Sir, what has been done cannot be undone. If the Railway Board will freely recognize its responsibility in this matter, perhaps its point of view with regard to the future will change and it is this future that I am concerned with.

The Committee has made a certain number of very important recommendations in this connection which require the earnest attention both of Government and of the Council. They have recommended in the first place that research work on railway problems should be expanded in this country. I personally welcome this recommendation. If there has been any opposition to the enlargement of what is known as the Central Standards Office of the Railway Department, it has been due largely to the paucity of the

[Pandit Hirday Nath Kunzru.]

Indian element in it. If the Railway Board will not merely enlarge this office and increase its responsibility but also increase the Indian element on it so that Indians might acquire experience and that valuable knowledge gained by them should remain in the country, I have no doubt whatsoever that the question of the expansion of research work will in future be considered in a different light to that in which it has been regarded in the past. This matter is important also from another point of view. I have already stated that the Committee were very restrained in their criticism of the actions of those whom they had to criticise but I cannot help drawing the attention of the House to a remark made by them with regard to the Consulting Engineers, the value of whose services they have freely recognized. They say that the Consulting Engineers offered to help the Board and that their help was not taken advantage of by the Railway Board; but add:

"We cannot help feeling, however, that the Consulting Engineers should have realized earlier, from the information being received from India, that there was a problem to be solved in connection with the riding of these engines; we are of opinion that, with their world-wide contacts, they should have been able to obtain a valuable lead from the experience of other countries".

In other words what they say is that although the Government of India have had dealings with the same firm for nearly 70 years and it is situated at a centre at which knowledge of railway problems with regard to the whole world can be gained, it failed to appreciate the importance of the problem that confronted the Railway Board. It seems to me that their view is that the Consulting Engineers should from their experience have been able to advise the Government of India on their own initiative and to give them some help in the solution of the problem with which they were concerned. The expansion of the work of the Research Office acquires considerable importance if we bear this in mind. No one can say, Sir, that if all our requirements are obtained from this country that no problems will arise, but if the designers belong to this country, if the engineers who have to be consulted were conversant with not merely past conditions in India but with also the present day conditions and if our locomotives could be manufactured here, the danger of committing mistakes in future will be considerably obviated. I therefore draw the attention of Government forcibly to the remarks made by the Committee regarding the practicability of manufacturing locomotives in this country. When I speak of locomotives I mean broad gauge locomotives; metre gauge locomotives are being manufactured already at Ajmer in the B.B. & C.I.R. Workshops. If standardization is to be of any value, surely it ought to enable us to put forward a demand for a limited number of types of engines in numbers which would make their manufacture economic. I do not want to discuss this question at any length, because it will be discussed the day after tomorrow. Besides the matter is under the consideration of the Railway Finance Committee and I believe that the Report of the two railway officers who have been appointed to consider the question both from the technical and financial aspects will be laid before the Committee in 1940.

Sir, if I may sum up, my reading of the recommendations made by the Committee is that we should depend as much as possible on ourselves in future and that greater Indianization is needed in every field of railway work. It is needed not merely in the Central Standards Office but also in the seats of authority. We have demanded this on numerous occasions in the past, but the Railway Board, while not totally unresponsive to our request, have on the whole shown themselves very reluctant to carry it out. I am prepared, Sir, to bury the dead past and to make no more mention of it in future if the Government on their part would carry out the recommendations of the Pacific Locomotive Committee in this respect and try to give Indians a larger degree of responsibility than they at present enjoy in regard to the control of their own national railways.

THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa : Muhammadan): Mr. President, I wish to join the Honourable Pandit Hirday Nath Kunzru in mentioning our gratitude to Sir John Thom and to the Pacific Locomotive Committee for their Report. My only difficulty is that I have to deal with the action of people who are no longer here. If they had been present, I would have been more severe and would have dealt with it without any consideration as I have to do in view of their absence. I also consider, Sir, that this Committee itself observed a great deal of restraint. In spite of this, it had to come to definite conclusions which are anything but complimentary to the Railway Board which gave these orders. I would refer, Sir, particularly to page 135 of this Report, in which at the conclusion of paragraph 174 in dealing with "the trial before purchase policy" they mention that—

"even if, as is claimed the need for the new engines was urgent, we cannot but think that the preparation of the diagrams and specifications displayed some degree of incautious precipitancy".

It is very mildly put, Sir, and coming from an authority of this nature, I think Government should have accepted without mincing matters not only the error of judgment but the neglect of ordinary precaution on the part of the ex-Railway Board.

THE HONOURABLE SIR GUTHRIE RUSSELL: Where did they say that?

THE HONOURABLE MR. HOSSAIN IMAM: Those were the remarks of the Committee.

THE HONOURABLE SIR GUTHRIE RUSSELL: Neglect of duty is your remark.

THE HONOURABLE MR. HOSSAIN IMAM: I say it was neglect of ordinary duty.

The Railway Board, Sir, had laid down certain rules for itself and the people who broke those rules were guilty of neglect of duty. This they did in spite of the fact that the Consulting Engineers were insisting that there should be no hurry and they should wait; they disregarded even their own expert opinion and brushed it aside. The reply of the Railway Board,

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Sir, is characteristic of the way in which railway officials are accustomed to treat the expert opinion which they themselves consult. I would refer, Sir, to pages 140 and 141.

THE HONOURABLE THE PRESIDENT: If you read too many extracts, you will have no time for your arguments!

THE HONOURABLE MR. HOSSAIN IMAM: Well, Sir, I am going to base my case on what has been the policy of the Railway Board in the past and what it should be in the future. It is not so much that I am concerned with the past as that I want, in order that the future may be guarded, that they should admit their guilt and give us an assurance that things like these will not be repeated in the future. The main reason why I am dealing with this matter is, that Sir Guthrie Russell considers the fact that at the time when these orders were placed the Government had no alternative but to get these Pacific engines or to get an obsolete type of engine. I would remind him that there was a possibility of following the B. N. R. type 4-6-0 rocking grate engines which have been referred to in the Report.

THE HONOURABLE SIR GUTHRIE RUSSELL: When did that happen?

THE HONOURABLE MR. HOSSAIN IMAM: Your people were not able to evolve it then. It was their duty to find out. There was an alternative present which your people themselves found out. If you had not been in a hurry to marry in haste and repent at leisure—you would not have succumbed to the attractions of this type of engine which promised to give very good results on paper but in which all-in costs were never thought of. You showed us a saving, Sir, on the face of it, that it will be able to carry a greater load at a lesser cost. But what were the realities of the situation? Do you carry your goods traffic at lesser cost now? Because you had not that amount of available things to carry, the result was that you were carrying a lesser weight on an engine which was capable of drawing a higher weight, with the result that per mile cost was increased. If you add to that the cost of the repairs which have been enumerated in Chapter X giving the number of frames that have been fractured and other things, I think I may well say that it has been an eye-opener how defective this thing has proved to be. We have never had a complete picture showing what was the cost of carrying goods per ton mile and what is the cost now including repairs and the change of rails and the strengthening of the bridges. All these things cost money. With the B.E.S.A. engine you do not require to have 90-lb. and 100-lb. rails. You did not have to strengthen your girders. You did not have to place N plus 3 sleepers as you are prepared to do now. All these things cost money. If you take a full and comprehensive view of the contributing factors of the cost and then compare it with the cost of that which you term the obsolete type, you will find that for the smaller amount of goods that you have to carry, these engines would have been preferable and cheaper. Added to this are the difficulties which the Honourable the Chief Commissioner stressed when we were discussing the Wedgwood Committee's Report, when he said that the quick turnover of the goods traffic was impossible if we carried the maximum load. The Chief Commissioner will remember that he mentioned that it was

more economical to carry a larger train because we had these XB and XC engines which cannot draw lighter ones and they consumed an exorbitant amount of coal when they have to carry a smaller load. The Honourable Member knows better than anyone else how much coal the former SG engines were consuming. The engines that we condemned consumed 56 lbs. to a mile whereas these XB engines consume 76 lbs. Although for full weight this would be cheaper, the question is, do we carry full weight? If these orders had not been given then, we would have been face to face with the depression, with

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the result that it would not have been possible to order the engines. I would have welcomed that. If they had not been ordered then, we would have now purchased something more suitable to our conditions. As the Honourable Member himself stated, the XA engines have not been giving much trouble. XAs were cheaper too. Their purchase would not have troubled us. One thing I cannot understand is this. The Pacifics which were ordered before and the Pacifics which were purchased afterwards are materially different. No mention has been made either by the Committee or by the Honourable the Chief Commissioner who is conversant with these matters how this class which was ordered first for the E.I.R. compares with the XB engines. It was of much lighter weight. The loaded weight is 143 tons whereas the light weight of the other is 155 tons. The light weight of XBs is 116 whereas that of PS is only 105. But if it was an improvement, it should have been on the same lines, whereas the lines are not the same. The lines are a little different from the original. But that is a technical matter on which I am not competent even to speak a word. I am only expressing my doubt. I was referring, Sir, to the action of the Railway Board—whether it was justified and whether the Government have admitted the mistakes of the Railway Board or not. I was referring to page 140 when I digressed. This is the remark of the Consulting Engineers:

"I urge most strongly that the Railway Board will not order more of these new types till the first have been made and tried out. This trying-out process has always been insisted on in the Railway Board's instructions, and should be adhered to. The first lots will take, in my opinion, a year to construct. Meanwhile, next year's programme will come on", etc.

The Railway Board's reply is as follows:

"The Board have considered your suggestion that no more orders should be placed for new standard locomotives until the trial engines have been tried out, but are unable to agree to placing any further orders for narrow firebox engines, which, in their opinion, are an obsolete type and should not be perpetuated. They are, therefore, of opinion that it would be preferable to order only wide firebox engines in future, but the demands will be reduced to an absolute minimum" (which means 72 engines in the next lot, Sir; this is my comment) "until such time that we have sufficient experience of the new trial engines to justify orders being placed"

The remarks of the Committee on this are:

"The Consulting Engineers could do no more than obey instructions; they had advised on the point as strongly as they could, and had received a reply giving reasons of policy for not ordering engines of the older type".

[Mr. Hossain Imam.]

Not content with this, the Consulting Engineers again protested. They wrote :

"The number, however, of locomotives of these new standard types which is being ordered appears to us to be becoming somewhat of a serious matter.....Up to the present, however, we have had indents for no less than 137 new standard engines covering 14 types".

The Committee's remarks are very instructive :

"So marked a change in the policy requires an explanation" (and that is not forthcoming, Sir). "We have been at some pains to ascertain the reasons; there appears, however, to be little recorded on the subject".

They say further on :

"There can be little doubt that this consideration was allowed to outweigh all others for in their reply to the Consulting Engineers already quoted, the Board stressed their wish to purchase in future only engines with wide fireboxes".

They have epitomised their opinion in one sentence further on. No Committee of experts can go further than that. In paragraph 185 they have stated :

"In our view, the Board's action in this matter was regrettable".

Could a Committee of experts express a stronger condemnation than this ?

THE HONOURABLE THE PRESIDENT : Are the Consulting Engineers always infallible ?

THE HONOURABLE MR. HOSSAIN IMAM : In this world, except the Pope, no one claims infallibility, and we, human beings, can never be infallible. But when you admit a person to be an expert, you should not brush aside his opinion as if it were the opinion of mere legislators, fit to be discarded. In this category I place some of the actions of the present Railway Board also in connection with this booklet showing the action taken or proposed to be taken on the Pacific Locomotive Committee's recommendations. There is no mention of the authority who is responsible for this booklet, but I take it, Sir, that it is my Honourable colleague's Department which has given us this booklet.

THE HONOURABLE THE PRESIDENT : Will you please conclude your remarks now ? I have already given you five minutes more.

THE HONOURABLE MR. HOSSAIN IMAM : I am concluding, Sir. I am merely drawing the Honourable Member's attention to page 159 about the permanent way inspectorate. Now, the Committee had recommended that not only gangmen should be taken, but literate mates should be taken. The Railway Board say that literate gangmen are not available. The alternative suggested by the Committee that literate persons might like to come on a higher scale of pay has not yet been thought fit to be considered by the Railway Board. That shows, Sir, how scant attention is paid to the opinions of even experts. We want that the Railway Board should realize its responsibilities and like big people should admit whenever they make mistakes. It is only small people who go on trying to justify their wrong conduct. We have always seen how Mahatma Gandhi admits his Himalayan mistakes. I wish Sir Guthrie Russell would copy him.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan) : Sir, this is a matter of very great importance. From what I have seen of the Report in the time at my disposal the then Railway Board ignored seriously its duty in the matter of ordering wholesale engines.

THE HONOURABLE THE PRESIDENT : I am afraid Honourable Members ought to be a little more careful in using their language. It might amount to error of judgment, but where there is neglect or omission of duty I cannot understand.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Sir, I have made these remarks because I have found in the Report material enough to justify me in making such statement there being no error of judgment but sheer neglect of duty. On page 15 of the Report you find that in November, 1921 the Railway Board agreed to purchase only two engines of each kind and not 20 engines which the various Railway administrations asked for. The Board say :

"It would be a mistake to order as many as 20 engines of a completely new design until sufficient experience had proved that their adoption would be a success".

On that they said :

"These four engines be thoroughly tried in running for at least a year, in order that any defective details which may show in operation or manufacture can be rectified before bulk orders are placed".

This was the view of the then Railway Board and I cannot understand why they made a deviation from their policy and decision so soon. Practically the Committee has censured the then Railway Board in these terms. When my Honourable friend preceding me was speaking Sir Guthrie Russell questioned the correctness of his statement. I therefore refer him to page 137 of the Report where a summary of the procedure followed is given. That is in paragraph 179. I will not read the whole summary but will quote only a few paragraphs which will justify me in making the remark that the then Railway Board neglected in doing their proper duty. This is what the Committee said :

Clause 2.—"The various Railways in India were not so fully consulted as they should have been in the preparation of the new designs; but there was generally no criticism of the designs from that source".

Clause 4.—"The preparation of drawings and specifications for the X class Pacifics should have awaited more definite results of the performance of the six preliminary Pacifics".

Clause 5.—"The Consulting Engineers failed to appreciate the importance of correct side control, the responsibility for which they share with the Railway Board".

Clause 6.—"The Consulting Engineers should have been able to obtain a valuable lead from the experience of other countries".

Clause 7.—"The Consulting Engineers were not asked formally to collaborate in solving the problem of oscillation, but they were generally kept informed".

Is not that the fault of the Railway Board ?

Clause 8.—"While the closest contact between India and London is highly desirable, and may well be encouraged by demi-official correspondence, we consider that important decisions should not be taken by such communications".

[Rai Bahadur Lala Ram Saran Das.]

It will thus be seen that the Committee censures both the then Railway Board and the Consulting Engineers. I think it will be well for me to quote here the letter which one of the partners of the Consulting Engineers who came out to India wrote to the Railway Board in May, 1926 (see page 140-141 of the Report), which the then Board have completely ignored, notwithstanding their reply to this (see page 141) in June, 1926.

"I urge most strongly, that the Railway Board will not order more of these new types till the first have been made and tried out. This trying out process has always been insisted on in the Railway Board's instructions, and should be adhered to. The first lots will take, in my opinion, a year to construct. Meanwhile, next year's programme will come on, and there will be a temptation to order more of the new untried types. This happened when the first Standard locomotives were got out with unsatisfactory results to all concerned. The existing standard types will in most cases do, and do well, all the work required of them for the present."

The Railway Board ignored this, so I am quite justified in blaming that Railway Board in discharging their responsibilities. Then, Sir, further on the Committee in their concluding remarks on page 171, paragraph 229 say :

"Nevertheless, in view of the warnings received, the wiser course for the Board to have taken, as indeed they admit today, would have been to continue the purchase of further well tried B.E.S.A. engines (suitably modernised), pending the pursuance of the policy of thorough trial of the new Pacific types, a policy which the Board had previously laid down and are resuming in the case of the new WL class Pacifics."

In face of all these facts and in face of these remarks of the Inquiry Committee I hope that I am quite justified in blaming the then Railway Board for the blunder and for their sheer neglect of duty. They ought to be censured for that by Government. If a junior officer made a mistake of that kind, he would be dismissed. And when an important and highly placed body makes such a blunder and puts India to crores of loss the Board should not be shielded. I may say, Sir, the M. & S.M.R. ordered two Baldwin engines which so far have not been reported to have misbehaved, hunted, oscillated, etc., to the extent of endangering public safety. I, Sir, do not know what amount of commission or payment has been paid to these Consulting Engineers and I shall be obliged if the Chief Commissioner for Railways will enlighten us on that point. I do not think there is any necessity for keeping these Consulting Engineers who are unable to do their duty. When the Chief Commissioner was moving this Motion I asked him why these Consulting Engineers did not consult the foreign engineering experts on railways. For that blunder the Consulting Engineers are responsible and they have not been punished in any way. It seems that the Committee recommend that your local Standards and Research Office should be strengthened and such duty should be done by them in future. When a reference was made to your Consulting Engineers in London who did not know anything about it themselves nor did they care to find out what researches were made in other countries in this matter. I learn from this book that France did find out the cause of hunting, etc., in these engines and its right solution. And France succeeded to put the defects right. Why did not the Consulting Engineers consult France? Why should Consulting Engineers be paid for work on which they have not been able to advise correctly? I cannot understand that and I hope the Honourable the Chief

Commissioner will explain when he replies to the debate what was the reason which led to their being retained as Consulting Engineers and where is the necessity of keeping these Consulting Engineers who were incompetent to rightly advise in this matter. I will go further and say that this colossal order which was recklessly and indiscriminately, or I should say autocratically, placed by the then Railway Board, was one of the greatest blunders ever committed. I think this Council will do well to also pass a censure on the then Railway Board. Notwithstanding the warning of the Consulting Engineers, notwithstanding the fact that the Board went against their own decision, and have put India to this heavy loss. In future only those Consulting Engineers should be employed on a job which they specialise and have expert knowledge and it is no use patronising the firm which does not understand the job on which they have failed to advise. I also say, Sir, that it is correct that the Assembly on 27th March, 1922 did decide to recommend the purchase of such engines as the Railway Board then thought that there would be a big increase in traffic and saving in coal. Sir, for the sake of running these Pacific engines, all the sidings on which the engines were to be employed were increased as these engines were reported to haul a hundred goods four-wheeled wagons.

THE HONOURABLE SIR GUTHRIE RUSSELL : Which engines ?

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Your XB class engine did haul 75 loaded wagons on a level road. Then XC engines came in ; they were expected to haul 100 loaded wagons.

THE HONOURABLE SIR GUTHRIE RUSSELL : You have got it wrong. The XE is the type which will haul 100 wagons. XB and XC are passenger locomotives.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : I am not after all an expert and I am liable to make such technical mistakes. You strengthened your bridges, you lengthened your sidings and thereby incurred expense of crores of rupees. No mention is made in this Report of this fact, I am sorry to say, about the cost of the 186 Pacific engines, sidings, route, etc., is not given. I like to know that if the recommendations of this Committee are to be followed, what will be the expense, or say what will be the fine on the Government of India due to the blunder of the then Railway Board ?

Sir, I must thank the Honourable Sir John Thom for his judgment and for the interest that he took in this affair and it is a pity that in this Report neither the Railway Board nor the Committee has given him any praise for the great duty that he did. His judgment led to the appointment of this Committee and by the appointment of this Committee a great blunder of the then Railway Board was brought to light and now in face of this Report you want us all to whitewash the blunder. No, it must not be whitewashed. It is a matter of crores. If no suitable action is taken by Government, some high officers in future may commit reckless blunders and put India to a very huge loss.

As regards the question of fuel, I am glad that the Honourable Sir Guthrie Russell has told us that a substantial saving in coal has been made by the use of these Pacific locomotives. May I ask him whether that saving is due to

[Rai Bahadur Lala Ram Saran Das.]

the fall in price of coal or in the use of second grade coal and whether so far in the old L class engines, which were also a very successful class of engines, there was any additional consumption of coal?

Sir, the Consulting Engineers recommended that you ought to confine yourselves to standardised engines which had proved a success in India and that was not done. I would now like to pay a great tribute to Mr. Wrench, one of the most gifted and talented mechanical engineers, and Sir Guthrie Russell, who started research work in connection with the oscillation and hunting of these engines and whose results, I understand, have been thoroughly complete and correct and useful. I would urge on the Railway Department, as the Committee have done, to enlarge the Central Standards Office and research work and let the Railway Board in future take full responsibility for any action that they take in connection with either the track or the design of locomotive engines. I therefore consider that it was the autocracy which was responsible for this colossal blunder of the then Railway Board in so lightly dealing with this very important matter of ordering bulk supply of Pacific type locomotives without, owing to new design of front bogies and hind truck, giving them due trial.

I conclude my speech with paying a tribute to the Inquiry Committee for their thorough Report, and the pains and interest they took in the inquiry.

THE HONOURABLE MR. R. H. PARKER (Bombay Chamber of Commerce): Sir, I must confess to some surprise that an experienced business man like the Leader of the Opposition should ignore, or seek to belittle, the extraordinary dilemma in which the Railway Board must have been placed on this particular occasion. In my experience there are many occasions when you have to choose—you have no alternative—between either buying something which you know is obsolete or buying something which you have not been able to test satisfactorily, that is to say, you are not quite sure whether you are right.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Why did they not adopt the B.E.S.A. engines which had proved a success?

THE HONOURABLE MR. R. H. PARKER: They were faced with this dilemma on this particular occasion and they chose, perhaps wrongly. Then there is another point that the Honourable the Leader of the Opposition made. He suggested that because the Consulting Engineers had, in his opinion, given bad advice on this occasion they should not be paid for their advice. I suppose in that case he will be prepared to pay four or five times the fee when their advice is good! That seems to be the logical conclusion. There is one point which the Honourable the Chief Commissioner for Railways mentioned that interested me—he did not go quite so far as I would have liked him to go. That was when he mentioned that one big railway in England had used this particular type of locomotive. He did not say what their experience was or what their views with regard to this locomotive were. If he could enlighten me on that point, I should be glad.

THE HONOURABLE MR. P. N. SAPRU (United Provinces Southern : Non-Muhammadan): Sir, we owe this monumental and voluminous report to the valuable recommendations of Sir John Thom who presided over the Bihta inquiry and we owe our thanks not only to the Committee but to Sir John Thom also. Much of the matter dealt with by the Committee is of a highly technical nature and on that matter I do not feel myself competent to speak. It is above my head. But there are certain broad conclusions to which they have come to which I would like to invite the attention of the House. The House will see that the Committee have substantially endorsed the verdict of Sir John Thom on XB engines. The Committee in stating the general aspects of the problem on which they were asked to advise say that a very important consideration—

“in the investigation of the performance of a locomotive as a vehicle and of the track upon which it runs is that they are in effect two parts of the same machine. The essential feature of an engine in this respect is that it should run smoothly and speedily subjecting the track to a minimum of stress at the highest designed speed. The track should also be laid on such a formation and be so constructed and maintained that it is able to resist without effective distortion the forces imposed upon it at that speed”.

They later on say that—

“the features of a given country are inescapable and the engines provided must be made to run satisfactorily under the prevailing conditions. The task of the designer is not only to provide an engine which can pull a train but also reduce to the lowest possible point the effects of the external disturbance agencies due to defects in the track which can never be perfectly level or smooth”.

After making these observations they go on to express the hope that investigations would be made which would increase our knowledge of the relationship between track and locomotive and consequently improve operations and enhance safety. I should like, Sir, as a humble layman to say that these are very wise observations. After making these preliminary observations they go on to trace the history of Pacific locomotives in India. They point out, Sir, that these locomotives have been running now for over ten years in this country. They were introduced in January, 1928; and were preceded by six Pacific engines in 1924 of an earlier type. After surveying the conditions under which the Pacific type of locomotive was introduced into India and pointing out that the decision to introduce Pacific locomotives formed part of the policy of following the Acworth Committee's recommendations, which were made in a period of boom or expected boom, they point out that the planning of the Pacific engines and their operation and maintenance belong in fact to two different periods of financial outlook. The engines were designed at a time of comparative economic prosperity; they arrived on the eve of a depression when curtailment of expenditure was the paramount consideration everywhere in railway finance.

The history of six preliminary Pacific engines is given at page 14 of the Report, from which it appears that the Railway Board only first allowed their introduction for trial purposes and refused to permit the railway concerns to purchase more than two pending trial for at least a year. At the present moment, Sir, there are 113, 99 and 72 XA, XB and XC types of engines in India.

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[Mr. P. N. Saprū.]

So far as the design of these engines is concerned, it was done by the Consulting Engineers to the Government of India and the firm who had to build these engines was merely concerned in assuring that the engines were built to the specifications received from India.

Now, Sir, in regard to the past, the Committee has dealt with several questions. It is necessary sometimes to go into *post mortem* examinations. They are useful for research purposes. They throw light upon things as they were. First of all, they deal with the policy of standardization. They trace the history of it from 1921 and say that the policy was due to a recognition of the fact that, if standardization could be adopted, it would admit of the exchange of power between different railways in cases of emergency. So far as standardization is concerned, their view seems to be that since the available number of new standard designs was very small there is point in the criticism that the standardization policy was much too rigid, particularly in respect of the small number of engine types available and further that more adaptability was needed to meet the varying conditions on different railways. Their general view seems to be that strict adherence to the standardization policy has resulted in certain railways being equipped with locomotives of power in excess of requirement where density of traffic was less than average.

The second point dealt with by them is the design, purchase and continued purchase of the Pacific type of engines. After pointing out that six experimental broad gauge Pacific engines were the precursors of the X type engines, they go on to say that there were now 314 broad gauge Pacific engines running in India of which 113, 99 and 72 are XA, XB and XC types. So far as the design of the XB engines is concerned, it was based largely on the information available regarding the first four Pacific built engines and that the builder was engaged and paid by arrangement with the Railway Board to prepare under the direction of the Consulting Engineers to the Government of India. The responsibility for the design rests with the Consulting Engineers and the Railway Board. Responsibility for the operation and maintenance was borne by India. Their criticism on this point is to be found at page 136 and I am not going to trouble the House by reading it out. They do not think that the continued purchase of these engines was justified as will be evident from the remarks at page 142. In paragraph 49 of their Report they deal with the difficulties relating to the performance as vehicles of the engines concerned, the accidents in which they were involved and the steps taken to improve their running in India. They deal in Chapter IX with the conditions subject to which these engines could be used with safety and the preventive action taken by the administration of the Railways to improve them. Their general conclusion is to be found at page 142. They say:

"In our view, the Board's action in this matter was regrettable We feel that in view of the warnings conveyed by the Consulting Engineers, the wiser course would certainly have been to have continued purchasing a further number of the well tried B.E.S.A. type engines (suitably modernized as necessary), pending thorough trial of the new Pacific classes."

They also point out at page 172 that a large amount of business could be more economically undertaken with improved and modernised B.E.S.A. type

engines. In their opinion there was a lack of precision regarding the design of the X type Pacific as a vehicle. Therefore the real criticism is this: Why was there such a large number of these engines purchased before any trial was made in this country? Why was purchase continued after engines had been running for some time on the Railways and in spite of the Consulting Engineers?

I do not wish to go into all the technical arguments which may be used to justify the purchase of these engines. I look at the whole question from a common sense point of view. If you are experimenting with a new engine it is only right for you to proceed more cautiously with your orders. The Honourable Mr. Parker is a great business man, but I know he is also a very cautious business man. I give him credit for being a cautious business man. He will proceed with his orders cautiously. You ought to test the suitability of the engines for the Indian track, their capacity and reliability as vehicles of traffic and goods, before you place and go on placing orders after orders.

The reasons for their purchase were expectations of greatly increased traffic. There was a feeling that a trade boom was coming and that required expansion of railway facilities. Now, I quite recognize that the Railway Board cannot be blamed reasonably for sharing the general optimism of the period when these engines were ordered. I do not deny further that anything but efficiency of operation was the actuating motive. But, nevertheless, I feel that a wiser course for the Board would have been, as the Committee say, to suitably modernize the B.E.S.A. engines, pending experience of the new Pacific type. It is not denied that engines were purchased at a period when optimistic views were held as regards the future of trade and traffic and there was a necessity being stressed of quick replacement of all the locomotives, curtailing their fueling bill and pursuing standardization as a possible avenue of economy. The point that emerges from the Report is that 218 X class Pacific engines were authorized in less than three years between 1925—1928, and that against the advice of the Consulting Engineers. Therefore, the criticism against the Board is that it went on purchasing the engines without first having given them a full and fair trial. The other criticism which the Railway Board cannot escape is that they were too rigid in their departmental outlook and that effective preventive measures were not adopted when reasonable factors of safety had been shown to be lacking. Therefore, it is necessary to strongly endorse the recommendation of the Committee that formal inquiry by Government Inspectors, who should be independent of the control of the Railway Board—that is a very important recommendation of the Committee, and therefore it is important to emphasise it—should be undertaken in every case of passenger train derailment and their report. It is satisfactory for us, who are interested in our Railways as taxpayers and as passengers, to find that the Committee think that X class Pacific engines should have useful and reliable work ahead of them provided they are modified and attention is paid to particular aspect of trade and locomotive maintenance and speed of operation is adjusted to prevailing conditions in both respects. I hope, Sir, that Government will accept these recommendations.

I do not propose to go into the other recommendations of the Committee as I do not feel myself competent to talk about these technical matters. But a major recommendation of the Committee is that locomotive construction should be encouraged in India. Their recommendation on this

[Mr. P. N. Sapru.]

point will be found on page 167 of the Report. Government, Sir, have been shirking this question of locomotive construction so far. With the possible expansion of the war on the Eastern front and the Western front, there is little likelihood of India getting engines from abroad. The locomotive industry, Sir, is one which fulfils all the criteria of a key industry and it should be undertaken as speedily as possible.

With these words, Sir, I should like once again to express my appreciation of the very monumental Report which this Committee has given us. It is really a most wonderful Report. Parts of it I cannot understand. It is too scientific for most of us laymen. But the parts which I was able to understand, I enjoyed thoroughly.

THE HONOURABLE SIR GUTHRIE RUSSELL: Sir, I should first like to congratulate my Honourable friend Pandit Kunzru on his speech. He has apparently got second sight and reads into the Pacific Locomotive Committee's Report certain things which were certainly not written by the Committee! He started by saying more or less that the Report was really a wholesale condemnation of the policy of the Railway Board and of the Government of India in the past and then he said that really it was only soft-heartedness on their part which had prevented them from making this clear in the Report. Possibly, the reason for the Committee not condemning the policy of the Railway Board wholesale was that they had a fuller appreciation of the difficulties of the Board than the Honourable Member. Another thing which my Honourable friend reads into the Report is that it contains a recommendation advocating the more rapid Indianization of railway services. I have been unable to find this recommendation in the Report. I do not object to progressive Indianization, this is the definite policy of Government. In the Central Standards Office and in the expansion of research work my Honourable friend pleaded for more Indians to be associated, and this, I can assure him, has my full support. Actually, at the present moment experiments are being carried out to determine the flange forces set up by the XCs on the B.B. & C.I., the XAs on the G.I.P.R., and the XCs on the N.W.R., and the staff employed are entirely Indian. He made one other recommendation, and that was that we should depend more on our own resources. In that I entirely agree with him.

When I opened my speech this morning, I forecast that there would be a technical expert in this Council! I find I was quite correct. When I made that speech, I could have named the technical expert! That technical expert, as we know, is my Honourable friend Mr. Hossain Imam! But I must admit that there were certain occasions on which I could not follow his arguments. As far as I can recollect, he talked about the load hauled by goods engines and the cost per ton mile. Well, this has nothing to do with the engines under discussion—XA, XB and XC engines are all passenger engines.

THE HONOURABLE MR. HOSSAIN IMAM: Per passenger mile.

THE HONOURABLE SIR GUTHRIE RUSSELL: I must admit that his statement did not help to get him very much forward. He also talked about the cost of strengthening bridges on account of these locomotives, presumably again referring to XA, XB and XC class engines. I can assure him that I do not

think you can place at the door of these locomotives the expenditure on the improvement of permanent way or bridges. The strengthening of the permanent way and of the bridges was essential if they were to carry our goods trains. The heaviest axle load of these three types is 19½ tons and our goods locomotives, the XE to which my Honourable friend Rai Bahadur Lala Ram Saran Das referred, is 22 tons. I do not think he quite understands the difference between these types and the necessity for the different types. The XA types were designed for branch lines, and specially to save money. They have only a 13½ tons axle load which avoided the relaying of a large number of branch lines with a heavier type of rail. The XB was for fast passenger services on lightly graded lines and the XC for heavier passenger services on the heavier graded line. So there was reason for buying each class of locomotive.

THE HONOURABLE MR. HOSSAIN IMAM: How is the XC being used now?

THE HONOURABLE SIR GUTHRIE RUSSELL: They are on the Karachi Mail, the Sind Express, the B.B. & C.I.R. Frontier Mail and the B.B. & C.I.R. Express trains and a certain number on slow trains on the E.I.R. Those are the only three Railways which have got XCs.

Now, my friend Lala Ram Saran Das in his happy way made some assertions with, as far as I can see, no great justification! He said the purchase of these locomotives had lost India crores of rupees. Well, the actual cost of the 284 engines was, as far as I remember, in the neighbourhood of Rs. 3 crores. The actual cost which we estimate now to carry out the recommendations of the Committee is roughly Rs. 5 lakhs. As I said this morning—probably he was not listening—the XC locomotives on the N.W.R. between Lahore and Karachi were saving us Rs. 5½ lakhs a year. I do not think there is any question of loss. The only tragedy of the whole thing was the Bihta accident; but financially I believe these locomotives have been a success.

Then he asked something about the commission paid to the Consulting Engineers. I was not quite sure what he meant by that. Did he mean that the Consulting Engineers have been taking illicit commission, or did he mean a commission paid to them under an agreement?

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: I was referring to the commission under the agreement and in addition to their retaining fee. I believe that some retaining fee is also paid?

THE HONOURABLE SIR GUTHRIE RUSSELL: The Consulting Engineers are paid a retaining fee—then it was I think £7,000. That was paid by the Government of India and the various Company-managed Railways which employ them. They are paid no commission whatsoever on purchases. All they get in addition is the actual cost of staff employed on any particular job; but there is no question of commission.

Then my friend was rather mixed up between the XE and the XD. I was not quite sure what he meant. Did he intend to imply that these engines had not fulfilled the purpose for which they were designed? If so, I can assure him they have.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: I said as far as the construction was concerned there was no complaint. The complaint was about the front bogie and the hind truck.

THE HONOURABLE SIR GUTHRIE RUSSELL: I do not quite understand what the Honourable Member is getting at. Then another question he raised was, what was the real reason for the saving in fuel. I think there are three reasons. It was due to the general fall in the price of coal. It was due to our being able to use lower grade fuels, and also to a large extent to the policy of the Railway Board adopted of purchasing their own collieries. I do not claim for one minute that these standard locomotives are entirely responsible for all the saving in fuel.

Now, my Honourable friend Mr. Parker raised a point. I think what was at the back of his mind was, why should not the Railways of India have just done what the Railways of Britain were doing where these engines were apparently run with perfect safety? As I said in my speech this morning, the two main faults in the locomotives were the bogie control springs and the control of the hind truck. Well, up to 1937 I think it was, I have actually seen the plans of the L. M. S., they were using bogie control springs with an initial resistance of just under two tons with a maximum resistance of $4\frac{1}{2}$ tons, whereas we were using bogie control springs with an initial resistance of 31 cwt. and with a maximum resistance of $5\frac{1}{2}$ tons. So I would like the Council to realize that we were watching British practice. We have been in close touch with France and Germany. I think that also answers my Honourable friend Lala Ram Saran Das's question as to whether we had any contact with foreign countries.

Now, we come to my Honourable friend Mr. Sapru's speech. As far as I could make out, his speech was mainly quotations from the Report to show that he entirely agreed with every word in the Report. Well, I think I need hardly reply to that because if Honourable Members will read this little pamphlet which has been put before them they will find that we consider the recommendations are sound and we propose to follow them.

THE HONOURABLE MR. P. N. SAPRU: What about Government Inspectors being independent of the control of the Railway Board?

THE HONOURABLE SIR GUTHRIE RUSSELL: That matter is under consideration. For years I have said that it is entirely illogical for them to be under the Railway Board. The Railway Board are the executive authority for the Railways and the inspecting authority should be under a different regime. But so far as I know the present system has worked and worked well. Every disaster will be inquired into by the Government Inspector of Railways.

THE HONOURABLE MR. HOSSAIN IMAM: Will the Honourable Member refer to page 9 of this pamphlet where Rs. 10 crores are required for direct renewals as a result of XB engines being introduced?

THE HONOURABLE SIR GUTHRIE RUSSELL: XB engines have nothing to do with this Rs. 10 crores. This is meant to carry out the recommendation of the Committee that main lines should be laid with a minimum standard of 90-lb. track. The track would have been relaid in any case and the cost can hardly be placed at the debit of the XB locomotive.

THE HONOURABLE THE PRESIDENT: The Question is:

"That the Report of the Pacific Locomotive Committee be taken into consideration."

The Motion was adopted.

MOTION FOR ADJOURNMENT *RE* RECOMMENDATIONS OF THE CHATFIELD COMMITTEE.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU (United Provinces Northern: Non-Muhammadan): Sir, I move:

"The adjournment of the business of this House in order to discuss a definite matter of urgent public importance, namely, the unsatisfactory announcement made by His Majesty's Government regarding the recommendations of the Chatfield Committee."

Before I deal with these recommendations, Sir, I should like to refer to the sum of Rs. 45 crores provided by His Majesty's Government for the modernization of the forces in this country, including the British forces maintained here. Rs. 33 $\frac{1}{2}$ crores are given as a free gift and Rs. 11 $\frac{1}{2}$ crores have been advanced free of interest for five years. There is no one here who does not appreciate warmly the gift made by His Majesty's Government. In times like this the modernization of the forces is necessary and had we had to depend on our own resources it would have been utterly impossible. But while I appreciate fully the generosity of His Majesty's Government I cannot fail to take into account other considerations which have a very important bearing on the question that we are considering, and the fact that India is a valuable part of the British Empire.

Sir, the Report of the Chatfield Committee raises many issues, but it is impossible for me to discuss all of them in the course of 15 minutes. I would therefore confine myself to such points

4 P.M.

as appear to me to be most important. There are three recommendations which seem to me to be of a more fundamental character than any of the other recommendations made by the Committee. One is that Indian forces should help His Majesty's Government in maintaining "India's external security". The second is that one-tenth of the forces in India should be available for this purpose. The third is that if these forces are used outside India in an emergency, their ordinary maintenance charges should continue to be borne by India. The Committee consider that this last recommendation of theirs, while justified on general grounds, can be regarded as fair in the light also of the contribution of £2 millions to be annually made by His Majesty's Government towards military expenditure in this country. I will take these points in the order in which I have mentioned them. So far, Sir, we had been assured that the forces maintained in India were no more than were necessary for the protection of India against minor attacks and the maintenance of internal security. Now, however, we are told that modernization, resulting in increased striking power and a greater mobility, will enable us not only to reduce our forces but also to regard one-tenth of them as an Imperial reserve. This matter is one of considerable constitutional importance for it vitally affects our freedom. His Excellency the Commander-in-Chief in his broadcast stated that it was necessary in the defence of India herself that she should help in the maintenance

[Pandit Hriday Nath Kunzru.]

security in the Red Sea and the Suez Canal. His language reminds me of the mark of Mr. Baldwin some years ago that England's frontiers were on the Rhine, we have been told in effect by the Chatfield Committee that our frontiers are in Egypt, on the Suez Canal and in Singapore. This recommendation sought to be justified on the ground that the situation has changed considerably since the Garran Tribunal reported and that in modern circumstances it is necessary for India in her own interest to bear a larger responsibility in respect of her defence. Her defence might be best secured by measures taken outside her borders. Now, Sir, I should like to ask one or two questions on this point. Are we alone interested in Singapore and the Suez Canal or have, say, Australia, New Zealand, too any interest in them? If I remember aright the Singapore base was constructed primarily because Australia and New Zealand pressed for it, but have His Majesty's Government thereby secured any claim over any portion of the Australian or New Zealand forces for the defence either of Singapore or the Suez Canal? These countries which are self-governing may of their own free will help England, not only with a small portion of their forces, but with a very large proportion of them, but in this country an additional responsibility is imposed on us without giving us the political power, that these countries have. We have repeatedly asked that our men should not be sent beyond our borders without our consent, and we are told now that our forces will be sent out of India as a matter of course, that we must maintain an Imperial reserve and that His Majesty's Government will not pay for the use of the reserve which will consist of one-tenth of our forces even outside India. Reading between the lines of the Chatfield Committee's Report, it seems to me that what the Committee is really asking for from us is not co-operation merely in the defence of Egypt but co-operation everywhere with the Imperial Government whenever a crisis arises. If that is the situation, let it be frankly faced. Today you have told us that our external frontiers are in Egypt. Tomorrow you may tell us that the defence of Cyprus, Malta or Gibraltar is also vital in our own interests. To what extent then do you propose to go on imposing burdens on us? Such burdens can be imposed only with the consent of a self-governing India but they cannot be accepted by us at present.

Now, Sir, I come to deal with the financial aspect of the question, which is no less important than its constitutional aspect. The House knows the provision made in section 22 of the Government of India Act, 1919 with regard to the employment of forces beyond the external frontiers of India. Roughly speaking, it was laid down that no expenditure could be incurred on military operations carried on beyond the external frontiers of India without the consent of both Houses of Parliament. This provision was made use of in 1914, but only after the Imperial Legislative Council had passed a Resolution expressing its desire to bear a share of the heavy military expenditure in which His Majesty's Government were involved. Later on, when provision was made with regard to the transfer of naval forces of India to the Admiralty in an emergency section 22 to which I have referred was amended expressly by Parliament in 1927 in order to provide that expenditure on the transferred naval forces shall not be defrayed without the consent of both Houses of Parliament unless

they were employed on Indian naval defence. In the new Government of India Act the language has been altered. Section 150 of the Act says :

"No burden shall be imposed on the revenues of the Federation or the Provinces except for the purposes of India or some part of India".

The language is obviously wider than before. The Joint Select Committee in dealing with a similar proposal in the White Paper said that :

"a contribution in the general interests of India would come within the scope of that provision".

But they went on to add :

"Under the new constitution, however, the recognition of interests of this nature would fall within the province of the Federal Ministry and the Legislature since *ex hypothesi* they would not be defence interests. If therefore the question should arise of offering a contribution from India's revenues in the circumstances that we are discussing (and the interest in question is not under the other reserved department of external affairs), we are of opinion that it would need to be ratified by the Federal Legislature".

Under the section as it stands it was thought that only a modification of the Act could permit the defraying of expenditure from Indian revenues on operations carried on outside the Indian frontiers. Now, however, by laying down that India is vitally interested in the defence of Egypt, by saying in other words that Indian forces can be employed in Egypt "for the purposes of India", it appears to me that you are getting round this provision and that the constitutional safeguard which it was meant to provide has been rendered nugatory.

* There are many recommendations that I should like to refer to but I shall be able to deal only with one more before my time is over. It concerns, Sir, the contribution made by His Majesty's Government towards Indian military expenditure. Those who have read the Report of the Garran Tribunal will recognize that, whatever reasons might have been advanced for making a contribution of one and a half million pounds and whatever grounds might be put forward now for increasing it by half a million pounds, England agreed to give it because of the maintenance of costly British forces in this country and the long controversy between India and England over the payment of the capitulation charges. I do not at all agree that the payment of this contribution gives any moral right to England to look upon any part of the armed forces of India as an Imperial reserve. It gives her no right to ask us to maintain any forces not needed by us, unless India decides of her own free will to help England. I have no doubt that she would have co-operated fully if the constitutional situation were far different to that which prevails now. But in the existing situation you cannot merely by your fiat go on increasing the burdens to be placed on Indian shoulders.

Now, Sir, we have been told that an advantage to be derived from the capital contribution of Rs. 45 crores made by His Majesty's Government is that it would be possible to organize and, where necessary, expand the ordnance factories which supply all that the three services require. Now, I am glad that our ordnance factories will be expanded but I should like to know whether any new branch of manufacture will be started? I refer in this connection particularly to the manufacture of aeroplanes. We may be told that our own requirements are not sufficient to make the manufacture of aeroplanes economical

[Pandit Hirday Nath Kunzru.]

in this country. But today His Majesty's Government are purchasing aeroplanes from Canada and Australia. The manufacture of planes in these countries has been made possible only because of the co-operation of His Majesty's Government. For their air forces are not large enough to require the manufacture of aeroplanes in their own territories. Apart from this, Sir, I should like to draw the attention of the House to an agreement recently arrived at between the British Government and the Australian Government with regard to the manufacture of aircraft. I am quoting, Sir, from the report of a discussion initiated by Mr. Wimperis on "Air Power", in "International Affairs" for July-August, 1939. He states here that *The Times* of the 11th May, 1939, reported:

"that the Home Government and the Australian Government had joined together to create centres of aircraft manufacture in Melbourne and Sydney, and that a start was to be made on behalf of both Governments on no less than ten million pounds' worth of aircraft".

Well, this is what can be achieved by means of co-operation. If His Majesty's Government are going to place new burdens on us, they might at least help us to increase our industrial development, especially in those directions which are necessary for the defence of India. We all know, Sir, that the present inability of India to provide for modern defence requirements is due to the fact that she is primarily an agricultural country. If she is to be enabled to meet her own responsibility in future, she must be able to industrialize herself. His Majesty's Government could give valuable help in this connection but, while they are going to purchase aircraft from Canada and Australia, they have not thought it necessary to enter into any arrangement with India for the manufacture of aeroplanes in this country.

Sir, as I have no more time, I shall conclude my observations by saying that even after taking into account the generous free gift of Rs. 33½ crores made by His Majesty's Government, I cannot but look upon the recommendations of the Chatfield Committee as highly detrimental to our constitutional future and as throwing the door wide open to the imposition of indefinite military and financial responsibilities on us in the future.

THE HONOURABLE MR. V. V. KALIKAR (Central Provinces : General) : Sir, I rise to support the Motion moved so ably by my Honourable friend Pandit Hirday Nath Kunzru. I join him in thanking the British Government for giving us a gift of Rs. 33½ crores for equipping our army, navy and air forces in India. But, Sir, I cannot agree to the burden that is being imposed on us through the recommendations of this Report. Sir, I would first submit that, when they extended the frontiers of India and went back on the recommendations of the Garrao Tribunal, they did not consult India. After all, the Indian taxpayer has to pay the money for the burden that is being imposed on us, so it was the duty—if unfortunately no experts could be found to sit on that Committee—of the Government to take Indians into their confidence to settle the matter as to how far the frontiers are to be extended and whether the principles laid down by the Garrao Tribunal in this connection were to be given up. So, my first objection is that, as they have not taken

India into their confidence, they have no moral or equitable right to tell us that we must bear this burden.

My Honourable friend Pandit Kunzru has given us information that they have entered into contracts with Australia for building aeroplanes. I knew up till now that they had indented for aeroplanes from Canada. The new fact that has been brought to our notice now clearly shows that they are more anxious to help the industries in Canada and Australia rather than help the industries in India. It may be said that in India we have no industries and that we cannot produce aeroplanes. But, my question is, who is to blame for that? It is the Government of India or the British Government who are responsible for it. They ought to have given a lead to Indians in this matter by taking steps to manufacture aeroplanes. Then and then only the merchant princes in India and the business concerns would have taken it up. There is a lurking suspicion in the minds of Indians that although you have made a gift, the use of that gift will be to assist industries out of India and not in India.

Then, I find from the Report, or I may say the abstract of the Report—because the whole Report has not been submitted to us; we have been kept in the dark about the recommendations, but according to the abstract that has been supplied to us—that if the Army and the Navy and the Air Force are modernized, one-tenth of the Army will have to be kept for external defence and some units of the Indian Army will be disbanded. Sir, I take serious objection to this recommendation of the Committee. After all, we have to be prepared for the crisis that is facing us. I know that for the present they say they are not going to reduce the Indian units. But, after the war is over, and the full army is modernized, they will have to reduce the units. I say that instead of reducing the Indian units, they ought to reduce more British units and thus give more facilities to Indians to prepare themselves for eventualities. This recommendation also is objectionable from a layman's point of view, and India cannot agree to this recommendation.

From the abstract that has been supplied to us we see something about the expansion of ordnance factories. My suggestion is, that not only should ordnance factories be expanded but also new ordnance factories should be built, and in the matter of supplying ammunition, India ought to be made self-sufficient. Up till now the authorities have not taken care to make India self-sufficient. I appeal to the authorities, now that we are faced with a crisis, to take earnest steps to make India self-sufficient in this matter. If unfortunately something occurs in India and if we do not get munitions quite sufficient for our requirements, we will be nowhere. So, this suggestion of mine should be taken up very seriously and given practical effect to. We do not require lip sympathy now. We want action to be taken so that India may be able to stand on her own legs.

Sir, I have very great pleasure in supporting the Adjournment Motion so ably moved by my Honourable friend Pandit Kunzru.

THE HONOURABLE SARDAR BUTA SINGH (Punjab : Sikh) : Sir, I regret I cannot applaud the action of the Honourable Mover of this Resolution. His Majesty's Government have reached the decision none too soon. The decision

[Sardar Buta Singh.]

is sound and has been taken under the advice of military experts, both in India and in England. His Majesty's Government have recognized the need of supporting India and in its defence with substantial financial assistance. I would go further and claim that if money that is being poured into some other countries was poured into India and our man power and resources were fully organized, England could safeguard all the Imperial interests without commitments which have landed us into the war. In any case, the recognition that India's defence is an Imperial concern is the acceptance of a principle for which India has pleaded for long. It is right and fair that increased costs of defence must be met from the Imperial exchequer. Need I say that His Majesty's Government has earned our gratitude rather than criticism?

I would be failing in my duty to His Majesty if I failed to inquire if it is a right policy to keep India ignorant of our defence problems and the dangers that threaten India and the Empire? Do Indians lack in loyalty and common sense that they do not merit confidence in these important matters? In these changing times, the soul and spirit that would keep the Empire together is trust. I cannot help remarking that so far, in these matters, we are still in the dark, thought at any moment we may have to meet dangers that will need the whole strength of the country to meet them.

Then again, I cannot view with equanimity the proposal to reduce our man power by reduction of Indian units. Expert opinion perhaps holds that India is over insured in the matter of defence. But the trend of world organizations leave no manner of doubt that the Army is the best school for equipping our man power with discipline and physical and moral fitness. The time has come when India should have a Dominion army of its own, in which every province has a share, and it should be officered entirely by Indians. India, if she is ever to realize her dream of self-government, must have a large officer class bearing some proportion to our population. I wonder what is happening to the Indianization Committee of which the Honourable Mover of this Motion is a member?

THE HONOURABLE SIR MUHAMMAD YAKUB (Nominated Non-Official): It has been disbanded.

THE HONOURABLE SARDAR BUTA SINGH: It would be a great mistake if the Committee is allowed to die without submitting an early report. Hopes have been raised which if disappointed will not conduce to contentment. I must refer to the need of spending the money which had been provided in India itself. Not only munitions but all the armaments, motor cars, tanks and machines should be made in the country itself. It would be wrong if this opportunity of making India independent in the supply of war material is lost. Then again, special provision should be made for the education and employment of Indians in all ranks of the air force and the navy. If India is required to take a larger share in its defence it would not be right and proper to deny Indians opportunities of training in all arms for defence. The war has drawn the heart of India to the service of the Empire. Every great and commanding movement in the annals of the world is a triumph of enthusiasm. It is for our Government to reorganize the central executive, both civil and military, in such a way that it secures the active co-operation of the leaders of Indian

opinion. I need hardly say that my community is awaiting the call to arms. While other communities may have their eyes elsewhere for the realization of their dreams, my community has only one aim, to serve India and to defend it with the last drop of blood. In the last few years its past services have been under an eclipse, but I have hopes that the test of war will prove that no other community can equal it in true service and true sacrifice.

In conclusion I would ask the Honourable Mover not to press his Motion. Let us all, Britishers and Indians, join hands in full faith in each other and put all our powers in resisting violence which are likely to leave civilization and all that it stands for in ruins.

THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa: Muhammadan): Mr. President, I should have liked either to give my whole-hearted support to the Adjournment Motion or to have supported the Government whole-heartedly, if I had found that I could do either of the two. Sir, no one can question that His Majesty's Government has been generous in granting us this credit of Rs. 46 crores, of which three-fourths is a free gift and one-fourth is a loan free of interest for five years. But if the Government were to compare it to a gift horse and say that it should not be looked in the mouth, it would have been justified in claiming this, if this gift horse had not been accompanied by a host of grooms who are to be highly paid and who are not to be dispensed with. This award or gift is accompanied by two very essential conditions. Firstly, the maintenance of the Army at a scale of equipment which we did not have formerly, and secondly, we have to assume the responsibility for safeguarding not only the frontiers of India but the so-called Indian interests outside our territorial limits. Sir, personally any extension of the military responsibility of India would be welcomed by me because the more we advance in the constitutional sphere the greater would be the liability of India to shoulder burdens for its own safety. But as long as we continue to be a subject nation it is primarily the outlook of the Imperial power to safeguard the frontiers of the country, because it is being exploited by that country, and therefore the obligation to safeguard it goes on the shoulders of the Imperial power. But with the transfer of constitutional power from the shoulders of the Imperial power to that of the country governed, rightly the Imperial power would like to give up part of its responsibility and place it on the shoulders of those who demand freedom. As a step in that direction I welcome the conclusion of the Chatfield Committee that the forces maintained in India should be adequate not merely for the narrower purposes of purely local defence but also for maintaining India's external security. As an axiom it is admitted; it is only in practice that we encounter difficulties when we find that our responsibility is merely to pay the bill and to have no voice either in the personnel or in the movement of the Army. That is not in my view an adequate and fair settlement of the responsibility. Along with the responsibility of defending India we must have a voice in the personnel of the Army. We desire the greater association of Indian officers, the more rapid Indianization of the officer ranks. The creation of some sort of Committee to examine the necessity for sending our troops out of India is immediately called for. As long as the conditional power existed whereby the Government of India were not allowed to spend from the Indian exchequer any money on forces maintained outside the borders

[Mr. Hossain Imam.]

of India without the sanction of the Parliament as well as of the Legislative Assembly, the question was of little consequence. I doubt the power of His Majesty's Government without legislative enactment of the House of Commons merely by means of this announcement to burden Indian revenues with the cost of forces that have been transferred from India recently to other parts of the British Empire.

Sir, as I say, this Report has extended our sphere of influence in defence matters and to that extent it is welcome, but that extension has been at the cost of whatever little power had been delegated to us by the Government in the past. I would remind the Honourable Defence Secretary that at the time of the Garran Tribunal Report the notes of dissent were not published, yet Sir Philip Chetwode in this House permitted members of the Central Legislature who so desired to come and read the Report at Army Headquarters. Was it not possible, with the advance of time, with greater responsibility thrown on us and greater co-operation asked of us, for you to extend even that amount of courtesy to us now as was extended to us then? I was one of those who read that Report; the only condition laid down was that we were not to quote that Report as our authority for any information drawn from that Report.

THE HONOURABLE THE PRESIDENT: Are you discussing the Motion or enumerating your grievances?

THE HONOURABLE MR. HOSSAIN IMAM: I am referring to the fact that this Report of the Chatfield Committee has not been made available to us. I have a complaint against the Government for withholding that Report from us. I am reminding them of a like thing pertaining to the Defence Department itself in which a document was not allowed to be published, was not available for every Indian to see, but for the Members of the Legislature a special concession was made. I appeal to the Honourable Member to consider this, and to move His Majesty's Government if he has to take their sanction, because this Report had been submitted to His Majesty's Government. My appeal is that this Report should be made available for our information, if not for ordinary publicity.

Sir, I have another complaint to make. Nearer home we have got Burma. If it is to the interest of India to safeguard and to place troops in the Red Sea and Egypt, as has been stated by His Excellency the Commander-in-Chief in his broadcast, Burma is too close to us. Is it right, is it just, that we should shoulder responsibility for guarding frontiers of a country which is maltreating and oppressing Indians and they should not contribute anything towards the common concern of the safety of the Empire. Burma had an excess budget. We were having deficit budgets and Burma was blessed with a surplus budget of Rs. 2 or Rs. 3 crores. As Burma and India constituted a single unit up to the 1st April, 1937—

THE HONOURABLE THE PRESIDENT: I must again ask you to confine yourself to the Motion.

THE HONOURABLE MR. HOSSAIN IMAM: I am referring to the question of the safety of Burma—

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: The Report says that we are to have a vital interest in the defence not merely of the Red Sea and Egypt but also of Aden, Burma, Malaya and Singapore.

THE HONOURABLE MR. HOSSAIN IMAM: That is why I am referring to Burma, Sir. Burma has been cut off from India and though we may not benefit from Burma yet we are to pay for the cost of the safety of Burma. Is that an equitable settlement and a fair compromise?

Sir, mention has already been made by Pandit Kunzru that the manufacture of air arms should be undertaken in India. His Majesty's Government have very wisely in paragraph 10 accepted the principle—

"That thereafter India should as far as possible be made in all major respects self-sufficient in respect of munitions in time of war".

This is a very wise decision. We know in what precarious condition communication between England and India can be placed in certain eventualities. Is it wise, is it to the best interests of India and England, that in such an important arm as the Air Force India should be altogether dependent on help coming from England. Is it not the better course to adopt if you really wish to save India that we should be self-contained at least in this very important respect? The air arm is no longer an auxiliary arm. It has become almost the main source of defence, if not the greater source of offence. In a world which relies so much on air forces it is, I venture to suggest, very short-sighted policy on the part of His Majesty's Government to let India remain dependent on outside help. If we were to have even a small amount of production, it would be very useful not only in defending the frontiers of India but in the wider interests of humanity, for the maintenance of justice and equity and the rights of small nations. We know, Sir, the present plight of Afghanistan (and no one knows it better than the Defence Department). Consider for a moment in what difficulty Afghans are placed now. They are helpless and if we Indians are to continue in the same helpless condition in which we are at the moment, what useful purpose can be served either for ourselves or for the matter of that for even the Empire? Sir, it is a well known fact, and it has been admitted by even the highest military authorities, that the maintenance of the present strength of the Army in India is not only for Indian interests but it serves a part of Imperial interests also, and therefore the announcement made is merely a regularization of the irregular procedure which was adopted formerly. The Government of India and His Majesty's Government, without in so many words admitting or stating that India was expected to serve Imperial interests, have been using the Army in India for those purposes, and therefore what they have done is only regularization. By doing this they have created a sort of right which was being done as a matter of grace previously. Therefore, we claim, if you want to have that right, a greater share in shaping the policy and making India more self-sufficient than it is at the present moment.

THE HONOURABLE SARDAR BAHADUR SOBHA SINGH (Nominated Non-Official): Mr. President, Sir, I am not one of those who look askance at a gift horse. I believe Lord Chatfield and his colleagues have submitted a Report

[Sardar Bahadur Sobha Singh.]

which is as timely as it is useful. In spite of the somewhat restricted scope of their reference their recommendations, as known to us, take into account many of the manifold facts of the Indian defence problem. They have considered carefully and made suitable recommendations concerning such problems as the increased cost of modern army equipment, the desirability of organizing various units in an efficient manner and the equipment and maintenance of a modern defence force necessary for India consistent with the limited resources of the country. They have, I believe, Sir, very rightly pointed out that danger to India's security lies not only from the north-west or north-east frontiers of the country but also from the Middle East and Far East. Who could quarrel with them or who can gainsay them when they say that if Egypt, for instance, or the Malayan Peninsula were occupied by an enemy, India's defence, under the modern circumstances would be well nigh an impossible one? I am one of those who are very happy that a part of our troops, viz., 10 per cent. of it should be made available at these strategic frontiers of India.

I am also very glad, Sir, to find from the Report, that greater attention is to be paid to the Royal Indian Navy. Our Navy at present is nothing very much to boast about. But for the strong arm of the British Navy our shores would be entirely at the mercy of every predatory Western or Eastern power. Above all what gives me most satisfaction is the fact that the Indian Army is to be fully mechanized and that not at the cost of this poor poverty-stricken country. Mechanization of the Army has been carried out in all modern countries and India is the only great country in which the Army is still following the old traditions. I believe the capital grant to India of Rs. 33½ crores and the loan of Rs. 11½ crores without interest is a great boon and an appreciation of the part which the Indian Army is expected to play.

Another thing gives me very great joy is that the Government have at last recognized that an industrial India capable of producing her own munitions is indeed far more important to them than an ill-equipped and unprepared country. I am sure that our industrialists will have a great scope for starting ammunition industries and enriching our country, under the patronage of the Government, not only with materials but also with men qualified to produce them.

I would, however, like to put in a few suggestions. The Air Force of the country, for various obvious reasons, is in its infancy. What is pitiable is that the Government should have neglected the civil aviation part of it also. Our pilots are all trained by clubs—in other words by private institutions. The training which they receive is certainly not sufficient to make them efficient pilots even for civil aviation purposes, not to speak of military purposes. The number of accidents that are occurring in the country show that something is very seriously wrong in their training. I wish the Government, in the interests of both civil and military aviation, take charge of the training and train a race of Indian pilots who could, while normally employed for civil aviation, be switched over for military purposes also as and when the circumstances dictate.

I would, however, like to protest against the decision to reduce the Indian units of the Army also in proportion to the reduction of European elements. After all the Army in India is not a very large one. It is very small when compared to the leading armies of the world. In an emergency it would be very difficult to have good trained soldiers immediately. Training, after all, takes time and I do not see any reason whatsoever why Indian units of the Army also should be reduced just to keep in line with the reduction in the British element.

Sir, we find every young European is being pressed for military service. Probably the idea is that as the European element of the Indian Army is reduced, we may have at all times sufficient qualified European military men. I have no quarrel over that. I only desire that similar privileges should be offered to Indian young men also. As many young men as possible of all castes and communities should be given good military training so that they may be able to defend their country whenever it is necessary.

Sir, with these words, I oppose the Adjournment Motion.

THE HONOURABLE MR. P. N. SAPRU (United Provinces Southern Non-Muhammadan): Sir, I should like to give my support to the Adjournment Motion which has been moved so ably by my distinguished friend, the Honourable Mr. Kunzru. Sir, I should like first of all to say that there are parts of the Report with which I agree and there are parts of the Report with which I do not agree. The parts of the Report with which I do not agree are of a fundamental character and therefore I cannot characterize the Report as satisfactory. First of all, let us consider this question of a gift of Rs. 33½ crores and a loan of Rs. 11½ crores free of interest for the first five years. Now, Sir, it is a tardy recognition of the claims that we have put forward in past years. We have had this controversy about the capitation charges from I don't know which year. I think it goes back to the early seventies of the last century. There was the Garraun Tribunal which came to the conclusion that our claim for capitation charges was not justified but suggested that we should be given a contribution as we were being made to pay for the British troops in India. Therefore, it might look a very big sum but, considering all that England has had from us during the last 150 years of its connection, I do not think we need feel very enthusiastic about this gift of Rs. 33½ crores. We are thankful for small mercies and therefore I do not grudge our thanks to His Majesty's Government for doing some tardy justice.

Now, there is another part of the Report which I welcome and that is the part which reduces the number of British troops by 25 per cent. It is not clear but I think my friend over there is not quite correct in saying that it is contemplated that Indian troops should be reduced in proportion to the British troops. The proportion of Indian troops to British troops under the scheme contemplated by the Chatfield Committee will be higher than it is at present. Well, that represents a departure from the practice which we have had in this country since the Mutiny and to that extent I welcome this departure. I hope this reduction of 25 per cent. is not only temporary. I hope it has not been necessitated by the war. I hope that this is going to be a permanent feature

[Mr. P. N. Saprū.]
of Indian military organization. I should like the Honourable Mr. Ogilvie to enlighten us fully on this point. Is this reduction of 25 per cent. going to be a permanent feature of our military organization or is it only a temporary feature for the purposes of the war?

Then, Sir, I shall come to another aspect of the Report. The Committee's terms of reference were:

"Having regard to the increased cost of modern armaments and to the desirability of organizing, equipping and maintaining the forces in India in accordance with modern requirements and to the limited resources available in India for defence expenditure, to examine and report in the light of the experience gained in executing the British rearmament programme."

Now, Sir, what is the meaning of these words "modern requirements"? Do modern requirements mean only the mechanization of the Army? Do they mean the reduction of British troops or the reduction of Indian troops? Or do they also mean the officering of the Indian Army? Is an officer an essential part (of course, my friend over there is much more conversant with military affairs than I am)—is an officer a necessary part of the modern army or not? Therefore, you cannot only talk of the men? Who are the men? You talk of the Indian troops as our men. Well, I should also like you to talk of the Indian officers as our officers, as His Majesty's officers. Therefore, I think the Committee have interpreted the terms rather narrowly and they should have said something about the Indianization of the officer ranks of the Army. You cannot expect Indians to go into foreign countries and fight your battles as mere soldiers. If they have got to go to foreign countries, they must go as self-respecting men. If there is to be co-operation (and we desire that there should be co-operation) it must be on terms consistent with the self-respect of India. Let there be no mistaking our position so far as this matter is concerned. We regard the question of the Indianization of the army ranks as fundamental. It is one of those things which will test your sincerity so far as your professions regarding Dominion status are concerned.

There is another criticism which I should like to develop so far as this Report is concerned. This Report makes a distinction between the external security of India and the internal security of India.

One wing of the Army is to be for the external defence of India and it can be sent anywhere, to Singapore or Aden or the Suez and the cost of this Army will have to be borne by the Indian taxpayer. To that extent there is a departure from the Garrañ Tribunal's recommendation. I should like to put India's case like this. I will assume for the moment that India's frontiers are Singapore, Aden and Suez. India's frontier is Aden and India's frontier is the Suez because India is a part of the British Empire. Supposing India were not a part of the British Empire, what would India's frontier be? India's frontier would be India's territories. India would not maintain an army in the Suez or in Singapore unless she wanted some control over the Suez or Singapore. You need control over the Suez because you have got a vast Eastern Empire. You have got not only to defend India, but you have also got to defend Ceylon, Singapore, Burma, New Zealand, Fiji, Malaya and Australia. Do you make your kith and kin of Australia pay for defending them? Is the frontier of Australia in the Suez? Can Australia defend herself without Britain's assistance? Is the frontier

of Australia in Singapore? Can Australia defend herself without your help and co-operation? Can you ask Australian troops to go to Singapore without the consent of the Australian Parliament? Can you compel Australians to fight your battles in Singapore or in Burma or in the Suez without the consent of the Australian nation, and without the consent of the Australian Parliament? If that is so, if you cannot do that, why do you expect a higher standard from the Indians? Our position cannot be higher than, or lower than, that of the Dominions. We, for our part, are prepared to assume all those responsibilities which the Dominions are prepared to assume. But just because you happen to be in a dominating position in India, it is not right for you to take advantage of that dominating position. I suggest in all seriousness that Lord Chatfield's Committee has not looked at this question from the proper point of view. There can be no such thing as an external security troop and an internal security troop. The defence of the Empire is a concern primarily of the British people. So far as we are concerned, as I have said, we are always prepared to co-operate in defending your heritage. But the co-operation that you seek from us must be a real co-operation, and real co-operation you cannot have by imposed solutions. Real co-operation you can have by having a free agreement with the Indian people. Therefore, I confess that I do not like this part of the Committee's recommendations.

There is another point which I would like to press. Is this distinction between internal and external security troops to be a permanent feature of the Constitution? If you contemplate it as a permanent feature then it means that Dominion status within the meaning of the Statute of Westminster has been ruled out, because if His Majesty's Government is to be responsible for the external security of India, if His Majesty's Government can take one wing of our Army anywhere they like, then it follows that His Majesty's Government must be in a position to implement this obligation. It follows, therefore, that at no future time can the position of the Governor General in the new constitution correspond to the position of the Governor General in a Dominion constitution. There will be for all time to come, and that is the meaning of the Chatfield Committee's Report, a dyarchical arrangement so far as the defence of India is concerned. I should like to have a plain answer on this point. Is it contemplated that the defence of India would be the concern of the Indian people alone or is it contemplated that the defence of India would be the concern of the British people with Indians as junior partners? If the answer is that you contemplate a dyarchical arrangement, then I say that you are not sincere in your professions regarding Dominion status, that you want to go back upon the pledge of Dominion status, and the Report has got to be tested not in the light of what it immediately does but of its possible effects on our future constitutional development. It is because I feel that some of its constitutional implications are of a far-reaching character that I cannot describe this Report as satisfactory from the constitutional point of view.

As I have already exceeded my time, I shall not say anything more.

THE HONOURABLE THE PRESIDENT: Does any other Honourable Member desire to speak? Otherwise I will call upon the Government Member to reply.

(No Honourable Member rose to speak.)

THE HONOURABLE THE PRESIDENT: The Honourable Mr. Ogilvie.

THE HONOURABLE MR. C. M. G. OGILVIE (Defence Secretary): Sir, I must admit that I have felt some little difficulty in making any form of preparation for meeting the Adjournment Motion moved by my Honourable friend Pandit Kunzru. It was somewhat difficult to see what was regarded as unsatisfactory in His Majesty's Government's pronouncement. I have listened with great attention to the speech of the Honourable Mover and those of other Honourable Members. To start with, I think I must say that a great deal of their criticism appeared to me to lie completely outside the terms of reference or indeed of the terms of the Adjournment Motion. The terms of the Adjournment Motion were—

"To adjourn the business of the House owing to the unsatisfactory nature of His Majesty's Government's decision on the recommendations of the Chatfield Committee's Report".

How could His Majesty's Government's announcement have been more satisfactory? Would it have been better if they had rejected the Report? Ought they to have given India more money, or ought they to have made no condition at all as to how it was to be spent. The other criticisms turn largely on the constitutional and political side, with which neither the Chatfield Committee nor the Government of India nor His Majesty's Government in this connection had any concern whatever. I noticed that my Honourable friend Mr. Sapru introduced with what I thought commendable ingenuity a new and large term of reference for the Chatfield Committee. He said they should have examined the question of the Indianization of the Indian forces, and he thought the Report unsatisfactory for that reason. The terms of reference before the Committee, I may remind the Honourable Member, were—

"Having regard to the increased cost of modern armaments and to the desirability of organizing, equipping and maintaining the forces in India in accordance with modern requirements and to the limited resources available in India for defence expenditure, to examine and report, in the light of the experience gained in executing the British rearmament programme".

Well, Sir, I have noticed occasionally Committees in this country treating their terms of reference somewhat widely, but I have never seen anything to compare with the suggestion made by the Honourable Mr. Sapru.

Most of the Honourable Members appear to be satisfied with the gift with the exception of Mr. Sapru, who though he says he is thankful, is not very thankful; he thinks it might have been larger. On the whole I think I am right in saying that the country as a whole has welcomed this gift and in my study of public and press comments on it I have come to the conclusion that no decision of the Government of India or of His Majesty's Government has ever had such a favourable reception from all classes of Indian opinion. As has been pointed out in many places, the condition, if condition it can be called, of this gift is in the first place that India should maintain an army armed and equipped according to modern requirements, modern requirements meaning the altered state of, (a) the world situation and (b) the immense advance on the technical side of armaments. These two factors have altered, as the Despatch has shown, the defence problems of India, even as they have altered those of England. I think that no one would deny that

India, however she may be circumstanced either in her present political position or in any other to which she may attain, could not tolerate the presence of an enemy in any of the places to which she may now be called upon to send a small fraction of her forces. She has without doubt the highest possible interest in the integrity of those places, or at least in their remaining in friendly hands. An Honourable Member, I think it was Mr. Hossain Imam, said that Burma was inimical to India and therefore it was not right that a portion of the Indian Army should be sent to Burma if she was threatened. Surely he could not tolerate the presence of an active and powerful enemy in Burma. For India's own sake, not for the sake of Burma, we must regard Burma, as the Commander-in-Chief said in the course of his recent broadcast, as a pistol pointed at the heart of Bengal. That is what it would be in the hands of a powerful enemy. India then has a most vital interest in these places. Her strategical frontiers have been altered by the development of modern warfare and the alteration in the international situation. They no longer can be held to correspond with her geographical limits. Mr. Sapru, I think, asked what would have been the frontiers of India if she were not a part of the British Empire. That is an extremely difficult question to answer. But, however, she might be circumstanced, she could not, as I have said, tolerate the presence of an enemy in any of those places. If she did, she would regret it. Now, India has not been saddled with a responsibility beyond her power to take on. In fact one of the main purposes of the inquiries which have led up to this decision was to save the pocket of India. As my Honourable friend Mr. Kunzru has, I think, realized, India could not possibly find the money herself for forces of the kind envisaged. If she did manage to find it, it would be at the cost of almost intolerable hardship. India is still an agricultural country. For some reasons she may be thankful for that; she still belongs to the pleasant, green, friendly part of the world and not to the world of blast furnaces and slag heaps. But unfortunately it is the industrial part of the world that creates those vast sums of money which are now-a-days required for the purchase of armaments. And it is no use blaming Lord Chatfield's Committee or, I submit, the British Government, for the fact that India is not a highly developed industrial country. Whether a change could take place in India's situation in that respect is not for me to say. The fact remains that she is not, and the idea of setting up aeroplane factories—and in the speeches of several Honourable Members that was a cause of disappointment—is, I think, at present quite impossible. Motor cars even have not yet been made successfully in India, though there is no reason why they should not be if Indian industrialists thought it worth their while to do so. But to start making aeroplanes now and making the enormous engines which are required to drive a modern aeroplane in India would require an industrial revolution of a kind which has never been seen in the world. At any rate it is quite useless for the purposes of the present war to imagine the possibility of any such developments. The most that might be done is the erection of an assembly factory where the manufactured parts, or most of them, could be put together.

As regards what India can do, special stress has been laid in the Despatch upon the necessity for making India fit and self-sufficing as far as possible

[Mr. C. M. G. Ogilvie.]

in munitions production, and I cannot see any cause for censure there. As far as private enterprise is concerned, India is, with few exceptions,—it has one or two and certainly one entirely first class industrial organization—industrially backward. The Indian ordnance factories are, however, admirable and, subject to the over-riding need for economy, they have in the past been developed to the utmost. Machinery of the type required to make armaments is phenomenally expensive. Still India has for long been self-supporting in rifles, light machine guns, heavy machine guns, mountain guns and field artillery guns. These factories have now to be extended and new factories built and everything that India can reasonably produce without expending an excessive sum, which she cannot afford, will be produced in India. Finally, Government is blamed for saddling India with a new responsibility. Government, I submit, has not done that; other countries have done that. To prevent the people of India from being saddled with responsibilities beyond her power to meet to fit India to cope with the danger which she may well be faced with, was the purpose of the negotiations which have now resulted in this decision. All the nations in the world have had to increase their military budget in the last 10 or 15 years, while India has substantially reduced it. There is, I may say, no idea of saddling India with any further responsibility. If the very small force, one-tenth of India's Army, which is liable for external defence, should at any time be exceeded, His Majesty's Government will pay. At present there is an Indian battalion in Aden; that is one of the gates of India and India might well be expected to forego the saving on that battalion at the present juncture, but it is outside the troops which His Majesty's Government have required and they therefore are paying for it themselves. Should therefore Indian troops be called upon to any greater extent for the external defence of India, as now indicated, His Majesty's Government will pay. The small share—it is a very small share—for the defence of these places amounts to a few thousand men—a few thousand men to assist in the defence of a country of 400 millions. Should India be menaced by greater forces than she can provide resistance to, she must of course depend upon the Empire forces; in the places to which she has now sent some troops there are already large British garrisons. Several members made a point about the contribution of Australia to the defence of Singapore. It is not in the terms of the Resolution; but for the information of Members I may say that Australia's fleet which is available to assist in the naval defence of that fortress costs her a considerable sum of money which at a rough estimate is £5 millions a year.

Finally, I feel—and I think the feeling is shared very largely—that India has come extraordinarily well out of this and that she is being extraordinarily generously treated. India has gained in every possible way. The two things which she has been required to do in return for this great gift are to bring her Army up to date and to assume a small share of joint responsibility for the defence of places in which she is vitally interested, in her own interest as well as in that of the Empire as a whole.

(The Honourable Rai Bahadur Lala Ram Saran Das rose to speak.)

THE HONOURABLE THE PRESIDENT: I asked all Honourable Members if they wanted to speak. On an Adjournment Motion you cannot speak after the Government Member has wound up the debate.

The only Motion which I have now to place before the Council is:

“That the Council do now adjourn.”

The Motion was negatived.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: Before you adjourn the House, Sir, may I ask under what rule it is not permissible for non-official Members to speak after the official Member has spoken?

THE HONOURABLE THE PRESIDENT: I think the Honourable Pandit has been sufficiently long in this Council to know that. If he can point out to me a single example, a single instance, from the legislative records here or in the Assembly that a Member was allowed to speak after the Government Member, I shall bow to him.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: Neither in the Rules nor in the Standing Orders is there any provision preventing a non-official Member from speaking after an official Member.

THE HONOURABLE THE PRESIDENT: Even an official Member is not allowed.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: After the Member in charge of the particular business has spoken?

THE HONOURABLE THE PRESIDENT: I know of no such precedent.

The Council then adjourned till Eleven of the Clock on Wednesday, the 20th September, 1939.

COUNCIL OF STATE.

Wednesday, 20th September, 1939.

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 Colonel Neville Godfrey Hind (Nominated Official).

QUESTIONS AND ANSWERS.

INAUGURATION OF FEDERATION.

33. THE HONOURABLE MR. G. S. MOTILAL : (a) At what earliest date, do Government contemplate inauguration of the Federation of India ?

(b) Will the Federation be a federation of the provinces of India alone ?

(c) Do Government contemplate ascertaining through some constitutional channel whether the people of the States favour federating with the provinces of India ?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : (a) to (c). Government have nothing to add to the statement of the position made by His Excellency the Governor General in his address to the Legislature on September 11th.

TOLL LEVIED ON THE RAMGANGA AND KOSI BRIDGES BETWEEN MORADABAD AND RAMPUR.

34. THE HONOURABLE MR. P. N. SAPRU : Will the Honourable Member in charge of Communications state :

(a) Whether in the past toll used to be collected by Railway authorities on the Ramganga and Kosi Rivers between Moradabad and Rampur from private and public conveyances ?

(b) Whether the toll on the Ramganga bridge has been stopped but on the Kosi bridge continues still ?

(c) For how long toll was realized on the Ramganga bridge and for what period it is being levied on the Kosi bridge ?

THE HONOURABLE SIR GUTHRIE RUSSELL : (a) and (b). A toll was levied by the late O. & R. R. authorities on the Ramganga and Kosi bridges between Moradabad and Rampur on public and private conveyances up to July, 1907 when the toll on the Ramganga bridge was discontinued. The toll on the Kosi bridge continues.

(c) The exact dates from which the toll began to be levied on these bridges are unknown but presumably the system was introduced with the opening of the bridges about 1894.

RESOLUTION RE MANUFACTURE OF LOCOMOTIVES IN INDIA.

THE HONOURABLE THE PRESIDENT : Honourable Mr. Kalikar, I confess I have some difficulty in permitting you to move this Resolution but I have given my careful thought to this matter and, though your Resolution is technically barred under Standing Order 69 (I) on account of the debate which took place on Sir Guthrie Russell's Motion the other day on the Report of the Pacific Locomotive Committee. As you are aware, this question was discussed by several Members and vigorous comments were made, still, as a full discussion did not take place and the attention of the Council was not specifically concentrated on this Motion, I permit you to move it.

THE HONOURABLE MR. V. V. KALIKAR (Central Provinces : General) :
Sir, the Resolution that stands in my name runs as follows :

" This Council recommends to the Governor General in Council to take early steps for manufacturing railway locomotives in India."

Sir, I was encouraged to table this Resolution in the last session of the Council on account of some statements made by my Honourable friend Sir Guthrie Russell in his last Budget speech. My Honourable friend then gave the House the information that at Ajmer the B. B. & C. I. R. in their workshops were manufacturing certain locomotives for some of their metre gauge railways. And after listening to that remark, I thought I should table this Motion in this House and I expected that, as the Ajmer Workshops could build metre gauge locomotives, other workshops in India could also build conveniently broad gauge locomotives for Railways in India.

Sir, this matter has been debated in the other House several times. Once there was a discussion when the Swaraj Party was in power and then after that in 1935 there was a discussion on this very subject in the other House and that House gave a decision in favour of this Resolution. After that, Sir, in 1937, 1938 and 1939, several Honourable Members in the other House moved cuts and those cuts on this point were accepted by the House. I propose to give a short history of the policy that has hitherto been followed by Government in this connection.

Sir, this matter first came before the Government in the year 1918. After that, in the year 1921 Government issued a communique on this question. I shall just read a sentence or two from the communique issued in the year 1914 by the Government. They say :

" In pursuance of their expressed policy of making India as far as possible independent of outside sources in the supply of material, the Government of India have had under consideration the question of the construction of locomotive engines and they are now in a position to give a general undertaking that tenders will be invited only in India for all the railway locomotives and locomotive boilers required by Government during twelve years commencing with the year 1923 "

Sir, after that a company was started, namely, the Peninsular Locomotive Co., but unfortunately, for reasons best known to Government, I believe sufficient orders were not placed with the Company or the Company could not manufacture locomotives at competitive prices and they had to give up the manufacture of locomotives and had to take up the work of building wagons. That work also was stopped further and the Government acquired that Company. Sir, since then Government have not made any serious attempts in this matter, though public opinion was quite clear on the point and the other House so many times decided that the Government must make serious efforts in this matter and must set up factories well equipped or must improve their workshops with the addition of certain plant for manufacturing locomotives for broad gauge railways.

Sir, I submit I make this remark that Government were not serious because I find in answer to a question in the other House given by the then Financial Commissioner, Mr. P. R. Rau (now Sir Raghavendra Rau), to this effect that the matter was not under investigation. The actual question asked by Mr. T. S. Avinashilingam Chettiar was :

" Will not the manufacture of broad gauge locomotives be as profitable if manufactured in India " ?

The answer given was :

" The whole point is that we are not conducting an investigation "

The position comes to this that although there were insistent demands from the public as well as from the Central Legislature asking the Government to take serious steps in this matter, Government failed in their duty of taking active steps and making India self-sufficient so far as the construction of locomotives was concerned, and that, in spite of the promises held out by them in the communique which I have just read out and the promises given in the other House that they were making serious efforts. There was a debate in the other House in 1935 on this very question and the two points brought forward on behalf of the Government by the then Railway Member, Sir Muhammad Zafrulla Khan, were that it will not be a commercial proposition for Railways to construct locomotives in India and that unless Railways were able to guarantee the purchase of about 200 locomotives from any company, no company would set up a factory for building locomotives here. So far as its not being a commercial proposition is concerned, I submit that Railways spend much on certain things from which they derive no return. Railways spend about Rs. 2 crores over strategic lines and we, in this House, have so many times insisted upon the Railways that this loss of Rs. 2 crores should be saddled on the Defence budget. But they have not followed that suggestion. I do not understand why, if they can suffer a loss of Rs. 2 crores over these strategic lines, they should not make an attempt to set up a well equipped factory which will enable them to manufacture locomotives in India which will ultimately help the Indian industry and the Indian labour ? Sir, I understand that in England, every railway, big and small, has got its own factory for constructing locomotives. The mileage of English railways is much less than that of ours. If English railways can afford to produce locomotives, I really fail to understand why we should not be able to manufacture locomotives in India for our Railways. I understand that in Russia, Japan and Germany, they manufacture locomotives for

[Mr. V. V. Kalikar.]

their railways. In Japan they manufacture locomotives not only for their own railways but also for sending abroad to other railways. India has got plenty of raw material. In this connection, I wish to bring to the notice of the House the remarks of the Tariff Board which examined this question about 16 years ago. The Tariff Board then remarked that it is a national industry and that it ought to be encouraged by the Government. They examined this question minutely and stated that 50 per cent. of the raw material required for manufacturing locomotives in India is available in India itself. They further stated that labour is available in India at a reasonable cost. Therefore, they stated that if the Railways could give a promise of purchasing a certain number of locomotives, this industry could be helped, and India would gain ultimately.

I now come to the second point made by Sir Muhammad Zafrulla Khan in the debate in the other House in 1935. He said that because Railways cannot give a guarantee of purchasing a certain number of locomotives, it would not be in the interests of the Railways from a commercial point of view to set up a factory. I understand from the Report of 1936-37 that about 8,863 broad gauge, metre gauge and other gauge engines are running on our lines in India. According to the Railway Board, the life of an engine is about 35 years. So, if we indulge in a little bit of mathematical calculation, we find that we require about 253 locomotives per year. The then Railway Member, Sir Muhammad Zafrulla Khan, said in that debate that to start with, we want a guarantee of purchase of about 50 to 60 locomotives per year and that to set up a well equipped factory we require a guarantee of purchase of about 200 locomotives. From the figures of 1936-37 I find that we require 253 locomotives per year. From 1925—1931 the Indian Railways purchased very large numbers of locomotives during the boom period, and when the depression came, they found that many of their locomotives were lying idle, and when they could not find sufficient money to purchase fresh locomotives, they began to repair the old engines and they carried out the work without purchasing the normal requirements which were needed for the Railways in India. In normal conditions, according to the figures given by the Railway Board's Report, we require about 253 locomotives per year. So, if we examine this question from that point of view, I see no ground whatsoever in the case made out by the then Railway Member. Apart from this question, Sir, let us assume for argument's sake that the industry may not really be a commercial proposition in the beginning. But this is an industry which according to me is a key industry for India and deserves to be nursed in the beginning for some years. When this question was discussed in the other House all the Members of that House, Anglo-Indian, Indian and European, were unanimous that this industry must be set up in India to manufacture locomotives for the Railways. As I said before, the Tariff Board came also to the conclusion 15 years ago that 50 per cent. of the raw materials were available in India and you can get labour at a reasonable cost, and therefore this industry requires to be supported.

Then, Sir, if you start this industry in India you will be able not only to give employment to people at present unemployed but you will be helping and giving a fillip to other secondary industries and in times of crisis like this you will not require to indent for locomotives from other countries and you will

be self-sufficient in this regard. Those remarks were made by the Tariff Board 15 years ago. I think since then the conditions in India in regard to production of indigenous materials which may be required for this industry has changed for the better, and that material will be procured at a cheaper price than when the Tariff Board made those remarks. So, considering it from all points of view, I think it is the bounden duty of the Government to move seriously in the matter and take early steps to manufacture locomotives in India.

Sir, I cannot complete my case without reading one paragraph from the Report of the Pacific Inquiry Committee. This was a committee of experts and they say :

"In this connection, moreover, it is well to bear in mind that, for a long time now, the shops at Ajmer on the B. B. & C. I. have been building a few metre gauge engines annually. The work consists of a substantial volume of manufacture in the shops, and the assembly of some parts which are purchased from abroad. We can well envisage the extension of this practice to a certain number of broad gauge engines at one of the major works, such as Jamshedpur on the E.I.R., which, with the necessary additional equipment, should be able to handle such an undertaking".

Those remarks are in my favour. That expert committee says that it is possible for India to be self-sufficient in this matter. I think that steps are being taken by the Government also to investigate this matter. I find from the Proceedings of the Standing Finance Committee for Railways of 18th July, 1939 a remark to this effect :

"The Board have now reasons to believe that the construction of broad gauge locomotives on a limited scale in one of the existing railway workshops in India (suitably extended and modified and equipped with necessary additional machinery, plant, equipment, supervision and labour) may prove to be not unremunerative".

This statement completely solves the difficulty and establishes my case that India has a very good case for establishing locomotive factories in India. I therefore appeal to my Honourable friend not to waste time any more as they have done for the last 20 years but to take up the matter seriously and see that we do manufacture locomotives as soon as possible.

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

THE HONOURABLE MR. P. N. SAPRU (United Provinces Southern : Non-Muhammadan) : Sir, not many words are needed to commend this Resolution to the acceptance of the House. The Honourable Mr. Kalikar has dealt with the question of the construction of locomotives in India in an exhaustive and detailed manner and I do not propose to go over the ground which he has so thoroughly covered. I find that there was a meeting of the Standing Finance Committee on the 15th April, 1939 for the purpose of discussing the purchase of 20 additional XE locomotives for the E.I.R. At that meeting our very esteemed friend the Chief Commissioner for Railways expressed full sympathy with the desire that there should be a locomotive building industry in India and he hoped that they would deal with this question of installing a railway locomotive building industry in India at an early date. The Committee wanted a note to be furnished to them by July, 1939 giving them all the facts and figures up to date and showing how far financially the proposition that locomotives should be manufactured in India would be a success. I find that the

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Railway Board intend to appoint one or possibly two suitable officers on special duty to examine the scheme for manufacturing locomotives in full and to prepare estimates of the expenditure involved in necessary extensions and additional machinery in one or more of the State-owned railways' mechanical workshops and also estimates of cost of construction of locomotives in those shops as compared with market prices. The construction of locomotives in India has been recommended by the Pacific Locomotive Committee's Report also. Therefore, so far as this Resolution is concerned, there should be no difference between us and the Chief Commissioner for Railways. I hope, Sir, that in view of all these facts the Chief Commissioner for Railways will be able to accept the Resolution of the Honourable Mr. Kalikar. He should have no difficulty in accepting it as he is already committed to the investigation of the possibility of having a locomotive industry started on a sound basis in India.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab: Non-Muhammadan): Sir, I rise to support the Resolution. Some time back when Sir Clement Hindley was the Chief Commissioner for Railways, the Railway Board did decide to patronize the locomotive industry in case it was started in India. As a result of that a limited company with a very big capital, called the Peninsular Locomotive Works, was started near the Tata Steel Works. In those days the policy of the Railway Board was undergoing violent changes, and when the Peninsular Locomotive Works started, to the surprise of that company Sir Clement Hindley backed out from his written promise, and the result was that those Works which were started at a very heavy cost had to be abandoned. If I am wrong in this statement, I hope the Honourable Sir Guthrie Russell will put me right. It was claimed by the then Railway Board at that time that in the near future there will not be much demand for new locomotives. But unfortunately or fortunately in the time of Sir Clement Hindley this proved to be wrong and as a result of that hundreds of locomotives were ordered by him including the Pacific locomotives regarding which we had a long discussion day before yesterday. Sir, my information is that even the locomotive works in Britain do not manufacture all the engine parts. It was proved to us that all the heavy axles and the heavy cranks were mostly imported from Czechoslovakia and the locomotives which we got from British firms were not altogether British but had some parts of Continental make. I am glad that the Railway Board under the able guidance of our friend Sir Guthrie Russell have revived this undertaking. I welcome this desirable resolve on the part of the Railway Board and I hope that they now will either revive the defunct Peninsular Works or start locomotive manufacture in their own workshops. In Ajmer locomotives for metre gauge railways are made and they have been found satisfactory. India ought to be self-contained in every respect and it is the primary duty of the Government to help India in making it self-sufficient as perhaps in the present war, we may be faced with a situation in which we will not be able to get spare parts from the Continent or Britain. So, in the interests of the country this industry is a necessity and no efforts should be spared to make it a complete success. I know that the Chief Commissioner will say that it is impossible to make all the parts of locomotives in India. In case that be not possible at present, they can do the same thing as the British firms do,

namely, to import certain parts which are at present being manufactured in England or the Continent. The objective should be that our country should be self-contained and we should be able in the near future to manufacture complete locomotives.

With these words, Sir, I support the Resolution.

THE HONOURABLE SIR A. P. PATRO (Nominated Non-Official): Sir, I do not think that this Government ought to oppose the Resolution, because they have not only made statements before, but they are supported by the expert Committee Report which we discussed the other day on the Motion moved by the Honourable the Chief Commissioner for Railways. The expert Committee definitely were of opinion that manufacture of locomotives in India should be encouraged and they referred to the practice that is existing in some of the Railways by which they could be encouraged to go in for more. Government cannot, in the face of the statements made repeatedly, oppose this proposition. We see that the principle of economic self-sufficiency is the governing principle of all countries today. On the basis of that this proposition has a strong support; but in applying it in practice we shall have to see whether the economic self-sufficiency is really economic in this country. The other day we have been told by the Honourable Secretary for the Defence Department that this country cannot carry on in the matter of manufacture of aeroplanes. He is supported in that by the attempt made in Bombay and elsewhere to start the manufacture of motor cars in India. It was advertized three years ago that they would manufacture the parts here and be able to produce cheaper motor cars. That attempt still remains to be proved. The Resolution before us says "take early steps for manufacturing railway locomotives in India". That would depend upon the results of the experiments made in some of the Railways whether it has really been economic. It is very well to say that labour is cheap here in India and some of the raw material is available near at hand. It is true, but the question is whether we have got the expert skilled labour necessary for the purpose of these locomotives? On this depends the economic value of the manufacture of locomotives in India. I am not satisfied that such skilled labour is easily available at a cheaper rate. That is the proposition. If we get over that difficulty, it seems to me that there is absolutely no reason why locomotives should not be manufactured in our own country because every country now is attempting to be economically self-sufficient. But, at the same time, from the people's point of view we must see that it is really economic in the interests of the people. Therefore, we have to ascertain first whether the manufacture of locomotives in our country will be equally as good as that prevailing in other countries, that is to say, whether the products that we will turn out here, locomotives will be economically equal to the products from other countries. The Honourable the Leader of the Opposition has stated that certain parts are imported from other countries. That is true. If those parts could not be made here, then such parts could be imported from other countries. If therefore an experiment has to be made in this direction it should be made by the Government in order to demonstrate that it is really economic to manufacture locomotives here. The previous statements made by members of the Government and the Railway Board also support this, namely, they do intend that locomotives should be manufactured in India.

[Sir A. P. Patro.]

But the whole question is whether they could be made in India more economically than by importing from elsewhere. Therefore, from the point of view I submit to the House, the question of the main principle of manufacture, there is absolutely no objection and no objection should be raised by the Government. But it all depends upon whether we could have them manufactured much cheaper than imported machines. The real thing is when we have made attempts here in other directions we have not been able to succeed. Therefore, utilize the railway workshop, expand them, equip them more and more, invest more capital in them, import skilled labour from other countries, so that the raw material available here may be utilized by the skilled labour that we may import and if any parts are not available it is a wise economy to import those parts here and manufacture locomotives in our own country. Therefore, an attempt should be made by the Government in order to make an experiment and see how far they could be successful here in replacing the imported locomotives.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU (United Provinces Northern : Non-Muhammadan) : Sir, I am entirely of the same opinion as my Honourable friend Mr. Kalikar in regard to the desirability of manufacturing locomotives in this country. Many discussions have taken place in the Central Legislature in connection with this matter during the last ten or twelve years. I feel, frankly speaking, that the reason, the main reason, why Government did not encourage the building of locomotives in this country was not because the proposition was not economical but because they thought that it would be contrary to the policies which commended themselves to the authorities at the time. However, we know that at the present time the matter is under consideration. This has been stated by the Honourable the Mover of the Resolution and also by Mr. Sapru and Sir A. P. Patro. I think, therefore, that it will be difficult, in view of the investigations that are going on, to arrive at a final opinion just now. Even holding as I do that the standardization which has been pursued during the last 15 years should be of considerable help to us in making the construction of locomotives in this country economical, I think that, as a committee of investigation has been appointed, we shall have no option but to wait till its report is published.

There is just one other matter, Sir, to which I should like to refer before I sit down. One or two Members referred to the Report of the Pacific Locomotive Committee and stated that the Committee had recommended the manufacture of locomotives in this country. I saw my Honourable friend the Chief Commissioner for Railways shake his head when they made this statement. Well, technically speaking, Sir, he is quite correct. The Pacific Locomotive Committee has actually made no such recommendation. All that it has said is that it has considered the practicability of manufacturing locomotives in this country. It devotes only one paragraph to this subject in the whole of its bulky Report. But considering the subdued language employed by the Committee throughout its Report, it would appear to any impartial person on reading the paragraph in which it refers to the construction of locomotives that in its opinion the adoption of such a course would be both feasible and

desirable. Though technically speaking, therefore, the Members who stated that the Pacific Locomotive Committee had recommended the manufacture of locomotives in this country were not correct, I think they interpreted its views quite correctly. They read between the lines of the Committee's Report and arrived very justly at the conclusion that the Committee was in favour of manufacturing locomotives in this country. I suppose it did not make a definite recommendation on the subject because it considered itself precluded from doing so. It was appointed to consider a specific subject and not to make recommendations about railway policy in general.

I hope, Sir, that my Honourable friend the Chief Commissioner for Railways will be able to give a reassuring reply to the House and to tell us that, whatever the attitude of Government might have been in the past, they are anxious now, and especially in the crisis that has overtaken us, to do all they can to make India self-supporting in the matter of the manufacture of railway engines.

THE HONOURABLE SARDAR BUTA SINGH (Punjab : Sikh) : Sir, I wish to give my whole-hearted support to my Honourable colleague Mr. Kalikar. I must say Government in delaying the manufacture of locomotives in India has been delaying really the safety of India. Now that flames of war are threatening the world the short-sighted policy which has prevented development of this industry is apparent. No country is safe which depends for its essential needs on other countries. If India is to be made safe it must immediately develop heavy industry. Government can show the way by starting the manufacture of locomotives. I know our railway workshops are fully equipped. There are engineers capable of building locomotives suited to our special conditions.

The arguments which were often trotted out are without any weight. It is said it is cheap to buy from outside, that the demand is small, and the cost would be high. It is however forgotten that money spent in India would be earned by Indian labour, the material used also will be Indian and its cost represent payment again, to Indian labour. Government could thus increase the source from which its revenue is drawn. By depending on imports, it perpetuates unemployment and starvation of Indian labour.

I believe Government is already engaged in working out a scheme for the manufacture of locomotives. What my Honourable friend perhaps desires is an assurance that within a fixed time manufacturing of locomotives would be started.

Sir, I support the Resolution.

THE HONOURABLE SIR GUTHRIE RUSSELL (Chief Commissioner for Railways) : Sir, with your permission, I would like to move an amendment to this Resolution.

THE HONOURABLE THE PRESIDENT : I understand your amendment is of a qualifying nature practically accepting this Resolution? In that case I allow it.

THE HONOURABLE SIR GUTHRIE RUSSELL: The amendment runs as follows:

"This Council recommends to the Governor General in Council that the Railway Board should take early steps to carry out a thorough investigation into the possibilities of building locomotives in India and to submit a report."

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: Is a period prescribed for the submission of the report?

THE HONOURABLE SIR GUTHRIE RUSSELL: I will tell you when we expect the report later on.

THE HONOURABLE THE PRESIDENT: In the Resolution itself there is no mention of the time. The words used are "take early steps".

THE HONOURABLE SIR GUTHRIE RUSSELL: I would like to explain the reasons why I am not able to accept the original Motion. In the present state of the world, even if the Resolution were accepted by Government in all other respects, I am afraid there might be considerable delay. Honourable Members are aware that the British Government is preparing for a three-year war. So, I think we would have to miss out the word "early". Further, it is hardly possible for Government to commit itself to quite such categorical terms as are contained in the Resolution without investigating the financial possibilities—

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Can't you substitute "as soon as the war is over" instead of "early"?

THE HONOURABLE SIR GUTHRIE RUSSELL: I should like to assure Honourable Members that not accepting this Resolution is not on account of lack of sympathy on the part of Government. I can assure them that there is no difference of opinion whatsoever between them and Government as to the desirability of building locomotives in India.

The Honourable Mover and certain other Honourable Members have gone into past history. I do not think it is necessary for me to go further into this. So, I propose to confine my very short remarks to the present and the future. At the moment, in fulfilment of a promise given to the Standing Finance Committee, we have a committee investigating the possibilities of building locomotives in India. As my Honourable friend the Mover has stated, there have been various other investigations, but I think possibly the Railway Board have been guilty of thinking in too grandiose a way. In other words, the idea was to have a new locomotive building shop. Now, the idea is to start at any rate with an extension of one of our existing shops, start off with, say, 50 locomotives a year and 100 boilers, and designing the shop so that it can be extended as our requirements increase. That is the basis on which this investigation is being carried out. There is no question, from a practical point of view, that locomotives can be built in India but finance has got to be considered. If we started building locomotives today, we would have to import acid steel boiler plates, wheels and axles, copper tube plates and boiler tubes. I understand, however, that within two years it will be possible to obtain acid steel in India for boiler plates, and it will be possible to obtain acid steel for wheels and axles, and that wheels and axles will actually be manufactured in India. I have great hopes of being able to take up the question of boiler tubes also. The difficulty there is this. The quantity required is small and it will be difficult for any factory to set up which could live on our requirements. But I believe even

that will come in the future. As regards copper tube plates, there is no reason whatsoever that copper of sufficient purity should not be manufactured in India. But that, I think, is a matter for the future. Now, my Honourable friend Pandit Kunzru asked when this report will be submitted. I think I can promise the House that the report will be in our hands by, say, January. If my forecast is correct, what I propose to do is to place the report on the table of the House and to ask that Government should give the House an opportunity of discussing it. I have every hope that the discussion will be a very short one and that the report will be a recommendation to start building locomotives in India, in which case there will be no dissident whatsoever. That is, of course, only my prophecy, but I can assure Honourable Members that the report will be sympathetically considered. As you know, at present Government give preference to stores of Indian origin. I have little doubt that Government will also be prepared to stretch a point to start the building of locomotives in India. In other words, they will be prepared to give a reasonable price preference. If the House accepts my amendment, I shall have the report placed on the table of the House and I shall ask for time for the House to discuss it.

THE HONOURABLE THE PRESIDENT: Amendment moved:

"That this Council recommends to the Governor General in Council that the Railway Board should take early steps to carry out a thorough investigation into the possibilities of building locomotives and to submit a report."

* Honourable Mr. Kalikar, do you accept this amendment?

THE HONOURABLE MR. V. V. KALIKAR: Yes, Sir.

THE HONOURABLE THE PRESIDENT: Then no further discussion is necessary.

THE HONOURABLE MR. V. V. KALIKAR: I should like to make a few remarks, Sir. I gladly accept the amendment proposed by my Honourable friend Sir Guthrie Russell, and I hope now that the indifference that has been shown for the last 15 years by the Railway Board will be given up, and that serious attempts will be made to bring the report before the House as early as possible and effect will be given to the remarks which my Honourable friend has just made, and that it will be possible to manufacture locomotives in India within a few years' time.

Sir, my Honourable friend Sir A. P. Patro raised a point which I want to clear up. He said—if I followed him correctly—that it has to be investigated whether we can manufacture locomotives in India as cheaply as we can get them from abroad. I can assure him that from the Government reports I find that so far as the manufacture of metre gauge locomotives are concerned, the reply of the then Financial Commissioner for Railways, Mr. P. R. Rau, was that they have been able to manufacture locomotives as cheap as, if not cheaper than, the locomotives from abroad. That clears any suspicion that may be in my Honourable friend's mind that we shall not be able to manufacture locomotives as cheaply as we can get them from abroad.

My last request is this. The Honourable Sir Guthrie Russell has stated that a Committee has been appointed. I am rather afraid owing to past practice. I hope that they will consider this question very seriously and

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sympathetically in the interests of India and make recommendation that locomotives should be manufactured in India.

With these words, Sir, I accept the amendment.

THE HONOURABLE THE PRESIDENT: Resolution moved:

"That this Council recommends to the Governor General in Council that the Railway Board should take early steps to carry out a thorough investigation into the possibilities of building locomotives in India and to submit a report."

Question put and Motion adopted.

RESOLUTION RE INDIANIZATION OF THE INDIAN MEDICAL SERVICE.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU (United Provinces Northern: Non-Muhammadan): Mr. President, I beg to move:

"That this Council recommends to the Governor General in Council to take immediate steps to Indianize the Indian Medical Service".

Sir, this matter has been the subject of repeated enquiries by Government and numerous discussions in this House, but, unfortunately, Government have not yet arrived at a conclusion satisfactory to the people of this country. Before, however, I deal with the questions involved in the consideration of my Resolution, I should like to point out briefly what the system of recruitment to the I. M. S. was before the Great War and to what extent Indians succeeded in the examination that took place at the time. Till the war broke out, officers were recruited for the I. M. S. by a competitive examination held twice a year. During the war, however, this system was changed, the last competitive examination having been held in 1915. Sir, the Indian students laboured under great difficulties at the time because it was necessary for them to proceed to England in order to take part in the examination of which I have spoken.

12 Noon. Apart from that, I believe they had to stay there for some time and to receive a certain amount of training before they could appear for the examination. Yet their number went on slowly increasing. According to the Islington Public Services Commission, the percentage of successful Indians was 17 in 1912, 33 in 1913 and 40 in 1914. I should like the percentages in the year 1913 and 1914 to be borne in mind by Honourable Members in considering the ratio fixed for Indian recruitment to the I. M. S. at the present time. During the war, as I have said, the system of holding competitive examinations was done away with and after the war such officers as were required were secured by means of nomination. So far as Indians were concerned they got annual commissions. They had no prospects before them and they were in a markedly inferior position to that accorded to European officers recruited to the I. M. S. This state of things continued till 1928. It was then decided to fix a ratio for British and Indian recruitment. The Secretary of State's decision was that the proportion between British and Indian officers should be as 2 to 1. It was also decided at the time that certain districts should be reserved for Europeans. Now under the orders of the Secretary of State only one-third of the annual recruitment can be Indian. But I have already pointed out that while the competitive examination was going on the proportion of successful Indians, notwithstanding the serious difficulties under

which Indian competitors laboured, was steadily increasing and that in the year 1914 it amounted to 40 per cent. In restricting the Indian proportion therefore to 33½ per cent. the Secretary of State instead of advancing our position really pushed us back.

I know that when the number of successful Indians began to increase the European members of the I. M. S. in the various provinces raised an outcry against the method of recruitment existing at the time, but we hoped, particularly after the war, that His Majesty's Government, who were fully cognizant of the part taken by India in it, would do nothing which would conflict with the natural demands of its people and which would in any way retard the progress which they had achieved before the war broke out. But our hopes turned out to be ill-founded and as I have already said, not merely were the Indians given a lower proportion than they had been able to obtain through the competitive examination in 1914 but certain districts were reserved for Europeans.

The principle of reservation, of discrimination between Indian and European members of the Service was for the first time introduced in 1928, and the districts that were reserved for Europeans were the best districts from the point of view of private practice. Indians therefore had a double grievance in the matter, but so far nothing, or practically nothing, has been done to redress these grievances.

At the present time European members of the I. M. S. are selected in England and Indian members in India. New entrants from among Indians receive short service commissions for five years, but it was said either in the Resolution issued by the Government of India in 1937 or the press communique published in connection with it that it was intended that about 70 per cent. of the holders of short service commissions should be given permanent commissions. The remainder would be retired with a gratuity of Rs. 4,500 and might be required, if considered suitable, to join the Army in India Reserve of Officers for a period of 15 years. Now the terms for British officers so far as short service commissions go are a minimum service of six years and a gratuity of £1,000 or a service of 12 years and a gratuity of £2,500. Every effort is made to retain the British officers permanently, but they have the option of retiring before completing their service and the gratuities that I have mentioned would apply in case a British officer decided to retire either after serving for between six and 12 years or after completing 12 years' service. When this scheme was instituted there was great difficulty in obtaining the number of European officers desired, but although considerable difficulty was experienced in getting British officers, liberal terms were offered in order to secure them, instead of welcoming the competent Indian doctors who were willing to offer themselves for service in the I. M. S. Government were prepared to go to any length in order to secure European officers rather than increase the proportion of Indian officers in the I. M. S. At the present time I understand that British officers in the I. M. S. as a rule elect to remain in it permanently. The old trouble therefore no longer exists. But it has been done away with only at our expense.

Sir, this state of things continued till 1937. As I had occasion to point out in connection with my Adjournment Motion regarding the reorganization scheme of 1937, Indians had two grievances in connection with the

[Pandit Hirday Nath Kunzru.]

Indian Medical Service. One was that its cadre was unnecessarily large and the other that the share accorded to Indians in it was extremely small. Now, so far as the reorganization of 1937 is concerned, it reduced the strength of the I. M. S., but it did nothing to give us satisfaction on the second point mentioned by me, and this is a matter of great importance. Suppose Government had gone further than they did in 1937 and reduced the number both of British and Indian officers but kept the proportion fixed in 1928 still intact, we would have been justified in protesting against the discrimination observed between European and Indian officers. It is not merely the question of posts that concerns us. We are concerned also that there should be no discrimination in any branch of the public service against citizens of this country and that they should be given the fullest opportunities of entering every Service up to the extent of their qualifications. I will give an illustration in order to enable Honourable Members to understand fully what I have in mind. So far as the number of posts goes, everyone knows that the number of Assistant Surgeons is greater than that of the Indian Medical Service Officer. Yet we have been asking for more than 50 years for full and unrestricted opportunities, for admission to the Indian Medical Service. Take another illustration. The number of I.C.S. officers is very limited compared to that of deputy collectors and tahsildars; yet we have asked, and rightly asked, during the last half a century and more that the Indian Civil Service should be completely Indianized. The strength of a service has therefore absolutely no connection with our claim for the entry of Indians into the higher services to the fullest possible extent. Now, in this respect the reorganization scheme of 1937 did not remedy our grievance in the least, nor did it do anything to remove our complaints with regard to the reservation of districts for Europeans. The reservation was reduced, but so far as my province, the United Provinces, is concerned, the most important districts still continue to be reserved for Europeans.

THE HONOURABLE MR. P. N. SAPRU: And the most inefficient men also.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: Well, I never go to either Assistant Surgeons or I. M. S. officers; I can say nothing therefore from personal knowledge about their medical efficiency.

There are two facts that I should like to impress upon the attention of the House in this connection. I have already stated that the subject has been repeatedly discussed in this House during the last 10 or 12 years. Perhaps I should be more correct in saying that the desire that Indians should enjoy unfettered opportunities of entering the I. M. S. has found expression in different forms in this House since 1925. In 1930 when a Resolution in this connection was moved in the Legislative Assembly, the Assembly resolved with the support of the European members that simultaneous examinations should be held in England and in India for recruitment to the I. M. S. This point, Sir, has an important bearing on what I shall say hereafter. Another point which I should like to lay stress on in this connection is the Report of the Services Sub-Committee of the Round Table Conference. There were differences of opinion on certain points between the members of the Committee;

there were certain points on which European and Indian members differed, but there was complete agreement on one point and that was the undesirability of reserving districts for members of the I. M. S. according to the race to which they belonged. Government have not given effect, however, either to the Resolution passed unanimously by the House in 1930 or to the unanimous recommendation of the Services Sub-Committee of the Round Table Conference in regard to the undesirability of reserving districts for either British or Indian officers in the I. M. S. I should like to say just one thing more before I proceed to deal with other points. I have already stated that the provinces are required to employ a certain number of European members of the I. M. S. In order to complete the picture I should say that they are required to employ 38 Indian members of the I. M. S. also but not as Civil Surgeons. But this does not in any way obviate the complaint that I have made with regard to the reservation of certain important civil surgeoncies for European members of the I. M. S.

Now, Sir, we naturally ask ourselves what are the reasons which led to the adoption of the policy against which we have been protesting since 1928. Is it that Indians in the requisite numbers or possessing the requisite qualifications are not forthcoming? Or are they unwilling to take upon themselves the liability of serving in the Army in India Reserve of Officers for 15 years? Is war service distasteful to them? The answer to these questions is emphatically in the negative. So far as the willingness of Indians to render war service is concerned, it was demonstrated by them during the Great War. Government required a much larger number of medical officers than could be provided by the I. M. S., taking it both on its civil and military side, and I believe they had to employ more than a thousand Indian doctors to satisfy their needs. This being the case it cannot be maintained even for a second that Indian officers are averse to rendering service during the war. Nor are they unwilling to join the Army in India Reserve of Officers. No one who has any experience of the subject will for a moment doubt not merely the willingness but the enthusiastic desire of Indians to join the medical category of the Army in India Reserve of Officers.

Now, what about the qualifications of the Indian officers whom Government have so far been able to secure? Sir, I should like to refer here to a remark made by Major-General Sprawson, the Director General of the Indian Medical Service, in this House in 1934. He said:

"The Director of Medical Services is satisfied that they make good officers and I, as Director General of the Indian Medical Service, am satisfied that they are excellent doctors. They are as good as we can possibly hope to get. These young Indian officers that the I. M. S. is now getting, the I. M. S. are not only glad to receive them, but they are human material of which the country may well be proud".

Nothing, Sir, could be more conclusive on this point than the glowing testimony paid by the Director General of the Indian Medical Service to the qualifications of the Indian doctors. Apart from this, Sir, if we turn to the list of medical officers we find that in a good many cases, of course in recent times, the qualifications of the Indian officers are somewhat superior, speaking cautiously, to those of their British colleagues. Last night I took up the *Indian Army List* and looked up the qualifications of the Indian holders of short service commissions and I found that a number

[Pandit Hirday Nath Kunzru.]

of these officers—no less than eight—were F. R. C. Ss. of England. (*An Honourable Member*: “Out of how many?”) I am afraid I cannot tell you the total number of these officers holding short service commissions, but it is not large. But the fact that I have pointed out shows how good the qualifications of the Indian officers are. And indeed, Sir, you do not need to look at the *Army List* or any other List to know how high the qualifications of the Indian members are. Anyone who goes about the country and meets Indian doctors can see for himself what keenness there is among Indian medical practitioners for receiving the highest education that they can get in the Empire. There are a number of private practitioners in many places, for instance, in Bombay, who possess qualifications of which any Medical Service might be proud. It is, therefore obvious, Sir, that it is, not the dearth of material that has caused Government to adopt the racial policy against which I am protesting now and against which the Indian Legislature has repeatedly protested during the last 14 years.

What are the real reasons then for the adoption and obstinate maintenance of this policy? The reasons are two. First, the requirements of the members of the Superior Services and their families, and second, the requirements of British officers and troops. Now, I shall take, Sir, the second point first, that is, the requirements of British officers and men. The first point that I should like to mention in this connection is that the Army Secretary, in answering a question in the Legislative Assembly on the 7th September, 1928, explained in reply to a supplementary question put by me why a War Reserve of British officers was needed in the I. M. S.? He said this was necessary (and these are his own words)—

“because in time of war there is no reserve for the R. A. M. C.—the I. M. S. provides a reserve for the R. A. M. C.”

Now, I should like to know, Sir, to what extent this statement is correct, for I. M. S. officers assure me that in the last war they were never called upon to look after British troops. Well, if this statement is correct, the first statement cannot be correct. The two statements are conflicting and both of them cannot be correct at the same time. I should, therefore, like to ask my Honourable friend opposite to clear up the point when he gets up to speak. I should in this connection also like to draw his attention to a remark made by His Excellency the Commander-in-Chief, Sir Philip Chetwode, in this House in 1935. Referring to the remarks made by Major-General Sprawson he stated with approval that—

“as long as we have Europeans in the Superior Services in this country and British troops in this country, they demand a certain proportion of medical officers of their own race to look after them and especially after their wives and children. I personally think that they overdo that a bit and I think before very long they will find that the Indian medical officer is as good as their own. But it is an inescapable fact that we have to supply, the Secretary of State has to supply, a certain number of British medical officers with a view to looking after the Superior Services and the Army”.

It appears from this statement also that officers of the I. M. S. are required to look after British troops. Well, this is rather puzzling. The British troops have got their own medical organization. The War Reserve required for the R. A. M. C. is obtained from the civil medical practitioners in England. When

war breaks out, I take it that the British troops that form part of the Indian establishment, if sent out for war service, would receive a reserve of R.A.M.C. officers from the pool maintained in England. Why is then, Sir, a war reserve for the R.A.M.C. maintained in the I.M.S.? It may be that some time will elapse between the outbreak of war and the receipt of the necessary number of R.A.M.C. officers, but is that a sufficient reason for basing permanent recruitment to the I.M.S. on racial considerations? You not only require a large reserve for the R.A.M.C. in the I.M.S. but you also shut out Indians from some of the best posts in the I.M.S. for this reason. Can injustice go further? Such a policy and such a system of administration are perfectly intolerable. If a reserve is needed for the British Army, then, during a war at any rate, when we are called upon to render full and unconditional support, the British themselves should change their angle of vision and not insist on racial considerations to which they cling obstinately, but the slightest manifestation of which they deprecate strongly in others. At present we are involved in a serious crisis. I hope, therefore, that Government will reconsider their policy and appeal to their officers and men, if they really have the prejudices attributed to them to give them up and to act in such a way as to bring about that comradeship which will be in the best interests both India and of England.

Just one word more, Sir, and I have done. Taking the Service in its two aspects, military and civil, I find that on the military side there are 220 British and 144 Indian officers. That is, the proportion of British to Indian officers is as 3 to 2, or 40 per cent. of the officers on the military side are Indians and 60 per cent. Britishers. On the civil side, however, there are 166 British and 54 Indian Officers, i.e., three European officers to one Indian officer. Of these, 77 British and 50 Indian officers will be liable to be recalled in time of war. What is the justification for the maintenance of such a system? I cannot understand why the proportion of Indians in the Service as a whole should be restricted to 33½ per cent. when, on the military side, they may have to attend to British military officers 40 per cent. of the officers are Indians.

I shall not say much with regard to the civil side of the Service—

THE HONOURABLE THE PRESIDENT: Will you please conclude your remarks now? I have already allowed you 10 minutes extra time on consideration of the importance of the subject.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: I am not dealing at length, Sir, with the civil side. I will only say that Britishers are consulting Indian doctors all over India. The European members of the Superior Services may take up any attitude they like, but if you go to any important city, e.g., Allahabad, Lucknow, Bombay, Madras, Karachi or Calcutta, you will find plenty of Europeans going to Indian doctors. If this is the state of things in the country at large, what excuse can there be for maintaining a certain number of European doctors in the I.M.S. in order to attend to the medical needs of the British officers and their families?

Sir, I think I have shown successfully the need for an immediate change in the policy that has so far been followed by Government. Sir Philip Chetwode

[Pandit Hirday Nath Kunzru.]

recognized in 1935 that the British officers were "over-doing it". The Secretary of State has issued new rules with regard to the I.M.S. Under these, there will be no formal reservation of posts for Europeans or Indians, but the Education Secretary said the other day in the Legislative Assembly, in reply to a question that the old system will nevertheless be maintained. Sir, I have brought these questions repeatedly to the notice of Government, but so far they have brought forth no result. I trust that, if for nothing else, at any rate in order to show on their part that loyalty to and concern for the interests of India which they want us to have for the interests of Great Britain, they would speedily change their policy and realize that the best security of the Empire lies in co-operation on an equal footing between the members of the different races inhabiting the Empire.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan) : Sir, I rise to support the Resolution the subject-matter of which has been so ably dealt with by the Honourable Pandit Kunzru. There was a time when Indians in the medical line were not comparable to British I.M.S. doctors. Then perhaps it was justified that in the I.M.S. abler doctors should be imported. Now conditions have entirely changed and we have as efficient Indian doctors as good as British doctors. There is a very large number of Indians as Fellows of the Royal College of Surgeons and Members of the Royal College of Physicians. In the good old days this was a rare qualification for Indian doctors to possess. Notwithstanding this change, I deplore that recently the Secretary of State for India had to change the policy and to lower proportions of the Indian I.M.S. as compared to the European I.M.S. Instead of increasing Indianization, he thought it wise to de-Indianize for reasons which are not sound. In any important district where the European population was numerous, the European officers did not put confidence in the Indian I.M.S. Civil Surgeon there, and the result was that in such places a British medical officer was engaged to treat Europeans. Confidence begets confidence. I can say in this connection that this was done in Lahore although the British officer was much junior in service and in qualification to the Indian I.M.S. Lieut.-Colonel who was the seniormost in the I.M.S. cadre in the Punjab. Sir, I do not welcome that mentality at all. We must encourage comradeship amongst each other and see that no racial discrimination is allowed. It is a pity that the Government of India itself started such discrimination themselves. As my friend Pandit Kunzru has said, in many places Indian doctors enjoy a much better practice than their I.M.S. brethren do there. I have experienced that personally. When I took my brother to Calcutta for treatment by experts I went to the leading I.M.S. officer there who began to treat him and one day he said that he would like to consult a certain Ayurvedic physician. When I asked him why he wished to consult the Ayurvedic physician he said he was equally good, if not better, and wanted to have his views on this case. And I was astonished to find that the fee of the Ayurvedic doctor was Rs. 64 for a consultation as compared with Rs. 32 charged by the I.M.S. Colonel. When this is the case there is no necessity whatsoever of confining the treatment by the British I.M.S. for British officers. There are British regiments in India and there are R.A.M.C. doctors meant for their treatment, and in the case of any British officer who desires to be treated by a British doctor, he can always get an

R.A.M.C. man. But, Sir, we cannot tolerate the policy of racial discrimination by the Secretary of State. Instead of the proportion of Indian I.M.S. officers being increased it has been decreased, and that has been the cause of great resentment amongst Indians. Then there is differential treatment in the matter of salaries, allowances, period of short service, and so on. These discriminations ought to be removed and the proportion ought to be revised forthwith, if full Indianization is to take a little time longer. Now that there is a big supply of highly qualified Indian I.M.S. doctors available I should suggest that a competitive examination with reserved posts for various communities should be the source of supply in future. The best talent available should be secured and there should be no favouritism at all in the matter of selection of medical officers. I have already related here how all I.M.S. officers are not of equal qualifications. It is not always the man who tops the list in an examination is the best doctor but from our experience, generally speaking, sometimes juniors who compete in such examinations do better than the seniors. Therefore I would recommend that the competitive examination should be reintroduced. Even in the I.C.S. certain people whose names I need not mention were rejected by both the executive and judicial sides were those who had not got in by competition but by selection or nomination. But because these people are under covenant their services cannot be dispensed with, although the public have a great grouse in this matter. In the Punjab we have a few such nominated officers, the general view is that the system of nomination without competition should be discouraged and vacancies be filled up to make up communal proportion from the candidates who pass in the competitive examination.

Sir, before I sit down I should like to mention, that so far as the Defence Department Reserve is concerned, the expenses on that Reserve ought to be borne by the Defence Department and not by the Civil.

With these words, Sir, I fully support the Resolution moved by Pandit Kunzru.

THE HONOURABLE MR. P. N. SAPRU (United Provinces Southern : Non-Muhammadan) : Sir, the Honourable Mr. Kunzru has dealt with the subject-matter of the Resolution with the thoroughness which is so characteristic of him. I do not propose to go into all the arguments which he has advanced. I shall content myself with making certain assertions which I know to be true. It cannot be said for a moment that qualified Indians are not forthcoming for the I.M.S. The standard of efficiency so far as the Indian doctor is concerned is very high and if you were to stop recruitment for the I.M.S. in England the efficiency of that Service would not suffer at all. As a matter of fact, and I say this from personal experience, I claim to have knowledge as a lay doctor ; I have been interested in medicine as a hobby, having been a patient for a number of years—I say that as a matter of fact the Indian doctor is infinitely superior to the British doctor today in this country. In the United Provinces you cannot mention a single I.M.S. officer today who can compare with the Indian physicians and the Indian surgeons in the King George Medical College. If I wanted to have an operation I would not think of going to Colonel so and so or Major or Captain so and so. I would go to Dr. Nigam or Dr. Bhattiya or to Dr. Mathur of the Lucknow Medical College. I know no one in the I.M.S.

[Mr. P. N. Sapru.]

in my province who can compare with them, and I should be sorry for my European friends who selected some European I.M.S. officers in preference to these eminent Indian doctors. If I wanted to consult some physician I would not go to any Major or Colonel so and so; I would go to Dr. Sahai of the Lucknow Medical College or I would go to Dr. Vyas, who is the personal physician of the Leader of the House and to whose ability and eminence as a physician the Leader of the House can himself testify. There was a time when we had in the I.M.S. European doctors of great eminence. We had men in the I.M.S. in our province of the eminence of Colonel Sprawson, Colonel Burke, Major-General Megaw, Colonel Close in Allahabad, we had Major Alexander who has retired from the I.M.S.; we had these men at one time in our province, but that time has gone and when I look up the *Combined Civil List* of my province I find that we have got 19 I.M.S. officers on the civil side. Of those 19 medical officers, four are Indians; you have got 15 European officers. Now of those 15 European officers I think one only has a superior medical qualification. The others have the qualifications L.R.C.P., M.R.C.S. and M.B., B.S. I do not think that they have any very high diploma qualifications either. That, Sir, is the pass to which the I.M.S. has come to. Why has there been this deterioration in the quality of the I.M.S.? The deterioration in the quality of the I.M.S. is due to the fact that you have substituted nomination for competition. You have substituted nomination for competition because you want to preserve certain proportions, because you think that the Indian who goes to England and takes the M.R.C.P. or F.R.C.S. may beat the European in open competition. You want to have a certain proportion of Europeans in the I.M.S. Therefore you say, "Well, we must have nomination" and if that is the basis upon which you base your service, then inefficiency is certain to occur. I am rather sorry that I should have to make this criticism of a Service which has in the past a distinguished record of service in this country and which has given us some very eminent men like Sir Lionel Rogers, a world figure. It is no pleasure for me to talk in this strain of this great Service, but it is a fact. If I want to consult somebody, I have got to go to private practitioners. I would not think of going to an I.M.S. officer. The fact of the matter is that you only think of the few hundred Europeans or the few thousand Europeans who are serving in this country and you do not bother about the needs of the civil population at all. The Indian civil population consists of about 350 million people. Their needs do not concern the Government of India or His Majesty's Government. What interests them is—

THE HONOURABLE THE PRESIDENT: They do not go to doctors; they resort to quacks.

THE HONOURABLE MR. P. N. SAPRU: I am always opposed to quacks, but my Honourable friend Mr. Kunzru will not agree with me. If I had my way I would not let a single hakim, vaid or homoeopath to practise in this country, because I only believe in scientific medicine. I would rather die at the hands of a scientific physician than live at the hands of a quack.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: The two things required are the maximum amount of medicine and death in the end.

THE HONOURABLE MR. P. N. SAPRU: Therefore I suggest in all earnestness that the question ought to be revised. Our European friends do not hesitate to consult Indian doctors when they want to have efficiency. I know of European friends who have had themselves operated by Indian surgeons and they have had themselves operated upon by Indian surgeons in preference to British surgeons. They did not want to die; they wanted to live. In a service of this character, which is essentially a humanitarian service, which is essentially a professional service, there ought to be no racial discrimination. Today unfortunately in the I.M.S. you have racial discrimination in its worst form. It cannot be said that the Indians in the I.M.S. are not as efficient as the Europeans in the I.M.S., and yet in my own province I find that the best districts are reserved for the Europeans in the Medical Service. Now, I do not envy my European friends who prefer less qualified European doctors to more qualified Indian doctors. If I were a patient and I wanted to get well, I would go to anyone. I would not bother as to what his race was or his religion was. I would not bother as to what his country was. I hate Germany and Italy more than I hate any country, but if I could go to Germany for a cure I would go because my first concern would be to get well and I must get the best medical aid I can. That ought to be the mentality of any decent patient and I say that ought to be the mentality of our European friends also. They should realize that Indian medical men have now reached a high standard of efficiency and therefore it is not necessary for them to insist upon a certain proportion of European medical men. It is said that the Indian does not understand the habits and customs of the Englishman. Does the Englishman understand the habits and customs of the Indian? The Indian knows more about the diet of the European than the European knows about the diet of the Indian, and so far as the pathological and bacteriological examinations are concerned Indians can do those examinations, as also X-Ray examinations just as well as the European doctor. Therefore, Sir, I have not been able to understand what justification there is for maintaining the I.M.S. in its present form. But you say that this is essentially a war service and you want these men as a reserve for war purposes. Now, Sir, reference was made by the Honourable Mr. Kunzru to our experience of the last war. There were certain very distinguished I.M.S. men who gave a very good account of themselves in the last war. I believe one of them was specially mentioned in the Mesopotamian Despatch, Colonel Bhola Nath; and the last war also showed that the Indian had capacity for service at the front. Therefore, it cannot be said that you want these men because you want a war reserve. The obvious explanation is that you want—to put it in the bluntest manner possible; I hope I will not be offending the susceptibilities of my English friends—the fact of the matter is, you want these men because you want to find some jobs for your own people at home. I think the interest of the Commonwealth, both Britain and India, require that this question should be approached from a broader point of view. It should be approached from the point of view of what is good for this country, it should be approached from the point of view not only of the few European officials that we have in this country but also of the vast masses of the people of the country.

With these words, Sir, I give my support to this Resolution.

The Council then adjourned for Lunch till Half Past Two of the Clock.

The Council re-assembled after Lunch at Half Past Two of the Clock, the Honourable the President in the Chair.

THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Oriassa : Muhammadan) : Mr. President, the Resolution which Mr. Kunzru has just moved is timely. The need for Indianization of this Service has been urged many a time. There is no need to recapitulate all the reasons which have been advanced in this connection formerly. But I should like just to mention a few of the reasons which prompted the bringing forward of this Resolution again after the lapse of about two years. Sir, it is an admitted fact that in the I.C.S. and other Central Services the number of Indians being employed is on the increase. The reason for reserving a certain amount of the personnel of the I.M.S. for Britishers was because Britishers in Superior Services wanted to have men of their own race to look after them. The formula is not acceptable to us. And even Europeans of the eminence of Field-Marshal Sir Philip Chetwode have admitted that the thing is being overdone. But whatever may be the reasons, on account of the fact that you have more men in the Civil Services who are Indians, you should employ a lesser number of Europeans in the I.M.S.

Then you have to admit, Sir, that in the officer ranks of the Army you are taking every day Indians from the Indian Military Academy. You have thrown open the doors of ancillary services to Indians which were formerly closed. All these things should be taken into account. Added to that, Sir, the recent announcement of His Majesty's Government revising the personnel of the British Army in India is an additional reason for you to revise the number of Britishers that you require as a war reserve. Your argument when this matter was discussed last was that the number of British I.M.S. officers really act as a war reserve to look after the officers in the Army in India. You do not require these European I.M.S. officers as a war reserve for the British troops alone because they are expected to have a war reserve outside too. But even in the Indian Army you are going to reduce the number of Indian forces as well. Taking all this in view, there is bound to be a great decrease in the number of European officers in the employ of the Government of India both in the Army and on the Civil side.

Then, Sir, you should also consider the possibility of keeping a war reserve in England just as His Majesty's Government is doing in the case of the R.A.M.C. Private practitioners, if they get a retainer during peace time with a liability to serve whenever their services are required, could be maintained at a much cheaper rate than keeping a fixed personnel for all the time and all the year round. Short service has its advantages as well as its disadvantages. You get a greater reserve by having short service but you lose on the other side, that you do not have the same amount of experienced hands as you would have if you had a longer term of service. Whilst most of the European officers are put on a continuous service or on a service which would extend to a greater period, the Indians are all of them practically on a short service basis. The present formula which has been evolved for the I.M.S. officers errs in keeping a very high percentage of European officers to Indians. The proportion, Sir, is 386 British officers to 198 Indian officers. That proportion Sir, of two to one,

was never correct but at the present moment it appears glaringly incorrect when we regard that in the Army the proportion of British troops to Indian troops in future is going to be about one to three. Furthermore, Sir, it should be considered whether in fairness it is just and equitable that people should be trained at the cost of the Indian exchequer and when they have become more competent on account of short services they should not be available to the people of India and those who pay for them. This is one of the disadvantages of having a short period of service.

I should like, Sir, to urge on the Government to reconsider the matter. The fact that it has been considered so recently as the 25th of March, 1937 should not stand in the way of the Government revising its policy if there are adequate reasons for it. The world is moving at too fast a pace. Years have lost their significance if you look at the changes which take place in the world. Within the space of barely two years the face of Europe has been changed enormously, changes which would not have taken place in the old days and which were not contemplated, have taken place rapidly. Therefore, I appeal to Government not to stick to the fact that this matter has been once looked into and it is only two years and there is nothing to bother about. That sort of feeling will not help you to solve this problem. The problems, whenever they arise, no matter how soon they arise, must be looked squarely in the face. It is the duty of the Government to do all in its power not only to convince itself but to convince those whom it has to govern, that whatever it is doing is in the best interests of the country. Your satisfaction, Sir, may at the present moment under the law be quite enough. But if you wish to have co-operation and goodwill, it is necessary that in addition to that, you should carry conviction to those who are representatives of the people and the people themselves. I appeal to the Government to look at the matter in that light.

THE HONOURABLE COLONEL N. G. HIND (Nominated Official) : In the unfortunate absence of His Excellency the Defence Member for reasons which I hope all Honourable Members of this House will appreciate, it falls to me to reply to the Honourable Pandit's Resolution. I feel rather in a difficult position, as I am, from personal experience, aware of the skill, devotion to duty, and gallantry of certain Indian officers of the I.M.S. I should like, therefore, to dispel any idea of racial discrimination.

The demand for the complete Indianization of the I.M.S. is an old one and has been frequently debated in this House and in the Assembly. The policy underlying the present organization has been fully explained and I hope Honourable Members will forgive me if I re-state the position and perhaps add a little information as to the present position.

The Defence Department is responsible for the co-ordination of action relating to the I.M.S. as it is primarily a military service but other departments are far more closely concerned in some of its aspects.

The Department of Education, Health and Lands is concerned with the civil side of the I.M.S. generally, as also are the Provincial Governments in their respective spheres.

[Colonel N. G. Hind.]

The Home Department is concerned with medical attendance upon the Superior Civil Services and the Political Department and External Affairs Department are also interested.

I propose to touch very briefly indeed upon those aspects of the Service which are only indirectly the concern of the Defence Department and to concentrate upon the military aspects of this complicated question. I do not wish to do more than briefly indicate what the progress of Indianization has been. It is sufficient to say that it has been fairly rapid.

The fact that as recently as 1923, 89 per cent. of the whole Service, civil and military, consisted of British officers of whom no less than 352 were in civil employ, is sufficient to show that we have been sincere in our desire to Indianize this Service as quickly and completely as possible, and merely to satisfy our minimum requirements of British officers. Under the present organization, the maximum number of British officers in civil employ is 166 out of whom 97 form a war reserve. On the military side there are about 223 British officers and 143 Indian officers, i.e., just on 40 per cent. of the regular cadre of officers in military employ are Indians.

I would ask Honourable Members to realize that the peace medical military establishments are much smaller than the war establishments, and, in addition, casualties in the military medical services are apt to be very heavy in war time.

The small war reserve of 97 British officers will be used in bringing the peace establishments of British troops up to war strength and is sufficient only to meet the essential needs of the Army during the early stages of a war. It is now under the supreme test. In time, it may be possible, we hope, to obtain British officer reinforcements from England, but they certainly are not available immediately.

As regards the Indian Army, we rely upon Indians almost entirely both for filling up the war establishment and for the replacement of casualties. We have a small war reserve of 50 I.M.S. officers in civil employ. The reason that this is so small is that we are able to draw on the A.I.R.O. (Medical Wing) which consists entirely of Indian medical officers and whose present strength is 265. Forty-seven of these have already been called up, and the remainder may be expected to be called up shortly. As the war progresses, therefore, the proportion of Indian officers to British will be very greatly increased.

I will now say something about the war reserve as this is where the interests of the Defence Department and those of the Department of Education, Health and Lands and the provinces most closely inter-act.

It has been decided and, I think, is generally admitted that there must be a certain number of British medical officers available for the treatment of members of the Superior Civil Services and their families. It is from among these officers that the war reserve is drawn and we are therefore able to maintain it as economically as possible. Quite apart, therefore, from the military aspect of the case and the absolute necessity of maintaining a war reserve to

tide us over the first few months of a war, no further Indianization of the civil side of the I.M.S. is possible until a further measure of Indianization of the Superior Civil Services is carried out.

An Honourable Member has urged that the recent reductions in the number of British troops would justify a proportionate reduction in the number of British medical officers retained in the war reserve. At some future time, when peace has returned, it might be possible to reduce the war reserve still further, but no one would wish to dispense with the services of trained medical officers now; and in any case, the number is so small that it is difficult to see how we can do with less, even with the reduced establishment.

A further point made by my Honourable friend was the short service system. The short service system is in force as regards R.A.M.C. doctors in the United Kingdom. It is not in force in this country. Its great merit is that it allows a selection of those officers who have shown themselves best adapted to a career in the Military Medical Service, or who, after five years' experience wish to make it their life work; and at the same time it allows for the building up of a competent reserve thoroughly trained in military medical duties. It could not well be applied to British medical officers in the I.M.S. as, apart from the great difficulties of recruiting British officers for short service in India, an officer is not of much practical use in this country until he has had two years' experience or thereabouts, and the application of this system to British officers in the I.M.S.—I am pretty sure he will agree—would not be a good bargain. Recruiting difficulties would be serious and well qualified men would certainly not come out to India for five years military service unless they were paid much more than the present rates. All those who are drawn for a brief spell of soldiering would probably prefer to soldier in the R.A.M.C. in Great Britain. I am to say, however, that a proposal is under consideration at present for the suspension of recruitment of British officers to permanent commissions in the I.M.S. during the present emergency at least.

To sum up briefly, at the time of the Islington Commission to which my Honourable friend referred, and which reported in 1917 there were 775 officers in the I.M.S. of whom 54 were Indians. There are now 631 of whom 242 are Indians. As I have already indicated, the proportion of Indians in military employ will necessarily rise rapidly during the war and has begun to rise already. The number of British officers is the minimum and it would be most imprudent, as perhaps you will realize, to agree to a further reduction especially now of all times. Though the Defence Department thoroughly sympathise with the desire of Indians to obtain a fuller share of representation in the I.M.S. and has done everything in its power to make that possible, I am afraid I have no option but to oppose this Motion.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Education, Health and Lands Member): Sir, it is my very pleasant task, and I think that there I am probably conveying the opinion of the whole House, to congratulate my Honourable and Gallant friend on the very lucid way in which he has replied to the debate in a maiden speech. (Applause.)

Sir, while my Honourable friend opposite was moving his Resolution there was a certain displacement of a piece of furniture owing to a screw being loose

[Kunwar Sir Jagdish Prasad.]

somewhere. (Laughter.) I do not imply that Members on the opposite side or amongst the distinguished occupants of the Benches on my right were responsible. But my Honourable friend thought that his Resolution seemed to have created a great deal of commotion. Well, Sir, whenever my Honourable friend has a Resolution it does create a certain amount of commotion, or, if not commotion, a certain amount of increased application to despatches and notes and so on. I can say for myself that I have been for the last two days involved in reading up a good many reports and a good many resolutions, and I suppose my Honourable and Gallant friend probably had to go through the same process. But I am glad that on this particular occasion in concluding his speech my Honourable friend said that most of his attack was on the military side and that he was not going to touch the civil side.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: You are totally mistaken.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: Those were the words. Whether it was from want of time or inclination I do not know. I supposed it was inclination, because he thought there was nothing to attack on the civil side. So, I have nothing much to say except on the few points that have been raised in the course of the debate. I hope to take them up shortly. Sir, I do not wish in discussing this Resolution to compare the merits or demerits of particular doctors. I have not the long experience of my Honourable friend Mr. Sapru, who says that he has had the misfortune or the good fortune to be constantly seeking the companionship of doctors of all kinds, nor have I the scientific disinterestedness which would enable me to agree to be killed by a scientific doctor rather than be saved by a quack!

Now, Sir, I come to the main part of the Resolution. As my Honourable friend behind me has said, the whole object of having European I.M.S. doctors is to provide a reserve of officers to complete the numbers required by the Army on mobilization, and on the civil side to provide the requirements of the European officers in the Superior Services. My Honourable friend behind me has explained that the number which is required as a reserve for the whole of India, namely, ninety-seven, is the minimum which the Army consider is required for mobilization. (An Honourable Member: "But why British?") When my Honourable friend was speaking on his Resolution, he referred I thought with some approbation to the recommendations of the Services Sub-Committee of the Indian Round Table Conference and if he will kindly refresh his memory he will find that even that Committee said that the provinces in recruiting European officers will pay regard to the needs of the Army and also to the Superior Civil Services. I think even the Services Sub-Committee recognized that a certain number of European officers were required for the Army, and as my Honourable friend behind me said, that on mobilization it is extremely important to secure a sufficient number of men immediately. It takes a long time and it may not be possible to get the necessary numbers from abroad, all the European officers required, and that is the reason why there is a need for a European reserve in India.

The second need is that it is much more economical if you are going to have Europeans to treat the Superior Services if those officers are available in

peace time for this purpose and in war time as a reserve. Otherwise we may be driven to the position of having a large number of European doctors doing nothing at all and adding to the financial burden of the country. As regards the civil side, the total number of I.M.S. officers which are employed in the civil side is 220, of whom 166 are British and not less than 54 Indian. Of these 166 British officers, 122 are employed in the provinces; and of these 122, 77 form the war reserve. Now, if we exclude the total war

3 P.M.

reserve of 97 officers, 77 from the provinces and 20 employed in the Centre or in the Department of External Affairs or under the Crown Representative, the balance left is only 69 British officers for the whole of India. That will be the total number available as the war proceeds—69 officers not only in the provinces, but also in the Centre. As an Honourable Member said, a good deal of what is said today may be entirely out of date as the war proceeds. For instance, the question of competition has been raised, and so on. Well, at the present moment, if there were to be competition—as we know from past experience when there were competitive examinations in England during the last war—there would be no candidates available for competitive examinations: they would be all fighting as soldiers. The question of competition cannot arise at this moment. About the controversial question whether the best men are available by competition or through selection, my Honourable friend the Leader of the Opposition was in two minds. He thought at first that competition was not entirely satisfactory, but as he saw that he was getting into deep waters, he changed his mind and said that by selection worse results were obtained. However, that is a very controversial question and at this moment rather academic. As regards the question of the war reserve, whether the present war reserve will remain at the present figure when the war is over, it is impossible to say. I cannot say what will be the proportion of Indian and British troops, to what extent Indianization of the officer ranks would have taken place both on the military and civil sides, at the end of the war. Naturally after the war I feel that the whole question will again come up for consideration, and I should just like to say one word before I sit down. I think there is no one on this side who fails to appreciate the excellent work that has been done in the past and is being done by Indian doctors. We all recognize that the standard of education and capacity amongst Indians is rising rapidly. Colonel Hind bore personal testimony to the gallantry and efficiency of Indian officers. In dealing with this Resolution we on this side—whether I or any of my colleagues—have no hesitation in saying that Indian doctors have been efficient. But I should like also to say that it is hardly fair for my Honourable friend Mr. Sapru to draw general conclusions from perhaps a limited experience of doctors in a particular province about the efficiency of the European members of the I.M.S.; his experience must have been limited to a very few doctors, as he himself admitted. We owe a great deal of debt for what European members of the I.M.S. have done for the advancement of medical science in this country. He himself mentioned some eminent names. There was difficulty at one time, as was pointed out by Sir Richard Tottenham last year, in getting the right men, but conditions have improved now and there has been an improvement and the people who are coming forward now come with good qualifications. My Honourable friend Pandit Hirday Nath Kunzru said that the best districts are reserved for European members of the I.M.S. With the

[Kunwar Sir Jagdish Prasad.]

rapid development of the Indian medical profession, I am not quite sure that the proposition now holds good. I know from personal experience that many of the districts in my own province which were regarded as very attractive from the point of view of private practice are now no longer so. What I wish to press on the attention of the House is this. With the war on, the duty of British and Indian doctors is to alleviate human suffering irrespective of race, or creed or even whether the man is an enemy or a friend. It is hardly the time now when we are in these critical times to go into this question of the re-organization of the I.M.S. We must wait because the circumstances and conditions would have so altered after the war that any decision now may not be appropriate to the changed circumstances. We must wait till the war is over before we re-examine this question, and I feel pretty certain that a re-examination will then be due for the reasons which I have already stated. I would therefore suggest to my Honourable friend—we all recognize that there is a great deal of feeling in the matter—that in view of what I have said and in view of the grave circumstances in which we are now working, that he will withdraw the Resolution and not press it to a division, after he has exercised his right of reply.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: Mr. President, I listened with the greatest interest to my Honourable friends Colonel Hind and Sir Jagdish Prasad. I was both surprised and pained to find that in spite of the facts that I ventured to place before them they had not been able to appreciate the situation from the point of view of Indians. Colonel Hind spoke of a large reduction in the cadre of the Indian Medical Service since the Islington Commission reported and also of a large increase in the number of Indian officers in the Indian Medical Service. It is of course true that the cadre of the I.M.S. has been cut down and that a certain ratio for the recruitment of Indian officers has been fixed. But he seems to have forgotten what I pointed out to him in my opening speech, namely, that if the competitive examination had not been discontinued and the recruitment of officers been based on the sole ground of merit, the percentage of successful Indians would have been more than 33½. I pointed out that 33 per cent. of the successful candidates in 1913 were Indians and that in 1914 this percentage had risen to 40. I ask him and the Leader of the House how they can expect us to be satisfied with a rule which actually reduces the opportunities which we had before the war of entering the I.M.S. When they talk about the needs of the Superior Civil Service officers or the war reserve, do they realise that 25 years ago when the authorities were quite as alive as they are now to the need for maintaining a large British element the percentage of successful Indians was rising and had reached the figure of 40 in the year in which the war commenced? My Honourable friends will say that an agitation against the entry of Indians in large numbers into the I.M.S. had begun because of that. The evidence that the representatives of the British officers in the I.M.S. tendered before the Public Service Commission shows that abundantly but does the acceptance of their point of view do any credit to the spokesmen of Government in this House?

My Honourable friend Sir Jagdish Prasad congratulated himself on the fact that my remarks had been directed against the military portion of the I.M.S. only. Well, he might have tried to delude himself on that point but I am certain he could not have failed to grasp the significance of the figures that I quoted in my opening speech. But since he has stated that he did not think that I was concerned with the civil side of the case, let me point out the fact to him, which I have no doubt he already knows but which he has totally ignored in his speech, that owing to the requirements of the Britishers in the higher services and the need for a war reserve of which so much has been said both by him and by Colonel Hind, there are no civil surgeoncies open as a matter of course to the Indian members of the I.M.S., I know that it will be open to the Provincial Governments to ask for any number of Indian officers of the I.M.S. There is no restriction placed on their power of employing either I.M.S. officers or of Indian officers of the I.M.S. But the fact remains that owing to the above-mentioned requirements certain civil surgeoncies which are set apart for the I.M.S. are reserved as a matter of right for British officers exclusively. There are no civil surgeoncies among them which can be occupied by Indians. I do not mean to say that the powers of the Provincial Governments should not have been enlarged in respect of appointments to civil medical posts but I submit that even if you are going to reserve half a dozen civil surgeoncies for the I.M.S., Indians should be given an adequate proportion of them.

Sir, both Sir Jagdish Prasad and Colonel Hind have referred repeatedly and pointedly to the demand of the British officers and the Superior Services for being treated by doctors of their own race. Our experience in the country at large is that Britishers not less anxious about their health and of a social position not inferior to that occupied by members of the I.C.S., or the Indian Police or the Indian Engineering Services, are freely taking advantage of the services of competent Indian doctors. Does not this show that you are either inciting the members of the Superior Services to put forward objections to the increased employment of Indian officers or that you are doing nothing to put down this unworthy prejudice? But even, Sir, if we must continue to bow to this prejudice, I should like to point out that in most of the important places, at any rate in my province, where civil surgeoncies have been reserved for European officers there are R.A.M.C. officers. In most of these places there are both British and Indian hospitals—I mean hospitals maintained for the treatment of British and Indian troops. The R.A.M.C. officers get all their training and education in England. Their opportunities of engaging in research work are not less than those of members of the I.M.S. It may be taken for granted, therefore, that their qualifications are not inferior to those of members of the I.M.S. If you must pander to a prejudice which you have done nothing to put down, why cannot you ask the people who demand treatment by members of their own race to apply to the R.A.M.C. doctors?

What I have said about my own province, I suppose is equally true of the other provinces. You have here, therefore, a means both of respecting the prejudices of the European members of the Superior Civil Services and of giving effect to the legitimate desire of Indians not to be discriminated against

[Pandit Hirday Nath Kunzru.]

in their own country. Sir, a few weeks ago I went to Agra, which is my native place, and I found there a very competent and popular I.M.S. officer who is an Indian. His competence will be apparent from the fact that he is a F.R.C.S. of England. But he had to leave Agra because that station owing to the prejudice against Indians is reserved for Britishers. I want to know, Sir, whether such a system can be defended on any grounds whatsoever? If a British officer had had to leave any particular station because Indian Ministers were anxious to patronize Indian medical officers, I am sure they would have been accused loudly and hotly of being inspired by unworthy racial considerations. But here you follow the same practice and you take shelter behind other people instead of manfully accepting the responsibility for your actions.

Sir, there is just one more point that I should like to deal with before I sit down. My Honourable friend Sir Jagdish Prasad referring to the Services Sub-Committee of the Round Table Conference, asked me to take note of the fact that it advised the appointment of British officers to the Indian Medical Service to meet the needs of Britishers in the higher Civil Services. But that Committee did not advise the reservation of any districts for British Civil Surgeons. Reservation has undoubtedly been done away with in theory under the rules published in May last but it still exists in practice. If Government had accepted that part of the recommendation of the Services Sub-Committee which related to the undesirability of reserving civil surgeoncies for members of any race it could with some justification have pointed to the other recommendation of that Committee as providing a valid ground for the action that they had taken. But they ignored the views of the Committee on the question of reservation and quietly accepted its recommendation for the appointment of British officers in the I.M.S. to satisfy the needs of British officers belonging to the Superior Services.

Again, Sir, I should be quite prepared for the time being to accept the force of all that has fallen both from the Honourable Sir Jagdish Prasad and the Honourable Colonel Hind, if they will tell me why there should be a large British element in that part of the Indian Medical Service which performs purely military duties. Are we to have 60 per cent. of British officers even in that part of the Service simply because officers of the Indian units are almost British? Is that the argument that is going to be put forward? If you are going to do so, you have no right morally to call upon us to help you at this juncture. If you want our help you must also change your angle of vision. There must be loyalty on both sides. You must satisfy our sense of self-respect. You must not treat us like *pariahs* in our own country, if you want our free and full co-operation. But, so long as the present state of things continues and your unworthy prejudices must be pampered even in a crisis like this, what hope can there be of bringing about the co-operation that we all would fain have?

Sir, I did not know till Colonel Hind informed us that the recruitment of British officers on a permanent basis to the I.M.S. had been suspended. But that fact by itself does not amount to anything at all. The grant of permanent Commissions to them was suspended during the last war too. But what the final

outcome has been, in spite of this temporary suspension, I have very clearly stated before the House. When this war is over,—let us hope that it will be over sooner than has been forecast,—I have no reason to believe that a more liberal policy will be pursued. Of course, in the meanwhile, the forces of nationalism will grow in this country and much stronger pressure will be brought to bear on Government than is the case at present. Government will undoubtedly have to yield, but in such a case, compliance with our wishes will lose all its efficacy and grace. It is precisely because the war is going on, because you will require the help of a large number of Indian doctors, that you ought to make a complete break with the past. You know that England is going to put huge armies in the field. It will not be easy for her to satisfy our needs has no meaning. Why need she be burdened them with the requirements of India? From your own point of view I say it is not prudent of you to continue the present system at such a time. As for our point of view, if you have to depend very largely—in fact, overwhelmingly—on the services of Indian doctors now, there is absolutely no reason why the old system should be continued and advantage should not be taken of the present situation when old feelings would not be so active as they have hitherto been, to put an end to a system which is based on racial feelings and almost Imperialistic prejudices.

Sir, I regret I cannot accede to the wishes of my Honourable friend the Leader of the House, that I should withdraw the Resolution.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : Sir, I want to clear up certain points. I did not realize when I spoke that my Honourable friend had reserved all his fire for his reply. When he introduced the Resolution, there was no fire behind it, and I thought that he had exhausted all his missiles. I was mistaken. My Honourable friend has shown considerable resentment when dealing with the question as to why the competitive examination for the I.M.S. was abolished. He said it was playing false with the people if after you have instituted a competitive examination and you find that the proportion of successful Indians is getting larger and larger, you suddenly abolish the system. Is not that, he asked, doing a thing which no responsible Government, or even if it is irresponsible, no decent Government should do. May I ask my Honourable friend as to what happened about the I.C.S.? Once it is accepted that you want a certain proportion of a certain community to be enrolled, and if one method fails, is it such an undesirable thing that other methods should be adopted? If it is accepted—

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : My Honourable friend has mis-stated what I said. May I correct him? Whatever my feelings may be, I did not say expressly in this House that the competitive examination was stopped only to keep down the number of Indians. What I said was that in 1914, when the competitive examination was still going on, 40 per cent. of the successful candidates were Indians. But, after the war, as a matter of generosity, His Majesty's Government ask us to be content with only 33½ per cent. of the annual recruitment.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : If you accept that you want a certain number of people of a particular community, and if you cannot get it by the method of competition, then it is open to you to have

[Kunwar Sir Jagdish Prasad.]

recourse to nomination. That is followed at the present moment with regard to recruitment of minority communities in the I.C.S. and in the I.P.S. It was followed during the war in regard to the I.C.S. It is even now followed. The number of Indians having been fixed, according to the Lee Commission, as half and half, the competitive examination in England, as my Honourable friend knows, is now a limited competition. The number of vacancies which are available to Indians is limited. I think my Honourable friend knows that. Therefore, if Government found that they could not get European recruits of the requisite qualifications by a competitive examination, I think they were entitled to choose some other method. I do not think that my Honourable friend's contention is correct that the only method which could decently be adopted is competition, and if during the course of the competition, all the candidates were of a particular country or of a particular nationality, then you should not recruit candidates of the other nationality, that you want by another method. I say, once you accept the principle that you want a certain number of recruits of a particular nationality, then you cannot say that the only method of recruitment that you should adopt should be a method by which you may get no recruits at all. I think that would reduce the whole thing to an absolute farce. That is one of the reasons why this method of competition was discarded. I can quite understand my Honourable friend saying that in the recruitment of Indians you should not adopt the method of selection. I think there can be two opinions on that. You can say, "All right, if you want your Englishmen you can choose this method, though personally we ourselves feel that competition even there would be the best". But to say that you must adopt a method which in its results shows that you cannot get the candidates you want and to insist that that should be the only method that should be adopted really means that you do not want that those candidates should be selected at all. That would be the practical result.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Where have I asked for the restoration of the competitive examination ?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : But my Honourable friend said that when the competitive examination was abolished 40 per cent. of the successful candidates were Indians.

Now, I come to the second question as regards the reservation of certain civil surgeoncies for European I.M.S. officers. I know that there is a great deal of feeling on that point. Nobody can fail to recognize that there is much feeling. People are saying that if such a prejudice exists Government should not take notice of it. But as my Honourable friend knows, the Secretary of State has said repeatedly that he is bound to respect the wishes—you may call them unreasonable prejudices—but there it is, the desire of the European services to be treated by doctors of their own nationality, and he has said definitely that he is bound to respect those wishes and that therefore he must make provision that Europeans and their families in the Superior Services should have the opportunity of being treated by doctors of their own race. As I said when the Resolution was being discussed two years ago, I am only stating the facts. I myself am expressing no personal opinion on that. But Government have got to take note of that feeling. There the fact exists and

the Secretary of State has said that he will respect those wishes of the Europeans in the Superior Services.

Then my Honourable friend said, "Now here is this war; are you going to allow this percentage of 60 European I.M.S. officers and 40 Indians to continue?" But the men are already there. What does my Honourable friend want at this time, that these 60 per cent. of European doctors, every one of whom is required, should be told that they should clear out? They are being mobilized. What does my Honourable friend want, that these men who have been serving so long under Government should be told that their percentage is too high and they should clear out?

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : I want a change for the future.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : I say with regard to the future the whole position will be altered. I emphasise that if the war goes on the proportion will no longer be 60 per cent. of Europeans; because of the large number of Indians who will be recruited the proportion of Europeans will fall.

Then he came to this question of the R.A.M.C. He said why could not the Europeans rely on the R.A.M.C.? What would have been the position, if we had no I.M.S. officers who could be kept back for the treatment of Europeans in the Superior Services. They would have been without any European doctors because R.A.M.C. officers are not now available. That is one of the reasons why a certain number of European I.M.S. officers are being kept in the country and are not being mobilized.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : But not all the I.M.S. officers will be available either.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : Quite. But the reason for I.M.S. European officers in the reserve for civilians is today apparent. The reason is that if you do not have them, there would be no European I.M.S. officers available at all. Undoubtedly the facilities will be decreased because 77 I.M.S. officers who are now working in the provinces will be recalled to the Army. To that extent the opportunities for treatment of Europeans by European doctors will be lessened. But if there were no residuaries there would be no European I.M.S. doctors left. That is the reason why, if the principle is accepted that the Europeans in the Superior Services should have an opportunity of being treated by officers of their own race then sole reliance cannot be placed on the R.A.M.C. officers, because during a war there will be no R.A.M.C. officers available.

I am sorry that my Honourable friend thinks that in spite of all that we have said he must still insist on pressing his Resolution to a division. I do not think that the points of view between him and ourselves are so irreconcilable or so contrary to each other that he must insist on a division being called. I again hope that now that he has had his shot and had his say and has disillusioned me about what he said about the civil side, he will not press his Resolution to a division.

THE HONOURABLE THE PRESIDENT : Resolution moved :

"That this Council recommends to the Governor General in Council to take immediate steps to Indianize the Indian Medical Service."

Question put and the Council divided :

AYES—6.

Buta Singh, Hon. Sardar.	Ram Saran Das, Hon. Rai Bahadur Lala.
Kalikar, Hon. Mr. V. V.	Sapru, Hon. Mr. P. N.
Kunzru, Hon. Pandit Hirday Nath.	Sinha, Hon. Kumar Nripendra Narayan.

NOES—24.

Abdul Sattar, Hon. Mr. Abdul Razak Hajee.	Lal, Hon. Mr. Shavax A.
Charanjit Singh, Hon. Raja.	Lloyd, Hon. Sir Alan.
Conran-Smith, Hon. Mr. E.	Menon, Hon. Sir Ramunni.
Das, Hon. Rai Bahadur Satyendra Kumar.	Muhammad Yakub, Hon. Sir.
Devadoss, Hon. Sir David.	Mukherjee, Hon. Sir Satya Charan.
Ghosal, Hon. Sir Josna.	Nihal Singh, Hon. Sirdar.
Haidar, Hon. Khan Bahadur Shams-ud-Din.	Parker, Hon. Mr. R. H.
Hind, Hon. Colonel N. G.	Patro, Hon. Sir A. P.
Hissamuddin Bahadur, Hon. Lt.-Col. Sir.	Richardson, Hon. Mr. J. H. S.
Ismail Ali Khan, Hon. Kunwar Haji.	Russell, Hon. Sir Guthrie.
Jagdish Prasad, Hon. Kunwar Sir.	Sobha Singh, Hon. Sardar Bahadur.
Jones, Hon. Mr. C. E.	Tyson, Hon. Mr. J. D.

The Motion was negatived.

STATEMENT OF BUSINESS.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Leader of the House) : Sir, the Defence of India Bill is expected to be disposed of by the other House today and I suggest we meet tomorrow afternoon at 4-30 P.M. to lay it on the table.

Friday, the 22nd, has been fixed for non-official business but as there is only one Resolution on the agenda for that day I propose that with your permission the four official Bills which were laid on the table day before yesterday may be taken up after the non-official Resolution has been disposed of.

On Saturday, the 23rd, I suggest that the House should meet to take into consideration the Defence of India Bill which, as I have already said is expected to be laid on the table tomorrow. That day will be devoted entirely to discussion on the Consideration Motion and detailed discussion on the clauses of the Bill will take place on Monday, the 25th, so that Honourable Members may have time to give notice of any amendment that they may like to move.

Tuesday, the 26th, has been allotted for non-official business but as only three non-official Resolutions are coming up on that day, I suggest that with your permission the rest of the day may be devoted to official business.

I hope that the whole business for this session will be over on Tuesday, the 26th, but if that expectation is not realized we might, I am afraid, have to meet on Wednesday, the 27th.

THE HONOURABLE THE PRESIDENT : The Defence of India Bill is a very important Bill and I am not prepared to waive the usual notice unless Honourable Members on the opposite side are agreeable.. (To Honourable Members.) Do you agree ?

HONOURABLE MEMBERS : No, Sir.

THE HONOURABLE MR. SHAVAX A. LAL : We propose to meet tomorrow for laying the Bill on the table and then to have the discussion on the 23rd.

THE HONOURABLE MR. HOSSAIN IMAM : That is for the consideration stage. When we have to move amendments, will Government give us enough time ?

THE HONOURABLE THE PRESIDENT : I will give time till Monday morning if you agree.

THE HONOURABLE MR. HOSSAIN IMAM : I personally agree.

THE HONOURABLE THE PRESIDENT : Do you agree to have the consideration of the Bill on Saturday ? You will be permitted to put in amendments till Monday morning ?

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : I agreed to it earlier in the morning thinking that we would be asked to meet at 11 A.M. tomorrow. Now, however, the Leader of the House suggests that we should meet at 4-30 P.M.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : If my Honourable friend wants to meet at 11 A.M., we have no objection. As a matter of fact the intention was to circulate copies of the Bill to Honourable Members before then and only to go through this formal procedure of laying it on the table tomorrow evening as a certain number of Honourable Members considered it would cut up the whole day if we met at 11 A.M. If Honourable Members insist, we can meet at 11 A.M. They can be sure that they will get the Bill much before 11 A.M.

THE HONOURABLE THE PRESIDENT : Are you quite sure that the Bill will be passed in another place this evening ?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : That is what I gather.

THE HONOURABLE THE PRESIDENT : If it is not passed ?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : If it is not passed, it will be laid on the table on Friday.

THE HONOURABLE SIR DAVID DEVADOSS : I suggest that we meet once for all on Friday because in any case we have got business on that day. Whether the Bill is placed on the table tomorrow evening or at 11 A.M. on Friday would not matter much. The general discussion may go on on Saturday and the clauses be taken up on Monday.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : If Honourable Members do not want to finish on the 26th, so far as we are concerned, we are quite prepared to continue to the 27th. It was only to meet the convenience of Honourable Members that the suggestion was made. If they would like the discussion to continue after the 26th, I have no objection.

THE HONOURABLE MR. HOSSAIN IMAM : Sir David Devadoss's suggestion is to meet on Friday when we can transact the allotted business as well as this formality. On Saturday we will have the general discussion and on Monday the consideration of the clauses.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : We should have the Bill by tomorrow morning.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : Certainly.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : If it is not passed by the Assembly today, if it is passed only tomorrow, you could not fairly ask us to consider it on Saturday.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : If it is not passed today and the House does not want to consider it on Saturday, then we will have it on Monday. If the Bill is passed today, we might lay the Bill on the table on Friday forenoon, but advance copies will be circulated to Members tomorrow. If that meets the wishes of the House, we will not meet tomorrow. Copies of the Bill will be circulated tomorrow morning to Honourable Members, the Bill will be laid on the table on Friday and considered on Saturday.

(Honourable Members agreed.)

The Council then adjourned till Eleven of the Clock on Friday, the 22nd September, 1939.

COUNCIL OF STATE.

Friday, 22nd September, 1939.

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. Arthur deCoetlogan Williams (Nominated Official).

STATEMENT LAID ON THE TABLE.

THE HONOURABLE MR. E. CONRAN-SMITH (Home Secretary) : Sir, I lay on the table a copy of the Notification of the Government of India in the Home Department No. 21/68/39-I-Political (W.), dated the 31st August, 1939, making certain amendment in the declaration of exemption under section 6 of the Registration of Foreigners Act, 1939, as published with the Notification of the Government of India in the Home Department No. 21/32/39-Political, dated the 21st June, 1939.

REGISTRATION OF FOREIGNERS (EXEMPTION) ORDER, 1939.

No. 21/68/39-I-Political (W), dated the 31st August, 1939,—In exercise of the powers conferred by section 6 of the Registration of Foreigners Act, 1939 (XVI of 1939), the Central Government is pleased to make the following amendment in the Declarations published with the Notification of the Government of India in the Home Department, No. 21/32/39-Political, dated the 21st June, 1939, namely :—

In the said Declarations—

1. In Declaration 4 for the words "or Portuguese India" the words "Portuguese India, the Straits Settlements or the Federated Malay States" shall be substituted;
2. After Declaration 4 the following Declaration shall be inserted, namely,—

"4A. That the provisions of rules 4, 15 and 16 of the Rules shall not apply to, or in relation to, any British subject who enters, or departs from, British India on board any vessel travelling solely between a port in British India and a port in the Persian Gulf, Makran, or Saudi Arabia".

(Sd.) H. J. FRAMPTON,

Deputy Secretary to the Government of India.

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 meetings held on the 20th and 21st September, 1939, namely :

1. A Bill to provide for special measures to ensure the public safety and interest and the defence of British India and for the trial of certain offences.

[Secretary of the Council.]

2. A Bill further to amend the Indian Aircraft Act, 1934, for certain purposes.
3. A Bill to amend the Panth Piploda Courts Regulation, 1931, for a certain purpose.
4. A Bill further to amend the Indian Oaths Act, 1873, for a certain purpose.
5. A Bill to provide for the discipline of members of the Indian Air Force Volunteer Reserve raised in British India on behalf of His Majesty.
6. A Bill to amend the Motor Vehicles Act, 1939, for certain purposes.
7. A Bill further to amend the Insurance Act, 1938, for a certain purpose.

RESOLUTION *RE* AMALGAMATION OF BRITISH AND INDIAN MILITARY HOSPITALS.

THE HONOURABLE MR. V. V. KALIKAR (Central Provinces : General):
Sir, the Resolution that stands in my name runs as follows :

"That this Council recommends to the Governor General in Council that the system of maintaining separate hospitals for British and Indian troops in military stations in India be discontinued."

Sir, the Military Medical Services are organized mainly into (1) British military hospitals, (2) Indian military hospitals, (3) the Indian Hospital Corps and (4) military food laboratory. The British military hospitals are entrusted with the medical and sanitary care of British officers, British other ranks and their families including children, while the Indian military hospitals are generally responsible for the treatment of Indian officers, Indian other ranks and all classes of followers whose pay and allowances are paid from the Defence estimates. Recently, Sir, the Government, in order to effect economies, have arranged at certain military stations that Indian military hospitals should have small British sections attached to them, and also that British military hospitals should have small Indian sections attached to them. I find, Sir, that there are 29 hospitals of the first class, 20 of the second class, 33 of the third class, 35 of the fourth class, and 21 of the fifth class, which are open throughout the year except at certain hill stations where they are only open for a portion of the year, the period varying from six to eight months. In the majority of military stations, I find, Sir, that separate hospitals are maintained for British and Indian troops. The principle underlying my Resolution is to do away with this obnoxious thing and that is the racial discrimination. Sir, in 1931, the Retrenchment Committee appointed by the Central Government reported that in most of the hospitals the accommodation was very considerably in excess of the average daily number of sick and also usually well in advance of the highest number of sick on any day in the preceding years. I urge the amalgamation of these two kinds of hospitals on

grounds of economy as well as to do away with the principle of racial discrimination. I am not habituated to tell stories in this House, Sir, but my personal experience in my province goes to show that the civil British population at least in my province have no objection to be treated in the same hospital where the Indians are also treated. I find, Sir, in my own province that in one particular hospital the civil surgeon there, though a European, wanted the best Indian surgeon to be in charge of that hospital and he got him transferred from another district to that district and I found him very popular not only with Indians but also with the Britishers, their wives and children. We had some time ago this obnoxious principle followed in various departments of the Government. Fortunately, Sir, times have changed and, for instance, in the Railways and other departments, that principle has been given up. Now, Sir, I find that for the maintenance of these military medical services, we require about Rs. 1,38,42,000. That is the budget estimate for the year 1939-40. If my proposal is put into effect, a lot of expenditure that is incurred on this account will be saved and the feeling that exists amongst Indians, not only politicians but even Indian military officers and Indian other ranks that they are not being treated on the same footing as their colleagues, the Britishers, will eventually disappear. Sir, I do not think that my British friends will complain, or that they have any reason to complain, that they will not get the same treatment that they are obtaining now in the British hospitals if they are treated in the Indian hospitals. I do not want to reduce the efficiency of the hospitals. But there is a great deal to be done in this matter and if this Resolution is accepted we shall be able to save a large amount of expenditure and also to remove this feeling of racial discrimination. Indian officers and British officers have got a common mess. Nobody has complained up till now that because there is a common mess, the British officers have certain grievances against the Indian officers. We have been told by the British officers as well as the Indian officers that all of them must have a common mess. I know that in these hospitals members of the R.A.M.C. are probably appointed to be in charge of these hospitals which look after the treatment of British officers and British other ranks and their wives and children. Indian public opinion is very vocal on this point. The point is that India does not want the services of the R.A.M.C. There are two grounds why we do not want their services. One is that the R.A.M.C. is not under the control of the Government of India but is under the control of the War Office and the Imperial Government. Another is that Indians are denied any jobs in that Corps. On these two grounds we object to that kind of Service. If, however, we have not been successful in our demands to do away with that Service, at least on the ground of economy and in order to remove this heartburning, I submit that Government should accept the principle underlying this Resolution and should take serious steps to amalgamate these two kinds of hospitals in military stations, so that Indians and the Indian taxpayers may not have any reason to say that they have to spend more money for special treatment of their British colleagues. I submit, Sir, that the principle underlying this Resolution is a very sound one and I hope Government will accept it.

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

THE HONOURABLE MR. A. DEC. WILLIAMS (Nominated Official): Sir, I trust that the Honourable Mover, when he has heard what I have to say, will not consider it necessary to press his Resolution. Government have already, some years ago, accepted the principle underlying it. In reply to a question in this House on the 13th of September, 1933, His Excellency the Defence Member said:

"Government have accepted the recommendations of the Army Retrenchment Sub-Committee regarding the amalgamation of British and Indian military hospitals. About a dozen hospitals have already been so amalgamated; at 25 other stations, where the number of British or Indian troops is small, the patients are treated in British or Indian wings of the same hospital; at two others, the hospitals will be amalgamated as funds are available for the reconstruction of buildings. This policy will be continued and put into force as funds and circumstances permit."

Since then, this policy has been pursued to the extent of the establishment of combined hospitals at Bombay, Risalpur and Dinapore, and if combined hospitals have not been everywhere introduced, it is for one of two reasons. It is not always as the Honourable Mover suggested economical to combine hospitals. Where there are two hospitals in operation, both of them in a suitable position and housed in suitable buildings, it is clearly uneconomical to scrap one building and to enlarge the other. And subject to one other consideration that I will shortly mention, it is solely for reasons of economy that all stations do not contain combined hospitals. That other consideration is that in certain very large military stations in the direction of the Frontier, we have to provide the nucleus for expansion in time of war—two good examples are Rawalpindi and Peshawar—and nothing less than two hospitals form a sufficient nucleus for the amount of expansion that is envisaged in those stations in the event of war. There is one assurance I can give the Honourable Mover, and that is that whatever considerations may originally have dictated the institution of separate hospitals in cantonments, no racial considerations obtain now. I can give him that assurance, and subject to those two considerations which I have just mentioned—economy and the necessity for expansion in a small number of large military stations in the direction of the Frontier—Government fully accept the principle underlying this Resolution, and I hope the Honourable Mover will not find it necessary to press it in the form in which it is expressed, which is so definite that Government cannot accept it.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU (United Provinces Northern: Non-Muhammadan): Mr. President, I should like to take this occasion to say a word or two about the necessity of equalising the amenities provided for both British and Indian soldiers in the hospitals. It is not enough merely to amalgamate the hospitals and provide the same building and staff. It is also necessary that the standard of amenities fixed for British and Indian patients should be the same. For instance, there should be no difference in the bedding of the two classes of patients. Again, the same quality and kind of rations ought to be given to them. The same remark would apply in regard to the nursing arrangements made for British and Indian patients. That is the reason why I am principally interested in the Resolution moved by my Honourable friend Mr. Kalikar. It is possible to have amalgamation, to have British and Indian patients treated in the same

hospital, and yet to continue the differentiation which I have just spoken of. I hope that my Honourable friend Mr. Williams will be able to say something as reassuring on this point as he has said in connection with the question of amalgamation.

THE HONOURABLE MR. V. V. KALIKAR: Sir, the assurance given by my Honourable friend Mr. Williams makes me think whether this Resolution should be pressed or not. He said that the Government has accepted the principle and in certain military stations hospitals have been amalgamated. I fully agree with my Honourable friend Mr. Kunzru that there ought not to be any discrimination in the treatment given to Britishers and Indians within these amalgamated hospitals.

THE HONOURABLE THE PRESIDENT: His speech referred to the equalization of the amenities; your Resolution refers to the amalgamation of the two branches.

THE HONOURABLE MR. V. V. KALIKAR: I do want amalgamation. At the same time I want equal treatment, as Mr. Kunzru has raised that point. I hope my Honourable friend Mr. Williams will give us also an assurance on that point, that there will be equal treatment for Indians and Britishers in the same hospital, and if that assurance is given I will certainly beg the leave of the House to withdraw the Resolution.

THE HONOURABLE MR. A. DEC. WILLIAMS: I am afraid, Sir, it is quite impossible for me to give any assurance on the part of the Government as regards a matter which is not included in the Resolution before the Council. I should be very sorry if this Resolution is pressed to a division and Government have to oppose it. Government have accepted the principle underlying it with two reservations which I think are reasonable.

AN HONOURABLE MEMBER: But he wants an assurance about equal treatment.

THE HONOURABLE THE PRESIDENT: The matter referred to by the Honourable Mr. Kunzru is not included in your Resolution and it is difficult for a Government Member to give any assurance in that connection. So I would advise you to withdraw your Resolution.

THE HONOURABLE MR. V. V. KALIKAR: Sir, I beg the leave of the House to withdraw the Resolution.

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

INDIAN CARRIAGE BY AIR (AMENDMENT) BILL.

THE HONOURABLE MR. J. D. TYSON (Communications Secretary): Sir, I beg to move:

"That the Bill to amend the Indian Carriage by Air Act, 1934, for a certain purpose, as passed by the Legislative Assembly, be taken into consideration."

Sir, as Honourable Members will see this is a simple one-clause Bill. It aims at clearing up the meaning to be ascribed to the French word "préposés" used in the official version of the Warsaw Convention of 1929. That was a Convention for the unification of certain rules relating to international carriage by air. In the official English translation the word "préposés" was translated

[Mr. J. D. Tyson.]

as "agents". Now there was a subsequent Convention on the unification of rules on a different subject, signed at Rome four years later, and the official Convention was in French and the same term "préposés" was used; but in the English translation it was agreed that a better rendering would be "servants or agents" instead of "agents". Now the Warsaw Convention in its English form, with the word "préposés" translated as "agents", has been embodied in Indian legislation. It forms the First Schedule to the Indian Carriage by Air Act, 1934. To show the sort of context in which the word is used—it occurs some five or six times in the Convention and therefore in our Act implementing the Convention—I may quote Article 20:

"The carrier is not liable if he has proved that he and his agents have taken all necessary measures to avoid the damage or that it was impossible for him or them to take such measures".

If this Bill is adopted, that will read in future as "his servants or agents". That is an article in favour of the carrier. Here is one against him:

"The carrier shall not be entitled to avail himself of certain provisions in his favour if the damage is caused as aforesaid by any agent of the carrier acting within the scope of his employment".

That is the kind of context in which this word occurs. His Majesty's Government have amended their own Act of 1932, which ratified the Warsaw Convention, to bring the wording into consonance, in this matter, with their further Act of 1936 which ratifies the Rome Convention; and in the Bill before the House a similar interpretation is proposed for adoption. I do not think, Sir, I need take the time of the House with any further explanation.

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

The Motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. J. D. TYSON: 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 SIR ALAN LLOYD (Commerce Secretary): Sir, I move:

"That the Bill further to amend the Indian Rubber Control Act, 1934, as passed by the Legislative Assembly, be taken into consideration."

I am afraid I cannot like my Honourable colleague claim that this is a simple Bill in the sense that it consists of one clause, because it consists of no less than 31 clauses. At the same time I feel sure that it is not necessary to detain the House much longer than he did for this reason that the fundamental principle underlying this Bill was accepted by the Legislature in 1934 when the Indian Rubber Control Act was passed and all that really we have

to consider now is certain amendments to that Act which are proposed in circumstances fully explained, I think, in the Statement of Objects and Reasons. A perusal of the Notes on Clauses will satisfy Honourable Members of the Council that practically all the amendments may be described as falling within the last sentence of the Statement of Objects and Reasons, that is to say, the removal of minor administrative defects which experience has brought to light. There is one clause which has real substance in it and that is clause 20 which gives a certain amount of latitude to the rubber industry which was not allowed under the Act in the matter of new planting and replanting. Under the Act as it stands replanting is subject to somewhat severe restrictions; it will now be unrestricted. New planting was to all intents and purposes prohibited altogether; it will now be permitted during the years 1939 and 1940 to the extent of 5 per cent. of the total area planted at the end of the year 1938. In that connection I might mention that the revised Inter-Governmental Agreement itself has appreciably increased the basic quota allotted to India from 13,000 tons in 1938 to 17,500 tons in 1939. I think, Sir, that is all that I need say in commending this Bill to the consideration of the House.

Sir, I move.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU (United Provinces Northern: Non-Muhammadan): Sir, I should like to put a question to the Honourable Mover in regard to this matter. It is stated in the Statement of Objects and Reasons that the Government of India decided to accept the revised Inter-Governmental Rubber Agreement as the Provincial Governments, the Indian States and the other interests concerned were unanimously of opinion that the rubber control scheme had been beneficial to the country. Could he tell us in what respects the old scheme had been beneficial to the country and whether in assessing the benefits of the scheme the position of Indian workers on the rubber plantations outside India was also taken into consideration? The Honourable Member knows that Indian workers are employed in rubber plantations both in Malaya and Ceylon and I should like to know whether the Government of India paid any attention to the condition of these people before arriving at a decision on this subject.

THE HONOURABLE SIR ALAN LLOYD: Sir, I think it would have been outside the whole purpose of the International Rubber Regulation Agreement to go into details as to conditions of labour employed in any particular country which adhered to that Agreement. The benefit to this country may, I think, be assessed by the fact that the price of rubber has more than doubled since the control was introduced. That presumably has also been beneficial to countries such as Malaya and it certainly seems to me to be obvious that conditions like that give labour far greater security of employment and an opportunity for better remuneration than would have obtained if the price of rubber had remained at the ruinously low price which prevailed before the Convention was entered into, which would almost certainly, I think, have meant the closing down of a good many estates and the discharge of workers regardless of the conditions under which they had been working. I am afraid I cannot give any further assurance to my Honourable friend that the interests of workers of any class or of all classes was specifically dealt with in the Agreement. As I have indicated, they were certainly bound to benefit indirectly from its operation.

THE HONOURABLE THE PRESIDENT: Motion made:

"That the Bill further to amend the Indian Rubber Control Act, 1934, as passed by the Legislative Assembly, be taken into consideration."

Question put and Motion adopted.

The Schedule was added to the Bill.

Clauses 2 to 15 were added to the Bill.

Clauses 16 to 31 were added to the Bill.

Clauses 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE SIR ALAN LLOYD: Sir, I move:

"That the Bill, as passed by the Legislative Assembly, be passed."

The Motion was adopted.

INDIAN RAILWAYS (AMENDMENT) BILL.

THE HONOURABLE SIR GUTHRIE RUSSELL (Chief Commissioner for Railways): Sir, I move:

"That the Bill further to amend the Indian Railways Act, 1890, for a certain purpose, as passed by the Legislative Assembly, be passed."

This is a simple Bill the necessity of which is fully explained in the Statement of Objects and Reasons. Put shortly, the Bill is necessary to remove an anomaly. At present Government possess all the powers required for the operation of Railways with one important exception, the fixation of maximum and minimum rates and fares. The Bill is designed to remove this omission.

*THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa: Muhammadan): I do not for a moment deny the necessity of giving this power to the Central Government, but I expected the Honourable Railway Member to enlighten us as to how he reconciles the Federal Railway Authority with the Objects and Reasons of this Bill? There the power is supposed to be given to the Central Government; here we are giving power to a non-existing entity, the Federal Railway Authority. It is not in a critical spirit that I am questioning it. I am simply putting it for my own information. Has the Bill undergone some changes since its introduction? I suppose the Bill must have gone through some delays because it was introduced on the 17th July, 1937, and we are considering it on the 22nd September, 1939. It means that it has been for two years on the Assembly table. Perhaps it might have been circulated for public opinion. Or what happened that it was delayed so long? And who will be regarded as the Federal Railway Authority pending the introduction of Federation which has been suspended indefinitely by His Excellency the Viceroy?

THE HONOURABLE SIR GUTHRIE RUSSELL: Sir, I can explain the delay. Actually it is perfectly correct that the Bill was introduced in 1937,

*Not corrected by the Honourable Member.

it then went for circulation but it was not possible to proceed with it in the Legislative Assembly last session on account of pressure of business. For that reason the Honourable the Railway Member moved a Motion of continuance in this session. That was accepted and later on he moved for reference to a Select Committee and the Bill is the result of the deliberations of that Committee.

Now, as regards the question about the Central Government. I think my Honourable friend's idea was that, instead of the Federal Railway Authority, the Central Government should be given these powers, but as I understand the position it is this. The Federal Railway Authority is the executive authority of the Central Government and, even if you put the Central Government in the Bill, the Federal Railway Authority would exercise the powers.

Then as regards the question of its being inappropriate for the Federal Railway to be named in the Bill when it does not exist. Actually the Governor General in Council will exercise the powers of the Federal Railway Authority till such time as the Federal Railway Authority comes into being.

THE HONOURABLE THE PRESIDENT: Motion made:

"That the Bill further to amend the Indian Railways Act, 1890, for a certain purpose, as passed by the Legislative Assembly, be taken into consideration."

Question put and Motion 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 SIR GUTHRIE RUSSELL: Sir, I move:

"That the Bill, as passed by the Legislative Assembly, be passed."

The Motion was adopted.

REPEALING AND AMENDING BILL.

THE HONOURABLE MR. SHAVAX A. LAL (Nominated Official): Sir, I move:

"That the Bill to amend certain enactments and to repeal certain other enactments, as passed by the Legislative Assembly, be taken into consideration."

Sir, this is a formal Bill, the necessity for which has been fully explained in the Statement of Objects and Reasons and the Notes on Clauses.

Sir, I move.

The Motion was adopted.

The First and Second Schedules were added to the Bill.

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. SHAVAX A. LAL: Sir, I move:

"That the Bill, as passed by the Legislative Assembly, be passed."

The Motion was adopted.

STATEMENT OF BUSINESS.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Leader of the House): Sir, I understand that the general feeling in the House is to discuss the Defence of India Bill not earlier than Monday and I therefore suggest that we meet on Monday at the ordinary time. The first item on the agenda that day will be the Defence of India Bill. Tuesday has been allotted for non-official business but, with your permission, I suggest that, after the business has been disposed of, the remainder of the day may be devoted to Government business. To facilitate this I suggest we meet half an hour earlier on Tuesday, at 10-30 A.M. The Government business on that day will, of course, be not the Defence of India Bill but other Bills which have been placed on the table today. Then, if any Government business is left undisposed of, we shall have to meet on Wednesday, the 27th.

THE HONOURABLE MR. P. N. SAPRU: Sir, if Government business is disposed of on Tuesday, shall we take up the Defence of India Bill?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: Certainly, if it will suit the convenience of Honourable Members we can take up that Bill too if there is time. If any Government business remains over, we will meet on Wednesday. I am entirely in the hands of the House. We will put the Defence of India Bill on the agenda on Tuesday and if there is time we will finish it.

The Council then adjourned till Eleven of the Clock on Monday, the 25th September, 1939.

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COUNCIL OF STATE.

Monday, 25th September, 1939.

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. Leonard John Dean Wakely (Nominated Official).

QUESTIONS AND ANSWERS.

COMPOSITION OF THE WAR SUPPLY BOARD.

35. THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: (a) Will Government state how many members there are in the War Supply Board? Is any of them Indian?

(b) What was the salary of each member of the Board before his appointment to the Board and what is it now?

THE HONOURABLE MR. A. DE C. WILLIAMS: (a) A copy of the Notification setting up the War Supply Board is placed on the table. It will be seen that in the case of four out of the eight members, representation is not *ex officio*, but any representative of the Department concerned may be deputed who may or may not be an Indian.

(b) Membership of the Board as such carries no emoluments, nor has any increase been made in the emoluments of any of the members by reason of the setting up of the Board.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: Has the salary of any member of the Board been increased, no matter for what reason?

THE HONOURABLE MR. A. DE C. WILLIAMS: The salary of the Director General, Mr. Dow, is at present Rs. 5,000 a month, whereas in his previous appointment—Secretary to the Government of India his salary was Rs. 4,000 a month. The salary of the Deputy Director General, Sir James Pitkeathly, which was previously Rs. 3,500 a month is now Rs. 4,000 a month.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: Are these the only two persons whose salaries have been increased?

THE HONOURABLE MR. A. DE C. WILLIAMS: So far as I know, Sir, yes.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: Why have their salaries been increased?

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THE HONOURABLE MR. A. DEC. WILLIAMS: Because of additional responsibilities attached to their present appointments.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: That is, they have been given these additional salaries because of their being members of the Supply Board?

THE HONOURABLE THE PRESIDENT: He said because of "additional responsibilities".

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: Because they shoulder additional responsibilities as members of the Supply Board. Why did the Honourable Member then say that their salaries had not been increased because of their being members of the Board?

THE HONOURABLE MR. A. DEC. WILLIAMS: I may point out that these appointments were made before the Board was set up.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: In anticipation of the Board being set up?

THE HONOURABLE MR. A. DEC. WILLIAMS: No, Sir. The intention was that should war break out, the Board would be set up. But at the time when these appointments were made it was by no means certain that war would break out.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: They were given these additional salaries in order to perform those duties which fall within the purview of the members of the Board?

THE HONOURABLE THE PRESIDENT: That is an argument, not a question.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: That is a very plain question, Sir. I hope that you will give us some latitude. It is a very important question. I think it is very necessary that we should elicit full information from Government.

THE HONOURABLE THE PRESIDENT: I am giving you an enormous amount of latitude.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: I hope on this occasion you will see that we are at a considerable disadvantage in getting precise information from Government.

THE HONOURABLE MR. A. DEC. WILLIAMS: I do not think, Sir, that the Honourable Member is justified in saying that he has experienced the slightest difficulty in obtaining information from the Government. The position is that these two officers were appointed to do certain preparatory and exploratory work. These appointments would have continued for a certain length of time whether the war had come or had not come. When the war did come, these officers were employed on the War Supply Board.

THE HONOURABLE MR. HOSSAIN IMAM: Who are the other two members who do not represent any Department? The Honourable Member said that there are four members from Government and four other members. Who are they?

THE HONOURABLE MR. A. DEC. WILLIAMS: That, Sir, will appear from the Notification setting up the Board. The four members are:

1. A representative of the Railway Board.
2. A representative of the Master General of the Ordnance Branch.
3. A representative of the Quarter Master General's Branch.
4. A representative of the Finance Department.

THE HONOURABLE MR. HOSSAIN IMAM: These are the official representatives. Who are the other members?

THE HONOURABLE MR. A. DEC. WILLIAMS: The other members are the Chief Controller of Stores, the Director of Contracts, and the Director General and Deputy Director General of Supply.

THE HONOURABLE MR. P. N. SAPRU: Is the total number eight or six?

THE HONOURABLE MR. A. DEC. WILLIAMS: Eight.

THE HONOURABLE MR. P. N. SAPRU: In point of fact, is there any Indian amongst these eight?

THE HONOURABLE MR. A. DEC. WILLIAMS: Sir, I have already explained in my answer to part (a) of the question that as four of the members are not nominated *ex officio*, it is impossible to say whether they are Indians or not.

THE HONOURABLE MR. P. N. SAPRU: I put a plain question, Sir. As a matter of fact, is there any Indian on the Board?

THE HONOURABLE MR. A. DEC. WILLIAMS: It is impossible for me to say, Sir, who from day to day attends the meetings of the Board. For all I know, an Indian has attended a Board meeting.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: Among those members who are not representatives of departments, is there any Indian?

THE HONOURABLE MR. A. DEC. WILLIAMS: No, Sir.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: Why has not a single Indian been chosen in that category?

THE HONOURABLE MR. A. DEC. WILLIAMS: I presume that the appointments made were of persons best qualified to discharge the duties attached to the posts.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: Is it intended to be conveyed that there was not one man either among the Indian officials or Indian non-officials who was competent to discharge the duties of a member of the Supply Board?

THE HONOURABLE MR. A. DEC. WILLIAMS: No, Sir.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: Why were Indians totally ignored then when the Board was appointed?

(No answer.)

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COUNCIL OF STATE.

[25TH SEPT. 1939.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: Have Government any intention now of modifying the composition of the Board?

THE HONOURABLE MR. A. DEC. WILLIAMS: No, Sir.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: Do they mean to get our support and at the same time go on flouting our wishes like this?

THE HONOURABLE THE PRESIDENT: You are not supposed to cross-examine the Member of Government. You are supposed to put questions.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: When a Government Member does not give the full information asked for, we are obliged sometimes to cross-examine him.

THE HONOURABLE THE PRESIDENT: From your point of view, you may think that full information has not been given. But I think the Honourable Member has certainly given all the information within his power.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: I most respectfully dissent strongly from this opinion of yours.

THE HONOURABLE THE PRESIDENT: I note that.

GOVERNMENT OF INDIA.

DEPARTMENT OF SUPPLY.

NOTIFICATION.

Simla, the 31st August, 1939.

No. 1/39.—The Governor General in Council is pleased to set up, with effect from the date of this Notification, a War Supply Board, the functions of which will be to take such steps as may be necessary to ensure that supplies of all kinds required for the prosecution of war are available with the utmost expedition, and to co-ordinate the activities of all Departments of the Government of India and of commercial firms or organizations to that end. The Director General of Supply and the Deputy Director General of Supply will be respectively President and Vice-President of the Board, which will be composed as follows:—

1. A representative of the Railway Board.
2. A representative of the Master General of the Ordnance Branch.
3. A representative of the Quartermaster General's Branch.
4. A representative of the Finance Department.
5. The Chief Controller, Indian Stores Department.
6. The Director of Contracts.

(Sd.) H. DOW,

Director General of Supply.

COMPOSITION OF THE DEFENCE CO-ORDINATION DEPARTMENT.

36. THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: Is there any Indian on the Defence Co-ordination Committee or among the officers serving under it?

THE HONOURABLE MR. A. DEC. WILLIAMS: The Honourable Member perhaps intends his question to refer to the Defence Co-ordination Department of the Government of India. There is at present one Indian officer serving under this Department.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: Does the Honourable Member mean that there is an Indian in what was formerly known as the Supply Officers Committee?

THE HONOURABLE MR. A. DEC. WILLIAMS: No, Sir. The Defence Co-ordination Department as at present constituted has no connection with, and contains no officers from, the Principal Supply Officers Committee.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: Am I to understand that what was formerly known as the Defence Co-ordination Committee is now known as the Defence Co-ordination Department, or has there been any change in the composition of the Committee?

THE HONOURABLE MR. A. DEC. WILLIAMS: So far as I know there has never been any Defence Co-ordination Committee. It has always been described as the Defence Co-ordination Department.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: Will the Honourable Member tell me who are the members?

THE HONOURABLE MR. A. DEC. WILLIAMS: There are four officers, one Secretary, one Deputy Secretary, one Under Secretary and one Assistant Secretary.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: What are the names of these officers? Perhaps the Honourable Member is himself the Chairman of this Committee.

THE HONOURABLE MR. A. DEC. WILLIAMS: I must repeat that it is a Department, not a Committee. The Secretary of the Department is myself; the Deputy Secretary is Mr. Mason, the Under Secretary is the Honourable Mr. Wakely; the Assistant Secretary is Rai Bahadur Dube.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: So that among the superior officers here too there is no Indian.

COMPOSITION OF THE INSPECTORATES OF ARMAMENTS AND MECHANICAL TRANSPORT, ETC.

37. THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: (a) What is the total number of civilian officers in the (i) Inspectorates of Armaments and Mechanization and (ii) Indian Ordnance and Clothing Factories?

(b) How many of them in each case are Indians?

THE HONOURABLE MR. A. DEC. WILLIAMS: (a) (i) Inspectorates of Armaments 11

Inspectorate of Mechanical Transport Nil

(ii) Ordnance and Clothing Factories 43

(b) There are two Indians in the Ordnance Factories only.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: Is there any restriction on the number of Indians to be employed in these Departments?

THE HONOURABLE MR. A. DEC. WILLIAMS: No, Sir.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: Why is it then that more Indians have not been selected for appointment to these branches?

THE HONOURABLE MR. A. DEC. WILLIAMS: The appointments in these inspectorates are open to individuals holding precise technical qualifications who have had experience over a number of years in munitions manufacture. When those qualifications are held by an Indian gentleman his case is given equal consideration with other applicants.

THE HONOURABLE MR. HOSSAIN IMAM: What about the clothing factories, Sir?

THE HONOURABLE MR. A. DEC. WILLIAMS: In point of fact the two Indian incumbents are in the munitions factories.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: Is there any scheme drawn up by Government for getting men of requisite qualifications just as there is a scheme for the training of the subordinate personnel of these branches?

THE HONOURABLE MR. A. DEC. WILLIAMS: I must have notice of that question, Sir.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: What about the clothing factories? Is there too a very high technical qualification needed?

THE HONOURABLE MR. A. DEC. WILLIAMS: So I am given to understand, Sir.

STATEMENT LAID ON THE TABLE.

THE HONOURABLE MR. E. CONRAN-SMITH (Home Secretary): Sir, I lay on the table a copy of the declaration of exemption under section 6 of the Registration of Foreigners Act, 1939, as published with the Notification of the Government of India in the Home Department No. 21/68/39-Political (W), dated the 21st September, 1939.

GOVERNMENT OF INDIA.

HOME DEPARTMENT.

Simla, the 21st September, 1939.

REGISTRATION OF FOREIGNERS ACT, 1939.

Declaration of Exemption.

No. 21/68/39-Political (W).—In exercise of the powers conferred by section 6 of the Registration of Foreigners Act, 1939 (XVI of 1939), the Central Government is pleased to declare that the provisions of the Registration of Foreigners Rules, 1939, shall not apply to, or in relation to, the Governor General of Portuguese India or the Governor of the French Establishments in India, or to members of their family or staff accompanying them.

(Sd.) H. J. FRAMPTON,

Deputy Secretary to the Government of India.

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 Workmen's Compensation Act, 1923, for a certain purpose which was passed by the Legislative Assembly at its meeting held on Friday, the 22nd September, 1939.

DEFENCE OF INDIA BILL.

THE HONOURABLE MR. A. DEC. WILLIAMS (Nominated Official): Sir, I move:

"That the Bill to provide for special measures to ensure the public safety and interest and the defence of British India and for the trial of certain offences, as passed by the Legislative Assembly, be taken into consideration."

The proposals contained in the legislation which I have the honour to submit to this Council are unprecedented. So are the circumstances which necessitate those proposals. This Council which has never been found wanting in a sense of its responsibility will, I am convinced, not fail to appreciate its gravity now.

It is the universal rule that in time of war Legislatures entrust enlarged, often unlimited, powers to the executive government. In this war to defeat totalitarian methods very drastic delegations of powers of this character are required.

I assume without question that this Council is unanimous in regard to those principles in defence of which Great Britain has embarked upon this war. They will not, I am sure, criticise this Bill on the ground that the war is unnecessary or objectionable. I further assert, and I challenge contradiction, that, not only must India stand or fall as Great Britain and the Empire stand or fall, but the abrogation of the principles for which Great Britain is now fighting will mean the ruin of the aspirations of every responsible political party in India. I believe therefore that the principle of this Bill, immeasurably wide as its provisions are, is fully accepted by this Council.

The only possible points of difference are its details and the manner in which effect is to be given to its provisions.

As to its details, I may be permitted a personal explanation. For eleven years on and off I have been associated with the work of emergency war legislation. That legislation has been conveniently based on that of the last war. Our procedure has been to examine the legislative measures found necessary in the last war in relation to present circumstances. In this examination current proposals in Great Britain have necessarily had to be examined. I can assure Honourable Members that for all the time that I have been associated with the preparation of this legislation all these proposals have been subjected to the most meticulous scrutiny. Honourable Members will appreciate that certain elements of the Government necessarily tend to press for

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drastic powers. It is the duty of other elements to deal with other considerations, political and so on. It has not been an easy task to arrive at the proposals contained in this Bill. They have been very carefully weighed after prolonged discussion. They are not the ill-considered productions of an inconsiderate bureaucracy.

Further, as to the details of this Bill, Honourable Members have tabled certain amendments. As regards those amendments I will only say this. I hope in the course of my remarks to show that Government have done a very great deal in the Select Committee and in another place to accommodate the provisions of the Bill to the views expressed in the Legislature. Any further amendment in this Council will have to be returned to another place before the Bill becomes law. The time-table of the present session of the Legislature is not immutable; but it is not impossible that, unless this Bill receives its final *imprimatur* here and now, the benefits to be derived from the modifications imposed by it on the existing Ordinances may be delayed for some time. In short, any proposal from Honourable Members of this Council, being liable to delay the passage of the Bill into law, should be, I suggest, confined to matters only of the most serious importance.

I have mentioned the fact that Government have gone far in the direction of accommodation. I will try briefly to indicate the changes accepted by the Select Committee and in the other House.

In clause 2 of the Bill, sub-clause (2) paragraph (iii), which penalises interference with recruiting, an exemption has been provided in the case of advice given in good faith for the benefit of the person advised or of his family. This follows existing legislation on dissuasion from recruitment.

In the same sub-clause, paragraph (iv), sub-paragraph (b), penalises the possession of certain information. An exemption has been provided for unintentional offences. Government appreciate, for instance, that it would be unfair to penalise anyone for possession of a newspaper which might contain information useful to the enemy. In the same sub-clause, paragraph (v) penalises the spreading of false reports. Here again, unintentional offenders are catered for by the insertion of the words "without lawful authority or excuse". Further, an exemption on the lines of the relevant section in the Indian Penal Code has been included as regards promotion of enmity and hatred between different classes of His Majesty's subjects. In the same sub-clause, paragraph (x), the reference to hostile "association" has been omitted as being somewhat vague and open to too wide a construction. In the same sub-clause, paragraph (xx) has been amended so as to include a provision for the maintenance of supplies for the civil population. The original wording made the paragraph apply only to "things which can be used in connection with the conduct of the war" and it was considered that this phraseology was not wide enough to cover provision for the vital necessities of the civil population. Paragraph (xxxi) relates to the control of the use of uniforms, flags and the like. This is now limited only to cases where such use is prejudicial to the conduct of the war, to the public safety and so on.

Then, in clause 8, sub-clause (3), a change has been made in the qualifications for membership of Special Tribunals. It is now provided that a Special Tribunal must contain at least one person qualified for a High Court and one person who is qualified by exclusively judicial experience.

In clause 9, which relates to the jurisdiction of Special Tribunals, that jurisdiction, which before extended to all classes of offences, even to petty offences, is now limited to offences under the Defence of India Rules and offences punishable with seven years' imprisonment or severer sentences.

In clause 10, sub-clause (5), the summary provision for trial in the absence of an absconding accused is now limited to cases only where he first appears and then deliberately absents himself.

Clause 13, sub-clause (2), has, I submit, undergone a most important modification. In the Act of 1915 and in the Bill as introduced in the Assembly there was no appeal from any decision of a Special Tribunal. The Select Committee introduced provision for an appeal from a sentence of death or transportation for life.

Finally, in clause 17, sub-clause (2), the immunity given by the sub-clause to Government against legal proceedings is now limited to acts done in good faith.

In the Report of the Select Committee, a certain Honourable Member of the Committee referred to the attitude of the Government representatives at its meetings and other matters domestic to the Committee. Without prejudice to the accepted principle that such matters should not be disclosed either to the Legislature or to the public—

THE HONOURABLE THE PRESIDENT: It is not usual to refer to what passed in the Select Committee.

THE HONOURABLE MR. A. DEC. WILLIAMS: That is what I am saying, Sir. I submit that the Government in the Select Committee, judged by results, did show a spirit of accommodation. If that be seriously disputed, the further amendments accepted by Government in the other House are enough to belie any accusation of unresponsiveness. In clause 1, sub-clause (3), in the Legislative Assembly Government accepted an amendment in respect of the commencement clause. The change was accepted in deference to the wishes of the Assembly mainly, I take it, having regard to the introduction of the Chapter providing for Special Tribunals. The position now is that the various provisions of the Act can be brought into operation by executive order at different times in different areas.

In various parts of clause 2, at the beginning of sub-clause (2) and in sub-clauses (3), (4) and (5), references to the entrustment of certain powers and to the conferment of certain duties on "persons" has been omitted. It was considered that there was some danger in this. So the reference now is merely to "officers" and "authorities".

In clause 2, sub-clause (3), paragraph (i) the words "or reasonably suspected of contravening" have been omitted. They really do not add very much to the sense of the paragraph.

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In paragraph (vii) of the same sub-clause, which deals with attempts at screening offenders, an exemption has been inserted as regards married persons either of whom screens the other. For this there are precedents in existing legislation.

In clause 10, sub-clause (2), an important change has been made. As a logical consequence of the right of appeal, provision has been made that in appealable cases a Special Tribunal must record the evidence in full.

In sub-clause (7) of clause 10, paragraph (iii) has been omitted. That paragraph gave power to Provincial Governments to over-ride the normal criminal procedure in respect of trials by Special Tribunals. This provision has been deleted.

In clause 13, sub-clause (2), the right of appeal has been further extended to sentences of 10 years in cases where the offence tried was, by reason of section 5 of the Act or the amendments effected by section 6 of the Act, of an enhanced character, extending to death and transportation for life. In a trial of that nature, wherein a sentence of 10 years is awarded, there will now be a right of appeal. As regards recording of the evidence, that will have to be done in any case; as the offence is punishable with death or transportation for life.

Well, Sir, I trust that these changes which I have enumerated suffice to show that Government has not been unresponsive. I now come to the second point—the working of this legislation. I can state categorically that it is the intention of Government only to use these extraordinary powers as and when emergently required and that their officers have been instructed accordingly. I have heard suggestions, based on alleged action alleged to have been taken under the analogous Act of 1915, that the extraordinary powers conferred by this legislation will be employed for political reasons. I would only urge that Honourable Members should study the rules made under the Ordinance which are the best indication of how this legislation will be worked. They will find nothing formidable there. In fact, the great bulk of powers and duties is assigned to the responsible Provincial Governments. This in itself should be a sufficient answer to those who criticise the recent war-time amendment of the Constitution Act.

The Special Tribunals set up under the Bill come in for a good deal of detailed criticism. These Tribunals will only be appointed in very special circumstances. There is no question, Sir, of their being set up wholesale simply to replace the ordinary courts. In any special circumstances in which they may have to be appointed, summary procedure will undoubtedly be justified.

I must again apologise for personal reminiscence. I had some experience of the days of terrorism in Bengal when I myself presided over Special Tribunals. I am not aware of any responsible criticism of the constitution or procedure of those Tribunals. Bad as terrorism in Bengal was, this war is worse. Surely the Council can accept the provisions for these Tribunals.

I would only repeat that, subject to discussion of details and operation, it is imperative that this Bill should have the assent of this Council. In

this emergency the executive Government, however constituted, must be permitted to carry on very largely by itself. The Government of India may not be a responsible Government in the same sense as His Majesty's Government. Nevertheless, as we are placed now, it must be empowered to act for the common safety. As the Minister in charge of the corresponding Bill in Parliament very rightly observed, you are being asked temporarily to give up prized liberties in order to enjoy them permanently for the future.

To Honourable Members who feel any diffidence, I commend the attitude to the like legislation in Great Britain, which passed through both Houses of Parliament in a few hours, of the most consistent opponents of His Majesty's Government as at present constituted—the British Labour Party.

Sir, I move.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU (United Provinces Northern : Non-Muhammadan) : Mr. President, I am sure every Member of this House realizes that we meet today in an atmosphere of complete unreality. Even in the best of circumstances there is not much chance of the views of elected Members being accepted by Government. The constitution of this House is such that they are assured practically of a standing majority on all occasions. But there have been occasions in the past, notwithstanding the strong position occupied by Government here, when suggestions made by us have been accepted by them. On the present occasion, however, the matter is closed, and the Honourable Member who represents Government today has told us with brutal frankness that Government have gone to the utmost length in making concessions in the Select Committee and in the Legislative Assembly and that no more changes can be permitted in the Bill before us. If it is so and Government had to bring this Bill before us only to comply with a legal formality, how can they expect any self-respecting Member of this House to accord his willing support to it? Their own votes are sufficient to enable them to carry any measure on which they have set their heart. Let them carry this Bill also through the House, after enacting the farce through which we are now going.

Sir, it seems futile on such an occasion even to examine the provisions of the Bill, but we must discharge our duties as Members of the Council by pointing out what we consider to be the defects in the Bill even after the modifications accepted by Government in the Legislative Assembly. It is a duty which we owe to the public whose representatives we are and we must discharge it irrespective of the attitude of Government.

Sir, before I deal with the principles underlying the Bill and its general character, I should like to draw the attention of the House to the Preamble of the Bill which says that the Bill is meant to ensure, among other things, the "interest" of British India. My Honourable friend Mr. Williams asked us in his peroration, in spite of the constitutional difference between the position of the Government of India and of His Majesty's Government to give the fullest possible support to the Government of India in carrying out the purpose for which the Bill before us is designed, Sir, the difference to which Mr. Williams referred is not a matter of no importance. That difference goes to the root of the matter. Had the Government here been responsible to the

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Legislature, it could have been invested with even larger powers without the public feeling that they would be exercised in such a way as to jeopardise its liberties, but the constitutional position of India is very different from that of England. We have consequently to examine the provisions of special laws with considerable care. In order to illustrate the difference that can exist between the spirit of a responsible and an irresponsible Government, I would draw the attention of the House to an order issued recently under the Defence of India Rules restraining male European British subjects between the ages of 16 and 50 from leaving the country except with the permission of certain military authorities. What is the purpose of this order? The order says that young men who are most suitable for the officer ranks of the Army are leaving India for service out of India. It says further that the departure of such men would be a direct loss to the Army in India. It consequently prohibits their departure from India, and it advises them to take temporary Commissions in the Army in India—

THE HONOURABLE THE PRESIDENT : What is your opinion ?

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : I will express my opinion just now. After your experience of me in this House for two and a half years I thought, Sir, that you must be sufficiently acquainted with my opinions. But since there seems to be some doubt about them, I will make them clear, beyond any shadow of doubt, to every Member of this House.

The Army in India which is referred to in the order that I am discussing includes not merely the British forces but also the Indian Army. Now, these Europeans who have been prevented from going out of India if given temporary Commissions in the Indian Army, will naturally be an obstacle to the appointment of qualified Indians in the same positions. It does not appear to me from the order that it applies only to those men who have already received military training and whose employment in a crisis like this may be justified on the ground that it takes times to train a Commissioned officer. They seem to be untrained men. The only thing about them, according to the order, is that they are suitable on general grounds for being appointed as Commissioned officers. If this is all that can be said in favour of these men, I ask whether men with suitable general qualifications cannot be had from among Indians. The question of the appointment of Indians to the higher ranks in the Army is one of the most important questions that has been exercising the minds of Indians since the establishment of the Montagu-Chelmsford Councils, yet, no progress has been made in this respect. And now when a time has come when Indians might be given special opportunities for being employed as officers, European British subjects are prevented from going outside India and are advised to accept temporary Commissions in the Indian Army. If any other example were needed to illustrate the difference between the British Government and the Government of India, I would refer to the answer given by the Honourable Mr. Williams to my questions relating to the composition of the War Supply Board and the Defence Co-ordination Department. Would it have been possible, Sir, for a Government of India, responsible to the people, to have acted in the manner in which the Government of India have done in connection with organizations set up because of the war ? Whether they

were set up in anticipation of the war or immediately after war broke out does not matter at all. One would have thought that the Government of India would not merely recognize the legitimate desire of Indians to be associated with arrangements connected with the defence of their country in a responsible capacity but will also go out of their way in order to assure them that their co-operation was required on a footing of equality. The two illustrations that I have given show that the point of view of the Government of India remains wholly unchanged even in this crisis. We cannot therefore be accused of being unreasonable if we adopt a different attitude in judging the provisions of the Defence of India Bill to that adopted by members of the British House of Commons in considering the Defence of the Realm Bill.

Sir, the Honourable Mr. Williams exhaustively enumerated the changes made in the original Bill during its passage through the Select Committee and the Legislative Assembly and he compared some of the provisions before us with those of the Defence of India Act of 1915 also. There is no doubt that the Bill has been changed for the better since it was introduced in the Legislative Assembly and that it is in some respects an improvement also on the Government of India Act of 1915. But we must recognize that a great deal of water has flowed down the Ganges during the last 25 years and that a measure of the kind passed rapidly through the Imperial Legislative Council in 1915 would not have been acceptable to a popular Legislature constituted as it is now. I feel, Sir, notwithstanding the alterations made in the Bill in the Legislative Assembly that there are certain matters in regard to which we might justifiably feel apprehensive. Take, for instance, the provisions relating to the prohibition of public meetings. Now, I know that a change has been made in the rules framed under the provisions of the Defence of India Ordinance relating to the prohibition of public meetings, which makes it clear that the prohibition or regulation of public meetings will be applicable only in the interests of public safety, maintenance of law and order and proper prosecution of the war. Government have tried to assure the public by making this change that the power to prohibit or regulate public meetings will not be used for political purposes.

THE HONOURABLE SIR A. P. PATRO : These rules will be administered in the provinces by the present popular Governments.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : I will come to that later.

Sir, I am prepared to accept the assurance given in the other House and the assurance given by Mr. Williams that the exceptional powers conferred on Government by this Bill will be used with great care and moderation and that Government officers have been instructed to use them sparingly and only in exceptional circumstances. Yet, Sir, considering the atmosphere now prevailing in the country, it is quite possible that there might on constitutional questions arise the same conflict between the Government and the people which arose while the last war was going on. If this happens it is not merely conceivable but easily believable that the Government might be tempted to take strong measures against persons carrying on agitation for the purpose of advancing India's constitutional status on the ground that their activities

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would hamper the successful prosecution of the war. I do not think, Sir, that any non-official Member here would in his heart of hearts regard such a fear as fanciful. A fear like this is the natural outcome of the circumstances in which we are placed and the subordinate political position which we occupy in our own country.

Now, Sir, take another question. Government are empowered by item 20 of sub-clause (2) of clause 2 to control any trade or industry for the purpose of regulating or increasing the supply of an article. Government will also have the power to declare any area a protected area. In pursuance of these powers Government may declare an industrial area a protected area in order to regulate the production of particular articles. I have no doubt that in such circumstances they will consult the representatives of the industrialists because they occupy a powerful position. I am not sure however that Government will be equally ready to consult representatives of labour. Let us in this connection cast a glance at what is being done in England. Everything connected with war production is being regulated in consultation with the representatives of Labour. The representatives of Labour are taken into the fullest confidence by Government, so that there may be complete harmony between all those interests on whose co-operation the satisfaction of the needs of the State depends. I referred a little while ago, Sir, to the War Supply Board set up here. In England too a similar Board, called the Council of

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Supply, has been set up. This Board seems to me, judging from the names, to be composed entirely or largely of non-officials, of non-official business-men and an assurance has been given that the question of wages and allied questions would be settled by Government in consultation with the labour interests concerned. What is the situation here? We know what is the constitution of the War Supply Board. If ever there was a Board on which non-official representation was essential, it was this Board. One would have thought that the assistance of non-official men would be welcome in order to provide the troops with all those things that would be needed by them. Yet they have been kept at arm's length and people mostly with no previous experience of business have been made members of this Board. I do not object to the presence of such men, but I object to the exclusion of qualified Indians, particularly of those who are concerned with trade and industry. The position is equally unsatisfactory in regard to questions concerning labour. Many assurances were given in the other House with regard to the manner in which the provisions of the Bill before us will be carried out. Those assurances have been repeated today by Mr. Williams. But nothing has been said to indicate that even though labour is not as well organized in this country as it is in England special steps would be taken by Government to protect their interests. Government can even now rectify this omission and make a satisfactory announcement on the subject. Many special appointments are being made in connection with the war. If a Labour Commissioner were to be appointed at least for the duration of the war from amongst qualified Indians, I think that would be some assurance to the public that the rights of the underdog would not be ignored. The appointment of such an officer will not do away with the need for consultation with labour representatives

themselves, but in view of the incomplete organization of labour here, it is necessary that the Government should appoint persons with special experience of labour who would be able to deal with all labour questions with knowledge and sympathy. I could give other illustrations also to show that we are perfectly justified in being reluctant to concede to Government the extraordinary powers with which this Bill will clothe them. But the examples that I have given are sufficient to indicate my point of view.

Now, let us see what is the procedure prescribed for the trial of offences and what will be the position of the Special Tribunals that might be appointed under the Act. It is true that it is not necessary under the Bill to set up Special Tribunals. They may be established. They will be established presumably only when the ordinary judicial machinery breaks down and their establishment would rest with the Provincial Governments. This is perfectly true, but as the Special Tribunals which would be set up would enjoy extraordinary powers it is necessary for us to see whether the provisions relating to them are of a satisfactory character. It has been laid down in the Bill—and this is one of the modifications introduced by Government in the Assembly—that all sentences of death and transportation and of imprisonment for a term extending to 10 years may be taken in appeal to a High Court. This is certainly a very salutary and welcome provision, but the powers of the Special Tribunals would nevertheless be very large, dangerously large. Sentences of imprisonment for less than 10 years passed by the Special Tribunals would be final. It seems to me, Sir, notwithstanding the emergency created by the war, that such an extraordinary power requires to be justified. I will give another instance to show that the provisions relating to appeals against sentences passed by the Special Tribunals ought to be wider than they are now. Take, for instance, the question of forfeiture. A man may be suspected of contravening the provisions of certain rules and his property which may be very valuable may be confiscated; yet he will not be in a position to take his case before a High Court and to ensure that justice is done to him. He may be reduced from affluence to beggary and yet he will not be entitled to appeal to a higher authority. To say that the provinces will in the last resort be responsible for the manner in which the Special Tribunals will work is to ignore the realities of the present situation. The Provincial Governments backed by powerful majorities have in several cases shown themselves only too willing to make use of the special powers which men belonging to their political persuasion used to condemn two or three years ago. The establishment of autonomous Provincial Governments cannot therefore be regarded as a sufficient guarantee that the working of the Special Tribunals would give satisfaction to the public. Besides, it is necessary on principle that the law itself should provide a safeguard against the abuse of power.

As regards the sentences, I am sure it will be agreed that even sentences involving less than 10 years of imprisonment are sufficiently heavy. Is it not desirable then that the provisions relating to appeals should be widened? If really it is thought that only a small number of cases will be placed before these Special Tribunals, Government need have no hesitation in going a little further than they have already done in order to satisfy the public that its legitimate rights would be in no danger of being violated.

[Pandit Hirday Nath Kunzru.]

Again, Sir, it is quite possible that important questions of law or fact may be involved in a case and that the judgment of the Tribunal may not be unanimous. I am not pleading that for this reason that the minority judgment should be regarded as having greater force than the majority judgment if the former is in favour of the accused. But we have to remember that in many cases the Privy Council has in appeal accepted the validity of the view set forth in the judgments of dissenting judges. This ought to make us pause, therefore, and consider whether it would not be right to provide that at least where certain important questions are at issue, the accused should have the right of appealing to a High Court if the judgment of the Tribunal is not unanimous. Surely, a modification like this will not dangerously weaken the Bill or in any way deprive Government of the powers which in their opinion they need at present. I think, Sir, that in respect of the matters now mentioned by me there is a strong case for the extension of the right of appeal given to the accused in certain cases under clause 3 of the Bill before us.

Now, let us, consider, Sir, the constitution of the Tribunal. This is set forth in clause 8 of the Bill. Its language seems to me to be needlessly complicated. I hope that the draft was not intended to mystify laymen. Under this clause 8 one of the members of a Special Tribunal must be a person qualified for appointment as a judge of the High Court. As regards the remaining two persons, one must be a sessions judge, an additional sessions judge, chief presidency magistrate, or additional presidency magistrate, and one must be a district magistrate or additional district magistrate. Now, let us compare, Sir, the constitution of the Tribunal as provided in this Bill with the constitution of the Tribunal set up by the Defence of India Act, 1915. Section 4 of the Defence of India Act says :

"All trials under this Act shall be held by three commissioners, of whom at least two shall be persons who have served as sessions judge or additional sessions judges for a period of not less than three years, or are persons qualified under section 2 of the Indian High Courts Act, 1861, for appointment as judges of a High Court, or are advocates of a Chief Court or pleaders of 10 years' standing".

Now, under this provision, Sir, it was certain that at least two members would be persons who had had judicial experience. Under clause 8 of the present Bill, it does not seem to me that there is any such guarantee. The Tribunal may be composed of three persons one of whom is a person qualified to be a judge of a High Court and the remaining two are executive officers, that is, persons who have exercised the powers of chief presidency magistrates, additional chief presidency magistrates, district magistrates or additional district magistrates. The composition of this Tribunal, therefore, seems to me to be definitely unsatisfactory as compared with the composition prescribed by the Defence of India Act, 1915.

Sir, I trust that the illustrations that I have given will serve to show the legitimate fears that we entertain with regard to the future exercise of the powers which this Bill is intended to confer on Government. It is possible for Government to go substantially further than they have done at the present time without detracting from the value of the Bill. Indeed, they may be able to obtain more co-operation in return for any changes made by them in the direction indicated.

THE HONOURABLE LIEUT.-COLONEL SIR HISSAMUDDIN BAHADUR (Nominated Non-Official) : Mr. President, Sir, the Defence of India Bill which has been passed by the Legislative Assembly and is now before the House is obviously a measure which in the present emergency is a most essential piece of legislation. During the last war a measure of this nature was brought into effect and in other countries engaged in war. In the present struggle legislation on some such lines as the Bill before us has been found necessary and has been enforced. The Bill has been altered in some material respects and greatly improved by the Select Committee of the Legislative Assembly, and still further amendments have been made by the House. All I need say is that this Council should not have the least hesitation in passing the measure and I accord it my full and unstinted support.

But I will not let this opportunity slip without submitting a few suggestions based on my knowledge and experience gained by about four years active service in the last war for the consideration of the Government of India and in particular of His Excellency the Commander-in-Chief.

When our men were engaged on military duties abroad in the last world war, the general complaint was that there was no adequate arrangement for safeguarding their private interests or for looking after their domestic affairs in their absence. Cases of abduction in their families, of encroachment on the rights of their sons and heirs and similar other matters came to notice. This state of affairs caused cases of malingering, discouraged and demoralized the soldiers. In order to counteract such factors I beg to suggest that the shortcomings of arrangements in the Great War should be avoided in this present war. I would strongly suggest that the civil administration should be persuaded to afford actual help in this connection.

The Soldiers Board should be made responsible in every district to represent to the Recruiting Officer and the civil administration the question of safeguarding and care of the dependants and property of the soldiers who are on active service.

During the last war I am aware of the cases where the families of serving soldiers who remitted money by money order were put to inconvenience by postmen who demanded illegal gratification. This request of the latter, if not granted, resulted in the money order being returned with the remarks that "the addressee was not found or known". Special arrangements may kindly be made by the postal authorities that the families of soldiers on active service should be spared all this trouble.

I should also like to draw the attention of the authorities concerned that during the last war arrangements were made for suspending proceedings in civil and revenue courts against soldiers, both combatants and non-combatants, who had proceeded on active service. This concession was much appreciated by the soldiers and I trust that similar arrangements will be made on the present occasion.

It is the moral duty of every Indian to render whole-hearted support in this wicked needless war ; as it is enunciated by one of the greatest statesmen of India, I mean, Sir Sikandar Hayat Khan, Premier of the Punjab. I earnestly hope his advice will be followed, not only by the Punjabis, but throughout the

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length and breadth of the Indian Empire. I have also issued an appeal to my Moslem brothers in the Press to rally round Britain's banner in their hour of trial.

I am not sure whether an amendment incorporating the suggestions I have ventured to make would have been appropriate but in any case such a course would be impracticable, because any amendment that I make in this House must go to the other House, and, as you are well aware, the Assembly has adjourned *sine die*. Sir, I strongly support the Motion for the consideration of the Bill.

"*Dost an bashad keh girad dast-i-dost, Dar pareshan hali-o-dar mandgi*", i. e., "A friend in need is a friend indeed, otherwise he is an enemy".

THE HONOURABLE SIR A. P. PATRO (Nominated Non-Official): Sir, I give my whole-hearted support to the principles of the Bill before the House. I do not want to enter into a consideration of the constitutional issues raised by the Honourable Mr. Kunzru on this Bill which is an emergent measure, designed to meet the conditions arising in India on account of the war. Therefore, it seems to me altogether beside the point to talk of the constitutional position of India, the relation of India with Great Britain and the position of India in the Empire. These are questions altogether beside the point at issue before the House now.

There is another point which the Honourable Mr. Kunzru has raised—not for the first time but perhaps for the tenth time—namely, that this House is composed of persons whom Government can count upon, and therefore Government is always assured of the success of any measure that is brought before the House.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: There are such Members in the other House too.

THE HONOURABLE SIR A. P. PATRO: I wish the Honourable Mr. Kunzru were more careful—I would only say, more careful—in his observations against Members on the opposite side. The constitution is there. He is a constitutionalist and well informed citizen. He knows that according to the composition of this House, there is a majority of elected Members. The elected strength of this Council is more than the nominated strength, and therefore to make any such reflection seems to me to be altogether unjustifiable. If the representatives of the people, who claim to have a monopoly of all wisdom, intelligence and patriotism, are not able to discharge their duties successfully and wisely, if they do not attend the meetings of this Council and in strength oppose Government measures, if they failed to do their duty, then the fault is not with the Government or with the nominated Members but with those who do not discharge their responsibilities. Therefore, it is futile to raise the question that in this House we will not be able to succeed in any non-official measure. The fault is not in the composition of this House. The strength of this House lies in the deliberations which are always carried on with great moderation, great consideration and great patriotism. It is the combined intelligence and the combined experience of both sides of the House which settles any question and not entirely on one side. It is the combination of the official and non-official Members of this House which decides the questions before the House. It is,

therefore, altogether unfair to cast reflections on the composition of the House or on the character of the nominated Members. I do not yield to any one in this House or outside that we are on this side wanting in same patriotic consideration of the questions that come before us. We have often voted against the Government and often remained neutral against the Government. Therefore it is unjust and unfair that any such reflection should be made in regard to the Members of this House. I say if the so-called responsible elected Members discharged their duties properly, attended regularly, mustered their strength and combined together, discussed all the views and reconciled all views and then put forward their united opposition, then Government would find it difficult because it is the elected strength of this House which is predominant.

THE HONOURABLE SIR DAVID DEVADOSS (Nominated Non-Official): They go by the mandate received.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: Our mandates are more flexible than those which nominated Members receive.

THE HONOURABLE SIR DAVID DEVADOSS: No, we do not receive any mandate at all. We are here as reasonable persons and we vote as we think best. It is false to suggest that simply because we are nominated we leave our consciences outside. The Government Members may be under a mandate. So far as nominated Members are concerned, I say that we exercise our discretion and have done so not once but many times.

* THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: To quote Shakespeare, Sir, "Methinks the lady protesteth too much!"

THE HONOURABLE SIR DAVID DEVADOSS: No use of our protesting when you are bent upon saying the same thing over and over again. It is because you are so weak and because you have no case that you abuse the plaintiff's attorney!

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: It is perfectly true!

THE HONOURABLE SIR DAVID DEVADOSS: It is absolutely false!

THE HONOURABLE KUNWAR HAJI ISMAIEL ALI KHAN (Nominated Non-Official): We have a greater sense of responsibility!

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: I have seen that sense of responsibility during the last three years!

THE HONOURABLE SIR A. P. PATRO: I only raised this question because I do not want to leave the impression that the charge made by the Honourable Member is not capable of an answer. What I do say is this, that patriotism is not the monopoly of any particular individual or any particular sect or any class of persons. It is open to every one to have his own independent judgment on problems. And you should know that there is no party Government and there cannot be any question of Party principles as such. Therefore, I say it is not fair or honest to charge other Members with always supporting the Government and not doing their duty as they see it. The elected Members of this House have never had the statesmanship to consider beforehand any proposals put forward here and to combine their efforts. Not

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being able to do that, failing in that fundamental duty of a politician and a public man, it is very easy to charge others with not doing their duty.

THE HONOURABLE THE PRESIDENT: Please speak about the Bill now. This is all irrelevant.

THE HONOURABLE SIR A. P. PATRO: Nor is it necessary on this occasion, as I said, to go into the constitutional question of the relationship between India and Great Britain and India's position in the Empire. This is an emergency law to meet an emergent situation created by the war. If the measure is based upon the provisions of the Act of 1915, it is just and appropriate. The conditions prevailing at the present time have really induced the Government to make certain changes from the Act of 1915 and this Bill contains some new provisions and some modifications of the provisions of the Act of 1915. But it is not a new Bill at all, nor are the principles enunciated in it new to the country. The country is fully aware of the principles of this Bill, and if they are sometimes drastic it is because the present condition of things in the country requires that, and the country necessarily expects the administrative authorities to be more careful in the matter of carrying out the provisions of this Bill. It is a measure which is necessary and desirable in the interests and safety of the country and the people.

Now, I shall show shortly the conditions of things in our country, how enemy influence has been growing from day to day, how Nazi influence has been insidiously working, in the towns and capitals of the provinces and what danger we have to meet. If we do not look into things as they are at present, and if we only stick to the technical principles of procedure then justice will surely fail and people will not have the protection they require. Then I shall show how the procedure for carrying out the provisions of this Bill by the Provincial Governments will not be at all satisfactory and how the Government are simply taking a step in the dark without knowing the danger ahead of them.

Now, Sir, what are the main features in this Bill? We have to consider that. One of the main features is that it will not necessarily be introduced immediately. It is a measure for emergency purposes and it is only when the emergency arises that it will be brought into operation. Then it will not necessarily come into operation in all places. In sub-sections (3) and (4) of section 1 you will find that if and when the danger arises in any particular area, and if the Central Government are satisfied that there is necessity for the application of this measure, they will then declare the area and the time in which and when this measure will be introduced. Therefore, it is a limited measure. Though it is applicable to the whole of India it is not to be immediately brought into operation except in such areas as Government is satisfied there is need for the application of this Act.

Then it has also to be considered that most of these provisions and the rules framed under clause 3 will be applied and enforced by the Provincial Governments to whom powers are delegated to create Tribunals and for the taking of other necessary steps under this Act. Now, how are the Provincial Governments working today? Under provincial autonomy they are independent and they are popular Governments representative of the people. Therefore,

it is claimed from the press and platforms that they are the people's Governments. So democracy prevails in the Provincial Governments, administering law and justice impartially and independently without regard to the Central Government. Therefore, since they are responsible Governments by whom these powers will be exercised why should there be any apprehensions about the exercise of those powers?

Another feature of this Bill as against the Act of 1915 is that the old provisions have been modified and under this Bill an appeal will lie in case of sentences of death or transportation for 10 years or more. But since it is said an appeal is provided in such cases under the ordinary law what is the necessity for this special measure? The same question was asked in 1915. The answer is to be found in the Criminal Law Amendment Act and there exists the same justification for bringing in this measure now. A new emergency situation has arisen and it requires emergent treatment. We cannot afford to apply the ordinary procedure of the Criminal Procedure Code to an accused who commits an offence punishable under the provisions of this Act. Therefore, you have to over-ride the procedure in the Criminal Procedure Code and take such measures as would dispose of the case immediately and readily. We are accustomed to read in the newspapers summary disposals like saying, "Bring the man and shoot him" or "Put him in the cells". If that is the kind of justice to be done in war time, perhaps it will satisfy a section of the people, but the British standard of justice is different from that. The British standard of justice wants to give the man a trial, to give him a chance of defending himself—to show that he is innocent, and if he fails to show that he is innocent, then to take emergent action in order to dispose of the case. I do not think that there is any question of the ordinary law being applicable to cases arising out of war conditions.

These are the main features of the Bill. The provisions of the Bill, as I said, have to be carried out by Provincial Governments. What is the position today? We are indebted to a very illuminating article that appeared in the *Statesman* some time back in May, 1939. We have a summary of events that are taking place in the country through the activities of the Nazi propaganda in India. Many Honourable Members may not be aware of the serious propaganda, underground work, that is being carried on in the country which is very dangerous at present. In the beginning of last year the Nazi Government determined that they should make a drive of propaganda in India, that an anti-British campaign should be carried on. The organization has spread to a surprising extent, its ramifications are there in every province, and especially in the two headquarters, Bombay and Calcutta, they have been disseminating from that source as well as from Berlin—anti-British propaganda in this country. There is also an organization in Delhi called the Indo-German News Exchange which has got many Indian members and these help in carrying on the propaganda on behalf of the Nazis. In Calcutta there is the Indo-German Cultural Association started by the Academy in Germany; German funds are contributed and cultural association goes on everywhere. Then you have heard recently how Nazi funds were captured by the C.I.D. in Bombay recently. In Madras there is also an organization, the members of some of these organizations are Indians, and they carry on. What is most surprising is that in an Indian

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University, there is an association which receives anti-British literature and it spreads pro-Nazi information and anti-British throughout the student population. The student population should not be contaminated with this kind of propaganda and therefore we have no hesitation in believing that the student unrest within the last two years has taken an intensive form may be due to this pro-Nazi propaganda.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Which is the University that you are referring to?

THE HONOURABLE MR. P. N. SAPRU: The University of imagination!

THE HONOURABLE SIR A. P. PATRO: Possibly you will know it when it comes nearer home to you. Better wait and see. Some Indian newspapers also are being subsidized. How they are subsidized can be spotted easily. Advertisements by German agents by German funds. Hence you find that a pro-Nazi propaganda is carried on through newspapers, through organizations, associations, and we also find a large crowd of political missionaries; about 25,000 of them have been created for the purpose of carrying on anti-British propaganda and spreading the Nazi cult. I would not go further than point out what appeared in the leading columns of an independent newspaper like the *Statesman*. This was on the 18th May:

"German official wireless has bluntly stated that Bose and his followers in India are supporting Hitler".

This is the German official wireless; it cannot make mistakes; it cannot be doubted for a moment, because it is the official statement coming from German source. Could you doubt it? There it is.

"German official wireless has bluntly stated that Bose and his followers in India are supporting Hitler and Gandhi is a tool of the Jew".

THE HONOURABLE HAJI SYED MUHAMMAD HUSAIN: Is it the German lie or the real truth?

THE HONOURABLE SIR A. P. PATRO: This is a piece of news I am giving and it is for you to see.

"and Gandhi is a tool of the Jew".

Therefore, you have propaganda carried on here. I have said how propaganda is carried on. The worst thing is to create the contact between students and politicians. I have also referred to political missionaries, and I have told you how they try to approach politicians and Congressmen and how some are not amenable to their solicitations. The Hitler party is doing its worst in India with a view to undermine British authority and British power and prejudice the Indian mind.

THE HONOURABLE MR. HOSSAIN IMAM: Is the Honourable Member right in reading from a newspaper?

THE HONOURABLE THE PRESIDENT: You can see that he is not reading from a newspaper.

THE HONOURABLE SIR A. P. PATRO: The second aspect of the case is this. Anti-British work is carried on and the British administration is represented in its worst colours and it is said that the British are the enemies of the Muslims. One of their chief planks is that the British are the enemies of Islam. Therefore, I say that this kind of false and mischievous dissemination of information excites the masses, excites the students and if there is unrest among some sections of the people, it is due to this kind of propaganda, to this kind of mischief that is being done by Nazi clubs, Nazi societies and Nazi people. Agents are there in every city, in every town; paid agents are there. Don't you know? (*An Honourable Member*: "I do not know".) I am glad you do not know. Now at least you will make inquiries and satisfy yourself that this kind of propaganda is being carried on in the country and hence it is necessary that this should be stopped. A measure like this one before us is necessary so that greater mischief may not be done, that is the object of this Bill, to have some measure handy for the purpose of enforcing these measures vigorously against offenders of the kind that I have read to you—

THE HONOURABLE SAYYED MOHAMED PADSHAH SAHIB BAHADUR: Is it a separate propaganda or the communist propaganda?

THE HONOURABLE SIR A. P. PATRO: The other point which I wish to place before the House is that this Bill entrusts the administration of the Bill to Provincial Governments. All the rules that are to be framed under clause 2 of this Bill are to be administered by the Provincial Governments. The Provincial Governments are composed today of the vast majorities in every province.

THE HONOURABLE THE PRESIDENT: You have said that before.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: But you have no confidence in these Governments, as you have repeatedly said.

THE HONOURABLE SIR A. P. PATRO: Wait and see how I am going to express myself.

These Provincial Governments are composed of huge majorities. I describe them as a Juggernaut Car passing over any Bill or any measure that is introduced in the popular Assembly. My friend has said with reference to this House that any Bill the Government can pass. I agree. But one thing I would ask him, that as a public man and politician he should visit one of the popular assemblies or democratic assemblies in the provinces. He will find how the very important measures that are placed before the House are summarily carried through in the name of the province, in the name of India. Therefore, he need not be ashamed to be a Member of this House, nor be very critical of the processes that are adopted in this House. What I do say is this. These popular Assemblies are administered by Ministers. I will give, Sir, some practical instances of how similar provisions have been carried through in the Provincial Assemblies. You know the Criminal Law Amendment Act. It is an emergency measure. It was the first measure which the Congress Party wanted to delete, to eliminate altogether. And what was done? It was made applicable to innocent people in the country, people who differ from them in their views in particular matters and have opposed the Government. The

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popular Government, the popular Ministers, are such that no ordinary laws in the Statute-book could not be applied in such cases but the Criminal Law Amendment Act must be applied, and this tyranny prevails in what is regarded as one of the well governed Presidencies by Europeans though not by Indians. The opinion among European officials is that this province is so well governed that they need not care if it has perpetrated one of the most dastardly acts of the Government, namely, the application of the Criminal Law Amendment Act to people who only differ from them in matters of opinion and agitate. The Government imposed upon them compulsorily a certain form of education—

THE HONOURABLE THE PRESIDENT: I am afraid you are digressing too much. Will you please confine yourself to the Motion before the House.

THE HONOURABLE SIR A. P. PATRO: I beg your pardon, Sir. This is a point which I must emphasise because we are dealing with emergency powers which are to be administered by Provincial Governments and I wish to say how distrustful we are of the present Provincial Governments and to give expression to our genuine apprehension that these principles may not be applied rightly, correctly. That is one point.

But there is another thing, Sir, which I will give an instance to show how these Provincial Governments are administered,—the issue of Ordinances. Every politician knows that Ordinances could be issued under very exceptional circumstances, but to the popular Government that is no bar. These people apply Ordinances. Why? Because a certain section is opposing forcibly an Act of the Government and litigation was pending in the courts. When a suit has been filed with a view to prevent Government from taking action the courts of justice established by these Governments, were in possession of a particular suit, extraordinary powers are invoked and a convenient and accommodating Governor accepts it. And what happens, Sir?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Leader of the House): I think, Sir, the Honourable Member is not in order in making references to Provincial Governors. It does not seem fair to attack Provincial Governments when they are not here to defend themselves. I must strongly object, Sir, to his references to the Governor of Madras. I hope he will withdraw his remark.

THE HONOURABLE THE PRESIDENT: Will you please refrain from making any references to the Governor? If you want to say, speak about the system of Government.

THE HONOURABLE SIR A. P. PATRO: Well, Sir, this Government issued an Ordinance with the consent of the Governor because no Ordinance may be issued without the approval of the Governor. And what does this Ordinance do? It has checked the freedom of action, the personal liberty, and the liberty to defend its own property, of people, and this is an Ordinance which the Provincial Government has issued under this Act, you want to make your instruments for carrying out the provisions of this Act. That is why I want to suggest that these Provincial Governments are irresponsible and cannot be controlled by the Central Government and therefore it is necessary that some safeguards should be made in this Act with a view to safeguard the interests of the people.

My friend the Honourable Mr. Kunzru referred to one instance, namely, the holding of public meetings and the making of public speeches. There are many other things which liberty and freedom demands. The Provincial Governments—not only in one province but in most of the major provinces—are carrying out measures which curtail the liberty of the people. If a person opposes or criticizes a measure they issue *hookums* that the newspapers shall not criticize the Government or that paper shall not criticize the Government. And if they criticize—gone! And in the United Provinces, what happens today? There have been 26 occasions when the military had to be called out ready for the maintenance of law and order in the United Provinces. (An Honourable Member: “How many occasions”? 24 or 25. You will find it in the latest circular. Therefore, I say that law and order is so well maintained in the United Provinces that the military had to be sent for and on about 12 occasions they were actually used. Therefore, I submit that these instances will show that the Provincial Governments are not responsible governments at present and the Car of Juggernath is only carried in the Legislative Assembly and anything they bring forward in the Assembly is carried through. Therefore, the second aspect of the thing is that in entrusting these powers to the Provincial Governments, we should bear in mind that they are differently constituted to the Local Governments who were affected by the Act of 1915, and greater care and caution is necessary. Therefore, it is necessary, in the light of these facts I have suggested about the Nazi activities in this country and in view of the behaviour and the conduct of the Provincial Governments in administering law and order in the provinces, it is very necessary that greater care and caution should be exercised in entrusting these drastic powers to the Provincial Governments and I whole-heartedly and without any reservation support the principles of this Bill.

The Council then adjourned for Lunch till Half Past Two of the Clock.

The Council re-assembled after Lunch at Half Past Two of the Clock, the Honourable the President in the Chair.

THE HONOURABLE KUMAR NRIPENDRA NARAYAN SINHA (West Bengal: Non-Muhammadian): Sir, I am glad to find that some improvements have been made by the Select Committee as well as by the other House, but I think more could have been done if the Congress Party would have cared to be present in the other House. No doubt, extremely wide powers have been conferred on the Defence of India Bill. The drastic nature of the provisions of the present Bill is due to the fact that this is a very critical time which requires drastic measures and so we cannot help it. Sir, I must say here that we should stand united with the rest of the British Empire and should render all possible help to them in this hour of national crisis.

Sir, as for Bengal, it is really an irony of fate to class us as non-martial but past history shows that we, Bengalees, are as bold and brave soldiers as other martial classes of India. Sir, in this hour of catastrophe, I am bold to say that Bengalees are prepared to come in their thousands to fight for their mother country and for the King if they are called to the colours.

In conclusion, I appeal to the Government that the greatest amount of care should be taken both by the Central and Provincial Governments in framing rules and taking action under the Bill.

THE HONOURABLE RAJA CHARANJIT SINGH (Nominated Non-Official): Sir, times of emergency require special measures. In the crisis which has overtaken the world, we all stand in common peril. I am confident it must be the desire of every one in India to help the Government in bringing this great conflagration and conflict to a successful end.

During the last war also, the Defence of India Bill was passed, with the unanimous vote of the Legislative Council of which you, Sir, were a distinguished member. This Bill is on similar lines with some modifications as explained by my Honourable friend Sir Zafrulla Khan, in the Statement of Objects and Reasons, to suit the changed circumstances, and in order to bring it on the lines of the War Regulations which exist in the United Kingdom. I submit that this is only a precautionary measure and it is better to be forewarned and forearmed, and thus prevent the fair name of India being besmirched. Secondly, no one need fear any undue hardship from this Bill unless he does something which would imperil public safety. Thirdly, this Bill will come into force only when and where required and will remain in force only for the duration of the war, and for a period of six months after the war. It is therefore clear that it is not a permanent measure but only a war measure.

As regards the control of trade and industry and other emergency powers enumerated in Chapter II, the great and small of the land have already placed their services and resources at the King Emperor's disposal. Therefore, this Act only supplements our own wishes and declarations in this respect and seeks to confer legal sanction upon such acts as the exigencies of war demand.

The passing of this Bill does not therefore cast a slur on the people, whose heart, I have not the least doubt, is sound, and whose loyalty to His Imperial Majesty and his Government is unsurpassed.

With these words, Sir, I support the Bill and I do hope it will be passed without any dissentient voice.

THE HONOURABLE KHAN BAHADUR SHAMS-UD-DIN HAIDER (Nominated Non-Official): Sir, I have neither the eloquence of my Honourable friend Pandit Kunzru to place my views before the House nor am I possessed of the rich vocabulary of pungent and caustic words of my Honourable friend Sir A. P. Patro to express my disagreement with my other Honourable colleagues. Sir, I regret that both these Honourable Members are not present in the House. I mean no disparagement to the latter but it is only a confession of my own inefficiency. I shall, therefore, for the confessions made above, try to place in simple and unheated but nevertheless pointed and earnest words my true opinion about this Bill. In the first place, it must be recognized that this is an emergency measure to be passed into law—for a short period of course—to meet the grave situation created by the war. It is clear from clause 1, sub-clause (4) of the Bill that it shall remain in force during the present war and for six months thereafter. As such, it is a temporary law designed to meet present requirements and none of us should, therefore, object to its passage. Some Members of the other House characterized the Bill as a most drastic measure, and one other Member of the same House thought that the Bill ought not to have been brought before the Legislature immediately after the outbreak of the war. Sir, special measures designed to ensure the public safety and defence of a country have to provide for special rules and procedure to secure

speedy action and disposal. It would, therefore, be wrong to say that this Bill, which has as its aim nothing but the public safety and the defence of India, is a most drastic measure. The other argument that the Bill should not have come before us so soon after the outbreak of the war does not commend itself to me as sound. The whole object of the Bill, Sir, is preventive and our Acts which aim at prevention must forestal and deter certain designing disturbers of the general tranquillity in a few small parts of the country.

Sir, if we take the Bill clause by clause, we will find that a good deal of change has been made in the clauses of the Bill as passed by the Legislative Assembly from what was put in the original draft. I do not like to take up the time of the House by referring to the changes, clause by clause. I shall only deal with some of the important concessions that have been made. Clause 13—*Sentences of Special Tribunals*—has been materially altered and the right of appeal to the High Court has been given from the sentences of the Special Tribunal, not only in sentences of death or transportation for life but in sentences of imprisonment extending up to 10 years. Sir, I could not get a copy of the Bill of 1915, but to the best of my recollection, the right of appeal as embodied in clause 13 of the present Bill did not exist in the last Act. The other important changes are the addition of sub-clause (3) to clause 8, Chapter III, and of sub-clauses (a) and (b) to clause 9, item (iii) to sub-clause (7) of clause 10 has been altogether omitted.

* In conclusion, Sir, I can only say that the apprehensions, if any, of my Honourable friends opposite with regard to the misuse of any of the provisions of the Bill are not real and well founded. During the years 1914 to 1917 I was in Patna and to the best of my recollection no case under the special Act of 1915 came within my cognizance, though I was vested with certain special powers. Sir, I earnestly hope that the good sense and loyal spirit already displayed by a great majority of the peoples of India will make the exercise of the provisions of this Bill unnecessary.

Sir, I support the Motion.

THE HONOURABLE SARDAR BUTA SINGH (Punjab: Sikh): Sir, it would be idle for me to go into the details of the Bill, as it has been fully discussed in the Assembly and by Members of this House who have spoken before me. I give my whole-hearted support to the Bill. I, however, wish to observe that it is not only that special laws are required to meet unexpected contingencies that may arise out of the war, but we need other preparations also to meet the perils which may at any moment overtake our country. In the first place we need an organization of our man-power. We then need a fully equipped army, as the western countries have. We need trained men who should be familiar with the methods of modern warfare. In our case no doubt a fairly long time would be needed to turn our men into modern soldiers, capable of withstanding the attack of a mechanized army.

I wish to draw the attention of the Government to the need of raising a Dominion army to guard our extensive land and sea frontiers. Then again there is need for mobilizing our industries. Modern warfare calls for modern industrial production to supply the needs of the fighting forces. On the industrial and commercial side also there is great need of having a directive

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and constructive policy. Government has constituted a Supply Board to control the prices. May I point out that the Supply Board will not command the confidence of the people if in its working agricultural, industrial and commercial interests are not directly associated.

THE HONOURABLE MR. R. H. PARKER (Bombay Chamber of Commerce) : Sir, I and those for whom I speak always desire the least interference by Government and the greatest freedom for those who are governed, and it is because we value that freedom so highly that we support the restrictions now proposed to be placed upon us by the Government. What is in times of peace reasonable liberty becomes in time of war very often license which is undesirable. I welcome what the Honourable Mr. Williams said this morning that Government will take the necessary steps to see that the powers which they are now taking are properly and wisely and judicially used. The Honourable Mr. Sapru this morning threw some doubt on a statement made by the Honourable Member on my left. (*An Honourable Member* : "He has not spoken".) I know but he shook his head negating the suggestion that there was a certain amount of propaganda from the totalitarian nations among the students of Universities in India. Well, I do not actually know much about that particular fact, but the Honourable Mr. Sapru and I have a joint source of information which definitely indicated that there were Indian students in the totalitarian States who were being suborned from their duty to India and their duty to everybody else.

THE HONOURABLE HAJI SYED MUHAMMAD HUSAIN (United Provinces West : Muhammadan) : Mr. President, it is the very nature of the Bill which has to provide most wide powers for the executive, which the Government considers necessary for an emergency like this. I do not think it will serve any useful purpose either on one side to criticize every provision or, on the other, to defend these as being not drastic or improper. What we really have to see is the present condition, and whether it comes within the definition of such an emergency as would require such drastic and wide measures. First of all I think we have to give our verdict whether an emergency of that kind has arisen and whether it has arisen in India also. So far as that is concerned, we are in the middle of a terrible war which threatens the civilization of the whole world. It is no good discussing what prompted the declaration of war, whether it is a war of Imperialism—

THE HONOURABLE THE PRESIDENT : You cannot go into that question at all. It is His Majesty's Government's decision and you cannot go into the question whether the war is justified or not.

THE HONOURABLE HAJI SYED MUHAMMAD HUSAIN : That is exactly what I am saying. Whether it is a war of aggression or not, is not the point for discussion. It is quite sufficient for us that we are in the middle of a terrible war and we need not go into that question at all. The news that we hear from hour to hour shows that it is a war which has set fire to the whole structure of European civilization. The conflagration may spread through the whole world. From hour to hour we hear that thousands and thousands of children have become orphans, women widows and people homeless. There is not an individual within the war zone who is sitting as peacefully and as

comfortably as we are sitting in this House today. It is true that India has not felt the pinch of the war yet. It is only for a couple of days or so that the prices went high and we know what a hue and cry was raised in the newspapers. But we cannot say that India will remain, or even now is, free from all those dangers which one has to face in war. India must consider whether she is strong enough to defend herself from outside aggression. What I say is that India is certainly strong enough, if it unanimously presents its demand to dictate its terms to the British Government, but India is not strong enough to defend herself from outside aggression. She has not those resources. She has no navy worth the name. In short, India must depend for her protection on somebody against outside aggression. And who that somebody is that India looks to ? There cannot be the least doubt about it that at the present moment it is the British Government to whom India looks for her protection. It seems to me really very surprising that when you look for your own protection to a particular power and when you along with that power are in danger, you hesitate to co-operate or to give such support as is necessary in time of such emergency. Experience has proved that it is found necessary always in every country that during war time such powers must be exercised by the executive ; and yet you criticize, you hesitate, to grant that power willingly to the executive. It is true that there has been mutual mistrust between the Government and the public. India is not content and satisfied with British rule ; it is not satisfied with the Government of India Act. In fact every party criticized the Government of India Act. India has its grievances ; it has made demands ; it has made it quite clear that unless those demands are met, India will not be satisfied with anything less than freedom. The demands have not yet been fulfilled and there is, as I said, mutual mistrust between the public and the Government. But, as I said once before in this House, these things must stand over until the war is finished. Supposing India decides that it is not going to co-operate with the British Government or ask for British protection and is left to herself, what happens in case India is attacked by an enemy ? We do not know how the parties to the war in future will be arrayed. No Indian desires to go from the frying pan into the fire. Therefore, India must at this juncture support the British Government to which it looks for its protection, and my principle is that when it is necessary to do a thing, do it whole-heartedly. It is no good doing a thing half-heartedly. It pleases nobody. It is also essential in the interests of India itself that these things must stand over. When Russia can make a pact with Germany as an ally and march side by side regardless of any principle, forgetting the enmity which existed between the two, I do not know how India, being a part and parcel of the British Empire at least at this moment and looking to the British Government for its protection, can possibly refuse co-operation, participation and whole-hearted support in all the measures which are necessary for the prosecution of the war. We must face the realities and we must act according to necessity. Under the present circumstances, considering India's own weakness and inability to defend itself and its being part and parcel of the British Empire, to my mind India has no other choice to make except co-operation and full participation in the war.

Now, I have just said that a state of emergency exists not only in Europe but also in India. The danger is not confined to Europe alone. India is

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not free from danger and that India at the present moment realizes its weakness, and its inability to defend itself against outside aggression. It has looked in the past and will look in the future also to the power and arms of the British for protection, it is quite obvious that there is only one course open to India and it is to join with the British Government in the prosecution of the war and carry it to a successful end. When we know that such an emergency exists, then what is our duty? Our duty is to give all such powers which are necessary for the successful prosecution of the war to those who are responsible for that policy. My Honourable colleague Mr. Kunzru said in the beginning of his speech that had the Government been responsible to the Legislature, he would not have hesitated, not only to give these powers but some more to the Government. Therefore, from his point of view also in case of an emergency like this it is essential that power should be given to the executive. Why he objects, I believe, is due to the mistrust which had existed and not that the powers are too drastic. However, the executive—whether it is good, bad or indifferent—is not responsible to the Legislature but is responsible to defend India and therefore under the circumstances it is necessary that those powers ought to be given to this Government which might have been given to a Government which is responsible to the Legislature. But there is no doubt one very important thing to which I wish to draw the attention particularly of the

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Honourable Members on the other side. In an emergency like this, which is a very, very serious one, they have appealed to the whole country to come forward, co-operate and help them. They expect that every person living in India would do best to defend this country as well as help the British Government in the prosecution of the war and give all the assistance necessary. The passage of the Bill in the other House and the passage of the Bill in this House will prove that the representatives of the people have given their support. They have agreed to co-operate with the Government. They have not only agreed but unanimously adopted and given the executive powers which are too drastic. In normal times it is not possible to give such powers even to a Government which was responsible to the Legislature. And the people of India have once more trusted the British Government and have not tried to put conditions and obstacles in the way of the prosecution of the war. And now it is for the Government, Sir, to show to what extent they can put their confidence in the people whom they did not trust until yesterday, but who have come forward to give their support to it, and to show how much the Government can trust them by associating those people with themselves in the prosecution of the war policy and take the non-officials, the representatives of the public to whom the Government not only appealed but whose assistance Government considers essential for the prosecution of the war and to what extent Government can take them into their confidence. I hope that the Government would consider it desirable and proper at the present juncture. With the passage of the Bill, as I said, Government has the support of the representatives of the people. If the Government associates such people in the prosecution of the war policy, the Government ought not to have any fear of obstacles or any obstruction in the prosecution of that policy because, if that had been the intention, it would have been difficult for the Bill to have been passed so easily as it was in the Lower House and will be passed in this

House. On the one hand, it will have no fear of obstruction and on the other hand it will take the public into confidence and will have the backing of the public behind it.

Now, Sir, coming to the Bill itself, as I said before, no power is too drastic for the emergency which has arisen. Yet I would like to draw the attention of the Honourable Mover to one or two provisions, particularly in connection with the establishment of a Tribunal. In this I find that it is only the Provincial Government which has power to appoint a Tribunal and there is no power at least under this Act for the Central Government to do so anywhere if the Provincial Government refuses to appoint a Tribunal. And another thing is that it is left to the Provincial Government to declare by Notification to what offences and to what areas this Act will apply. This Act is absolutely silent as to how the initiation of the proceedings in the Tribunal will take place. There are certain offences in the ordinary Code for which either the previous sanction of a certain authority is necessary or the machinery of the law can only be moved by a certain individual who is primarily affected by it. We do not know how before this Special Tribunal, after the Provincial Government have invested it with special powers in certain areas, the individual offences will be brought, whether they will be brought by the Provincial Government alone or if the offence falls under the category mentioned in this Act anybody can file a complaint and move this Tribunal. Now, why I say that it is essential is that if we look to section 9, we will find that the Provincial Government has the power by general or special order to direct that a Special Tribunal shall try any offence (a) under any rule made under section 2—that means the 35 items that have been mentioned under (a). Well, this in fact limits (a) to such offences as are committed in connection with these items. But then clause (b) is general and runs, "Or punish with death or transportation or imprisonment for a term which may extend to seven years". There is no qualification here. Every offence, whether it is connected with any of the items under clause (a) or not, comes within the purview of (b). An ordinary dacoity which has nothing to do with war measures might come within the purview of that clause. Even a rape case may come within the purview of clause (b) which has absolutely nothing to do with any measures for which this legislation is intended. So it is necessary to clarify this point.

And then there is the power of the Provincial Governments and the Central Government in connection with the establishment of the tribunals—these are the two things which have to be looked into. Now, I belong to the United Provinces and personally I have no hesitation in saying that I have no faith in the United Provinces Government. It is quite possible there may be other Governments—the people of that place may not be satisfied with it. Supposing the Provincial Government acts in a manner which is against the interests of those classes of people who are not satisfied and have no confidence in such Government, has the Central Legislature under this Act any power? As I said before, supposing a Provincial Government refuses to appoint a Tribunal and it considers, whether rightly or wrongly, that the ordinary judicial machinery will be quite sufficient, what is going to happen? There are these important omissions. I have not brought forward any amendments, because this is an emergency Bill, and the state of emergency exists very seriously, and I have

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no desire to hamper the authorities in getting this Bill passed. There is the Ordinance, no doubt, and it can work. But we have a certain other course open and while we extend our co-operation and expect the confidence of Government also, we can by discussion, if the Government agree, bring forward in the next session, or as soon as we can, a certain supplementary Bill, and until that Bill is passed, there can be another Ordinance if desired. Therefore, I do not propose to put forward any amendments. But these are the important points which I consider ought to be borne in mind.

In the end I wish to say one thing. India is not happy and contented under the present administration. But, as I have already said, it is in the interests of India itself that it must co-operate, and co-operate whole-heartedly, with the British Government. But I say to those friends of mine who have indicated that this is the proper time for bargaining that it is not the proper time for it, because you ought to visualize what is happening in England and London itself. Even if those people who sympathise with India want to fulfil our demands to some extent, this is not the time when they can do it in England.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Then why does the Muslim League want it ?

THE HONOURABLE HAJI SYED MUHAMMAD HUSAIN : The Muslim League has not laid down any condition. If its resolution is read not with a biased mind, the real interpretation will be found to be this. The Muslim League has expressed its grievances. We lay no conditions. In fact, the Muslim League has said that no change in the Government of India Act should be brought about without consultation and consent of the Muslim League. That is not a thing which can happen during the war. The Muslim League has laid down no condition during war time. The Muslim League has only expressed the expectations in respect of its grievances which can be looked into and removed. It is an indication of the change of policy which can be adopted under the Government of India Act. It is quite wrong to say that the Muslim League is putting any condition or proviso to extend its help to the British Government. That is how I understood it and being a member of the Party, I am expressing my opinion as a member of that Party. I refer my Honourable friend to the statement of Mr. Fazl-ul-Huq published in the *Statesman* of today. Certain interested persons appear to try to misconstrue the Muslim League resolution and he has clarified the position to a very, very great extent. The Muslim League does not put forward any condition. It leaves the whole thing to the time when the war will be over. What I was saying to those friends I repeat now, that it would be better to leave those questions—of putting down conditions or bargaining which may amount at the present moment to blackmailing—to a time when there will be peace. We have got a good many lawyers in this House. They know what a contract or a promise obtained by undue influence means.

THE HONOURABLE SIR A. P. PATRO : Duress.

THE HONOURABLE HAJI SYED MUHAMMAD HUSAIN : We see in the world solemn agreements between powerful countries, who say that they follow the principles of justice and good conscience, have been torn like scraps of

paper. These are the days of war. We hear time after time that everything is fair in love and war. If you want a declaration of the kind that you demand, it will be quite easy to say, as Germany is saying today, that the conditions imposed by the treaties were brought about unjustly by undue influence. It is no good at present to try to bargain and put provisions here and there when you find a person in trouble, and take advantage of his position. I consider it mean. I want to say to the Government and to the people of India that although we are weak so far as the strength and power to defend ourselves from outside aggression is concerned, we are not weak to dictate our terms to the British Government. It is only the misfortune of the communal tension which is really hampering our advance. If in this war we get together side by side, it may bring about an atmosphere in which the two great communities which are at war today may settle their differences and if the British Government does not fulfil their demands after the war may unanimously press to get their demands fulfilled.

With these words, Sir, I support the Bill.

THE HONOURABLE MR. V. V. KALIKAR (Central Provinces : General) : Sir, the Bill before us contains provisions more drastic than those contained in the old Act of 1915. This Bill curtails the liberties of people to a very great extent. It creates new offences, lays down provisions for the creation of new Tribunals and does away with the normal procedure to be followed in trials. If I may say so, Sir, it curtails the liberties of people in every sphere of human activity. I quite realize that an emergency legislation is necessary when an emergency has arisen. But there ought to be proper safeguards in the Statute so that the provisions may not be abused. I cannot compare the present Central Legislature with the British Parliament. The Indian Legislature has no power over the executive. The Central executive is not responsible to us, while in Britain the executive is responsible to the Parliament. So, according to me, there cannot be any comparison between the two executives. Sir, as I said just now, in this legislation we find that the normal procedure hitherto followed in trials has been taken away. I have a very great faith in the British judicature and the British High Courts. I am therefore unwilling to lend my support to a provision which takes away the powers of the High Courts. You may require emergency legislation. I admit that, but you must also make proper safeguards to ensure that the liberties of the ordinary citizen are not curtailed and his rights safeguarded. I do not want to make a distinction between a white bureaucracy and a brown bureaucracy. We know, Sir, that even responsible Governments have made mistakes and very great mistakes in the provinces, but ultimately we find that the High Courts were responsible for correcting those mistakes. My Honourable friend Mr. Williams told us today that we need not be apprehensive about the misuse of these powers as they have been delegated under this Bill to the Provincial Governments. We have also heard a long story from our Honourable friend Sir A. P. Patro about the doings of the Provincial Governments. But the point is that whenever we find the Provincial Governments doing certain things which really curtail the liberties of citizens, the safeguard provided by the normal course of law comes in by way of appeal or revision to the High Court. Sir, instances have been quoted by my Honourable friend

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as to how the Provincial Governments used their powers. I know from my own experience in my province how the Provincial Government can and do misuse their powers; but ultimately the High Court comes in and the misuse of that power was set aside. In Bombay the Provincial Government passed the Property Tax Act and they wanted to curtail the agitation that was being carried on there, but the High Court set aside the proceedings of the Presidency Magistrate. Therefore, I submit that the powers that have been taken away from the High Courts in this Bill do really make me apprehensive whether the powers that have been delegated either to the Provincial or to the Central executive would be properly used or not.

The next question that strikes me is this. This Bill admittedly consists of very drastic powers. I want to know from the Government whether the Provincial Governments were consulted before this Bill was framed and whether they agreed that they and the Central executive should be armed with such drastic powers? So far as reports go, I understand that the Provincial Governments did not agree to arm the executive with such drastic powers and so the provisions in this Bill giving them these powers will be useless.

Then, Sir, it has been suggested this morning that certain amendments were accepted in the Lower House and in the Select Committee which to some extent have toned down the drastic nature of this legislation. I agree that some amendments have been accepted, but I submit, nay, I appeal to the Government, to accept the amendments that are going to be moved from this side of the House by my Honourable friend Mr. Sapru, so that the proper functioning of this Act will ensure a great amount of success. At the same time the public in India will not think that their rights and their liberties will be curtailed. Sir, they have made provisions for creating a Special Tribunal. This Tribunal is to consist of only one High Court judge. (*An Honourable Member*: "No, only one who is eligible to be a High Court judge.") Yes. Therefore, I say that the appointment of one gentleman who is eligible to be a High Court judge, does not necessarily solve the difficulty. My attack is against the appointment of district magistrates and additional district magistrates on the Tribunal.

THE HONOURABLE SIR A. P. PATRO: Sessions judge.

THE HONOURABLE MR. V. V. KALIKAR: One sessions judge may be appointed, but if you read the section you will find that an additional district magistrate or a district magistrate is to be appointed on the Tribunal. Now, Sir, these additional district magistrates and district magistrates depend for their very existence on the sweet will of the executive. They depend for their prospects upon the sweet will of the executive Government. I therefore submit that if they want to appoint an additional district magistrate or a district magistrate as one of the members of the Tribunal, it is quite natural for the public to think that they would not get a fair trial at the hands of this Tribunal. I think personally there was no need of creating a Special Tribunal for conducting the trial under these provisions, unless the judiciary broke down. They

can appoint additional ordinary courts and they can also give proper and legitimate help to the accused to get his case defended; also they should not have removed the ordinary jurisdiction of the High Court. If the normal procedure had been kept, people in this country would not have been as apprehensive as they are now owing to the drastic provisions contained in the Bill. Sir, Lord Hewart once said:

"We cannot really prefer the executive jurisdiction to the jurisdiction of courts, and our faith in courts is not a mere fetish. It is based on certain fundamental reasons. The work of a court involves many important ingredients, as for example the judge is identified and is responsible for his decision, the case is conducted in public. The result is governed by impartial application of principles. All parties to the controversy are fully and fairly heard. All these elements are absent from executive decisions".

I therefore, submit, Sir, that if you require emergency legislation, you must at the same time take proper precautions that you do not by giving powers to the executive curtail the liberties and interfere with the ordinary avocations of the public. This Bill, Sir, contains so many provisions and such drastic provisions that if the executive want to misuse them, they can on any pretext, on any excuse, try to misuse these powers and curtail the liberties of the people. I therefore suggest to the Government to tone down the rigours of this Bill by accepting some of the amendments that are likely to be moved on this side of the House.

THE HONOURABLE MR. P. N. SAPRU (United Provinces Southern Non-Muhammadan): Sir, I should like first of all to say that I consider it a pity that we are meeting after the Legislative Assembly has been adjourned *sine die*. I say it is a pity because I think the fate of my amendments has been sealed by the decision to adjourn the Legislative Assembly *sine die*. Nevertheless, one has to discharge one's duty and I shall move, when the time comes, the amendments that stand in my name. The Honourable Mr. Williams in asking us to take this Bill into consideration said that the proposals embodied in this Bill were unprecedented in their nature. He went on to say that the circumstances under which this Bill was being introduced were also unprecedented in their character and he expressed the hope that the Council would not fail him. Constituted as this Council is, he may rest assured that the Council will not fail him. Now, Sir, the measure before us has been necessitated by war in large parts of Europe. India, on account of her connection with Britain, is also at war and therefore it cannot be denied that there is an emergency which we have to take into consideration. The Bill, if we come to examine it, is one of extraordinary severity. There can be no doubt about that. I do not think even Mr. Williams, who is much more humane and much more just than some of his supporters over there—my respected friend, for example, Sir A. P. Patro—even he will not deny that the Bill is of extraordinary severity.

THE HONOURABLE SIR A. P. PATRO: Meaning of words!

THE HONOURABLE MR. P. N. SAPRU: I think that is one of the professions you might have taken to! You mistook your vocation in life! When I was hearing Sir A. P. Patro's remarks about the Criminal Investigation Department and the Nazi propaganda among students—I know something about students, I come into touch with them and I know how anti-Nazi they

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are in sentiment and thought)—when I heard his remarks about Nazi propaganda among students, I was just wondering why Government had not done something for him, why they had not given Sir John Ewart a good deputy. I think Sir A. P. Patro mistook his vocation; he would have been an excellent officer of the C.I.D.!

The Bill gives almost unlimited powers to the executive in almost every aspect of national life, controls and regulates all our activities, introduces new principles into our jurisprudence, changes the procedure followed in judicial trials and prescribes punishments for certain new offences which it creates. Now, Sir, a glance at section 2 (1) and section 2 (2) will show how extensive these powers are. In section 2 we have got a number of powers. I think they extend to (xxxv) enumerated powers, but all these powers are in addition to the generality of the powers of the Central Government to make such rules as may appear to it to be necessary or expedient for securing the defence of British India, the public safety, the maintenance of public order or the efficient prosecution of war, or for maintaining supplies and services essential to the life of the community. Now, Sir, wider powers than those contemplated by the Bill it is difficult to conceive. And if it were not that we were in an actual state of war with Germany, the proper course for this Council would have been to refuse to consider the Bill on its merits. *But we dare not.* And I emphasize these words. We dare not ignore the fact that we are in a state of actual war, even though hostilities have not occurred or are occurring in any part of the country. Therefore, Sir, it is to be earnestly hoped that, if and when this Bill becomes law, the executive Government will not rush into putting it into force—that they will put it into force on various dates—and will not rush into putting this Bill into force all over the country at once, and that they will exercise the discretion which this Bill gives them with wisdom, judgment and with due regard for the rights and liberties of the citizens affected by it. It is, Sir, rather strange that, while we are fighting totalitarian States, we are in this transitory period towards a better social order adopting totalitarian methods ourselves.

Sir, the Honourable Mr. Williams said that the Bill was very much similar in principle to that which had been passed by the House of Commons almost in a couple of hours. Similar Bills had been passed in the Dominion Legislatures also. Now, Sir, our reluctance—and I must admit that I am reluctant to support the Bill, I hesitate to support the Bill, our reluctance to support the Bill is due to the fact that there is in this country unfortunately no harmony between the executive and legislative organs of Government. In England you have a Government which is responsible to the people of England. Here you have a Government which is not responsible to the people of this country, which is not under the control of the people of this country, which is not even amenable to any effective influence on the part of the people of this country and that makes a big difference. It is unfortunate that the war has come at a time when we have no responsible government in the country. If we had responsible government, naturally our response to the Bill would have been different because we could have then trusted that executive more whole-heartedly than we can trust the present executive.

There is another difficulty that stands in the way of our supporting the measure in its present form and that is our past experience of the old Defence of India Act. Now, that old Defence of India Act, Sir, was used not only against those who were siding with the enemy but it was used also against those who were fighting for the freedom of their country. It was used against that venerated old lady who rendered great services to India—Mrs. Annie Besant. I do not think any Member of the Government would call Mrs. Besant a friend of Germany. She was just as loyal to the British connection as Sir Ramaswami Mudaliar or as Sir Jagdish Prasad is or as the Honourable Mr. Williams is. But she was a keen Home-ruler and I suppose our distinguished friend Sir Ramaswami Mudaliar, whom we are glad to welcome here in this Chamber—I hope he will visit us more often and we would like to have opportunities of listening to his eloquence—shares our aspirations for self-government with us. Well, she was just as loyal as any member of the Government. If he was free to express himself, he would probably express himself just in the way in which we express ourselves. Therefore, we cannot overlook the fact that the constitution of the executive Government in this country is vastly different from that of the executive Government in the Dominions and in England and that makes a difference. That makes a difference in our psychology. That makes us hesitate, that makes us reluctant to support a measure which we regard as essential for the safety of India, which probably is essential for the safety of India. We do not know how this measure will be used. And if you want, therefore, the whole-hearted co-operation of the people of India, you must try and change their angle of vision, you must try and change their psychology, and this psychology you cannot change by any Defence of India Bill. This psychology you can only change by bold and comprehensive measures of political and social reform.

Sir, I have indicated that I am proposing to move a number of amendments to the Bill. But perhaps, Sir, you will allow me to indicate what I conceive to be some of the more objectionable features of the Bill from our point of view. I will deal first of all with the question of the constitution of a Special Tribunal. Now, so far as the constitution of a Special Tribunal is concerned, the first objection that I have to the Special Tribunal is that its composition is not satisfactory. It is going to have three members. One of them will have to be a person who is qualified to be a High Court judge. He need not be a High Court judge. Now, a person qualified to be a High Court judge—I think any one who has practised for over 10 years as an advocate is qualified to be a High Court judge. Anyone who has exercised the powers of a sessions judge or a civil judge for a certain number of years is qualified to be a High Court judge—is not the same as a High Court judge. There is a difference between a High Court judge and a person qualified to be a High Court judge. Then, so far as other members are concerned, they may be either a sessions judge or an additional sessions judge or a chief presidency magistrate or an additional chief presidency magistrate or a district magistrate or an additional district magistrate. Now, Sir, I have no objection to sessions judges and additional sessions judges. But I would not class chief presidency magistrates, additional chief presidency magistrates, district magistrates and additional district magistrates with sessions judges and High Court judges. After all, a district magistrate has a subconscious executive bias.

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He cannot help the constitution of his mind. He is accustomed to executive work and he does not approach judicial questions from a judicial point of view. He cannot escape this subconscious bias. Secondly, Sir, one's experience of our district magistrates is that they have not the same experience of law and procedure, they have not the same regard for law and procedure that our sessions judges and High Court judges or our barrister judges or our advocate judges have. Therefore, Sir, frankly I think a Tribunal like that is not likely to inspire the confidence of those who are tried before it. I think, Sir, it is not enough that justice is done. It is further necessary that there should be a feeling that justice has been done. You remember, Sir, that the greatest gift that Britain has given to civilization is the rule of law. We know what this rule of law is. We remember the famous case of Wolfe Tone, the

4 P. M. Irish rebel. There was a war going on between England and France. Wolfe Tone fought with France against England but was captured, and then he was tried by a court-martial and ordered to be hanged. Then an application for a writ of *habeas corpus* was moved before the Irish High Court and the King's Bench Division issued that writ. When you remember, Sir, the circumstances under which Wolfe Tone was tried, you will have admiration for those judges who issued the writ and ordered Wolfe Tone to be released. It has been the proud boast of England that it has given to countries which are under its sway the rule of law and therefore I think—

THE HONOURABLE THE PRESIDENT: Why go so far? We have distinguished judges in India too.

THE HONOURABLE MR. P. N. SAPRU: I never denied that, Sir. I know we have very, very great judges in India. With all the respect I have for our Indian judges, I would say that even these Indian judges have borrowed their ideas of jurisprudence from British judges. So, perhaps you will not contest that we have derived these ideas from British jurisprudence—

THE HONOURABLE THE PRESIDENT: And the Britains have borrowed from the Romans! (Laughter.)

THE HONOURABLE MR. P. N. SAPRU: That is probably true. But I cannot trace the ancestry further back than the Romans. What I was saying is that it is essential that there should be a feeling that justice was being done, and if you have a constitution like this for your Tribunal, you are not likely to have that feeling among those who are going to be convicted by this Tribunal. Therefore, I would very strongly urge that the constitution of this Special Tribunal should be revised.

There are certain other objections to certain specific provisions in this part of the Bill. I find, for example, that under clause 10(2), it shall not be necessary for evidence to be taken at length in writing. It will be possible for a Tribunal to proceed with the trial of the accused in the absence of one of the members of the Tribunal. Suppose I am serving on the Tribunal. I will just imagine myself to be a member of this Special Tribunal—

THE HONOURABLE SIR DAVID DEVADOSS: I hope you will be!

THE HONOURABLE MR. P. N. SAPRU: I do not know. Not if my Provincial Government can help it. I will imagine myself to be a member of this Special Tribunal. The accused is before this Special Tribunal. I attend the Special Tribunal for two or three days consecutively and then on the fourth day I get an attack of dysentery and I am disabled from attending the Tribunal for two or three or four days and then I come on the seventh day of the trial to the Tribunal. What do I find? I find that evidence has been recorded in my absence and I have not had an opportunity of watching the demeanour of the witnesses during the three or four days that I have been away. I find that I am only supplied with a summary of the evidence, and not the entire evidence. On a summary of the evidence you cannot convict a man for perjury. You expect me on that summary to come to a definite conclusion and definitely say whether the man is guilty or not. I would say to myself, "Two of my colleagues have found him guilty. They have had an opportunity of watching the demeanour of these men. I think I had better agree with my two colleagues. I will vote with them?" Can you, under those circumstances, get a really good trial? I think, therefore, that it is necessary to insist that the evidence should be taken down in full. What will be the difficulty in your taking down the notes in full? If you give your Tribunal good shorthand reporters—you can import them if you like, or you can export them if you like from the Government of India—if you give your Special Tribunal good shorthand reporters, there ought not to be much difficulty in taking down the evidence in writing. I look upon this as very necessary, that there should be a proper record of the evidence tendered before the Special Tribunal.

There is another provision to which I cannot, I confess, reconcile myself, and that is the provision in regard to appeals. The position as I visualize it is this. A man who has been sentenced to death will have a right of appeal to the High Court. A man who has been sentenced to transportation for life will have a right of appeal to the High Court. A man who has been sentenced to rigorous imprisonment for a period of 10 years will have a right of appeal to the High Court. But a man who has been sentenced to anything less than 10 years will have no right of appeal to the High Court. What may happen is this. You may have a dishonest Tribunal; you may have an unscrupulous Tribunal; you may have an unprincipled Tribunal. They may say to themselves, "We do not want our judgment to be reversed or revised by the High Court. We can just escape this appeal if we will sentence this man to 9 years and 11 months, or 9 years, 11 months and 29 days—"

THE HONOURABLE THE PRESIDENT: You have got a very poor opinion of our judges.

THE HONOURABLE MR. P. N. SAPRU: Human nature being what it is, one has got to go by one's experience. I know, Sir, civil judges and criminal judges who know how to manipulate records also, who can make a record safe against appeal to the High Court. There you are. Therefore, Sir, having admitted the principle of appeal, you ought really to have gone further and allowed an appeal in all cases. But, even if you are not prepared to allow an appeal in all cases, there is one circumstance in which, I think, in any event you ought to allow an appeal. It may just happen that there may be a difference of opinion in the Tribunal. Two of the members of the Tribunal may

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think that the man before them is guilty, while the third member may think that he is not guilty, and the conviction may be only by a majority of the Tribunal. Even if there is one member of the Tribunal who thinks that the accused is not guilty, then the accused ought to have a further chance of appealing to the High Court, because you cannot then say that there is no reasonable doubt as to the guilt of the accused. Very often it happens that there is a difference of opinion between two judges. You remember, Sir, section 429 of the Criminal Procedure Code. If there is a difference of opinion among the judges in a criminal appeal, then under section 429 of the Criminal Procedure Code, that appeal has got to go before a third judge. Here, there is a reasonable doubt as to the guilt or innocence of the accused and he ought to be given a further chance of going to the High Court. If the High Court agrees with the majority, he will get convicted; if the High Court does not agree with the majority, he gets acquitted. You have a Tribunal of three. It may just happen that the dissentient judge is the most distinguished of the three members. Suppose you have a High Court judge on the Tribunal and he finds himself in a minority of one and the two district magistrates with their experience only of summons and warrant cases come to the conclusion that the accused is guilty, while the High Court judge with his larger vision and outlook and less executive bias may have come to the conclusion that he is not guilty. In that case because the two men of inferior quality have found him guilty he must be held to be guilty and be convicted. I submit therefore that this provision as it stands under section 11 is open to grave objection and requires drastic revision.

Then I should like to say a few words about the provisions regarding regulation of public meetings. So far as that is concerned I do not see why you need any change in the law? You have very wide powers under section 144, and Congress Governments have been rather inclined to interpret section 144 very liberally. For instance, we had a curfew order for 48 hours in Benares under section 144. Then why do you want a clause for regulating public meetings? You have that power already.

Then I should like to make one or two observations about labour in which I am interested. Now, Sir, as the war develops prices are bound to go up and we know that wages will not always keep pace with prices and there is bound to be some labour unrest. I should not like these powers to be used against *bona fide* trade union disputes. I should like to have a very clear assurance from Government that something will be done to control prices, that something will be done to regulate wages and that the powers which are going to be vested with under this Act will not be used against *bona fide* labour disputes. I think the Ordinance is being used in the Digboi strike. I do not want to say anything about that.

THE HONOURABLE THE PRESIDENT: You don't think labour goes in for profiteering?

THE HONOURABLE MR. P. N. SAPRU: Sir, if he sometimes profiteers I connive at his profiteering but I will not connive at the profiteering of those who are going to make fortunes out of this war or those who will get fat salaries

because there is a war in progress in Europe. My sympathies are, I confess, with the underdog, because I believe in a more just social order, in a social order which will enable the common man to have a living wage, and I do not think that in all these disputes between labour and capital that labour is necessarily in the wrong. I think often labour is in the right. I know that there is some red propaganda, but I do not see red everywhere, just as I do not find Nazi influence among the students with whom I come into contact. I think therefore that an assurance on this point is needed.

Well, Sir, I have tried to invite the attention of the House to what I conceive to be some of the more objectionable features of this Bill and I have tried to explain why we find it difficult to support the Bill in its present form. Our hesitation is not due to a lack of realization of the perils with which we are confronted. It is not due to a lack of sympathy with the cause for which the democracies are fighting; but it is due to our experience of the way in which the Defence of India Act was administered and our mistrust of the executive which happens to be in control of the destinies of this country at the Centre. Sir, the Honourable Lala Ram Saran Das will be able to speak on this point more fully than I. The people of the Punjab had experience of Special Tribunals under martial law regime and of how they were prostituted by Sir Michael O'Dwyer for certain purposes is well known. We do not want a repetition of Amritsars and we do not want to have Colonel Johnsons and Brigadier Dyers. I know that in the Punjab that have got a popular Government in power, but my Honourable friend Haji Muhammad Husain has not much confidence in the United Provinces Government. I am told by some of my Hindu friends that they have not much confidence in the Government of Sir Sikandar Hayat Khan. Therefore, I can say nothing and do not know anything about the Punjab Government. I know something about my own Government. (An Honourable Member: "Have you got confidence in your own Provincial Government"?) Yes. There may be points on which I may not agree with my Provincial Government but I think it means well. I may not agree with all their policies but I do not look upon them as a rabid body of communalists and I do not look upon them as a rabid body of communists. I do not suffer from a communist phobia.

Well, Sir, I have explained why we find it difficult to lend our support to the Bill in its present form. I have explained our reluctance and our hesitation to give our support to the Bill in its present form.

THE HONOURABLE THE PRESIDENT: Honourable Members, I propose at this stage to call upon the Honourable Sir Ramaswami Mudaliar to address the House. Mr. Williams will reply and wind up the debate later on after some Honourable Members have spoken who had not the opportunity up till now of speaking. I am sure we all feel very pleased to see our old and distinguished colleague back in this House. (Applause.) We are proud of him. During the years 1929 and 1930 he was a distinguished and prominent Member of this House and much respected both by officials and non-officials. Subsequently he joined the Legislative Assembly and there distinguished himself more than he even distinguished himself here. He has always been a great statesman and politician. (Applause.) We are very gratified that he has come back to the scene of his old labours and a great many things

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are expected of him. I congratulate you, Sir, on your appointment on behalf of the Council and we hope you will have a very distinguished career as Commerce Member. (Applause.)

THE HONOURABLE SIR RAMASWAMI MUDALIAR (Commerce Member): Mr. President, you have made me virtually speechless by the remarks that you have addressed me and the congratulations that you have extended to me. It is in keeping with your good nature and with the extraordinary kindness that you have always extended to your colleagues when we were colleagues in the House and to all Members of the House since you have become President.

I feel somewhat like Rip Van Winkle, visiting this House after nearly a decade; when I listened to the speeches from the other Benches as I did this morning, when I found that the Council of State was sitting after lunch also, when I found that after several hours of debate Consideration stage of this Bill is still on, I felt very much that old times are changed, old manners gone and a genial President occupies the Moncrieff-Smith Chair.

Mr. President, I wish to have the indulgence of the House for a few minutes only to make a few observations on this measure and I should like first of all to make a preliminary observation regarding the course that is to be adopted in this House with reference to the amendments. My Honourable friend Mr. Kunzru and my Honourable friend Mr. Sapru expressed their discontent at the fact that the other House had been adjourned *sine die* and that therefore any amendments that may be moved in this House were predestined to be lost. My Honourable friend Mr. Kunzru went so far as to suggest that it was a farce that was being enacted here. I confess that I did not understand the Mover's speech in the sense in which it has been understood by the two Honourable gentlemen opposite. My Honourable friend Mr. Williams said that the other House had been adjourned, that amendments would be taken up for consideration, but that in the consideration of these amendments the House would naturally realize that if any amendments were to be accepted, it would mean that this Bill would have to be postponed to the next session of the Assembly in January and therefore he abjured the House to take into consideration only such important and vital amendments which the House felt absolutely necessary to adopt. He in fact suggested that if any other amendment was to be accepted, the benefit that would accrue from the amended legislation by the other House would be delayed; the Ordinance would then be in full effect for the next few months and that this benefit would only come into effect after the Assembly had met in January and considered these amendments. From that, I venture to submit, it is somewhat unfair to suggest that the whole of this session of the Council which is now considering this Bill is a farcical session and that every one of us has closed his mind to any amendments even though they could be shown to be vital and absolutely necessary for the proper conduct of affairs in connection with this Bill.

Now, Sir, in commenting on the substance of the complaints that have been put forward by the other side, I am somewhat at a disadvantage. Let

me take one or two preliminary observations that have been addressed. My Honourable friend Mr. Kunzru illustrated the point that this was an irresponsible Government conducting its affairs in an irresponsible way by giving the constitution of the War Supply Board. I hope that when I have explained the constitution and the composition of the War Supply Board he will not find himself in the same position as he did this morning and will not have the same complaints about that Board, and the exclusion of any Indian personnel on that Board. Now, it has to be remembered that the President or the Member in charge of the War Supply Board is himself an Indian; the Supply Member is our esteemed friend Sir Muhammad Zafrulla and the War Supply Board functions under his direction. There is also a Defence Supply Council composed of four members of the Government, two of whom are Indian members of the Government and two are non-Indian members. But apart from that it has to be remembered that the War Supply Board itself does not carry out executive functions of a very large order, that it functions through various Departments of Government, that in these Departments of Government there is Indian personnel, secretaries, joint secretaries, deputy secretaries, not to mention those below that rank; so that I think it is not quite a fair suggestion, that a technical body has been constituted for the conduct of this war, and for purposes connected with the conduct of the war which has practically excluded and, if I might venture to read the minds of my Honourable friends, deliberately excluded Indian personnel from that organization. Sir, it is no secret that from the head of the Government downwards there is no intention whatsoever in the prosecution of this war, in constituting various bodies connected with the prosecution of the war, to exclude Indian personnel of any kind—

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: What about these organizations that you have mentioned?

THE HONOURABLE SIR RAMASWAMI MUDALIAR: These organizations are in close collaboration with other organizations in which there is Indian personnel, even if in the organization which the Honourable Member has isolated there is no Indian member.

Then, a suggestion has been made from various parts of the House that leaders of industries, representatives of labour, the president and other office bearers of trade unions should be taken into consultation in connection with this war effort. I think it was my Honourable friend Mr. Kunzru who suggested on the analogy of similar boards in England that non-official gentlemen should be taken into consultation in connection with this work. I venture to think that he has somewhat misread the analogy of the English Board. The English Board, if my recollection is right, consists of a number of industrialists in connection with war supply, particularly munitions, and for a very good purpose. There is a vital distinction between this country and Great Britain so far as the supply of munitions is concerned. Honourable Members are aware that the munitions industry, the most vital industry for war purposes, the industry *primus* without *secundus*, is in the hands of private industrialists in Great Britain, that it is not a State monopoly, that the State does not itself manufacture except quite recently and to a very limited extent, munitions

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required for war purposes. Therefore, any Munitions Board must necessarily have representatives of the industry concerned, to expedite the manufacture of these munitions, to enlarge the scope of such munition factories and to see to it that deliveries are prompt. Fortunately in this country—I say fortunately advisedly because I am one of those who agree with the recent Report of the Committee which considered the question of munition industries by private individuals—fortunately in this country the supply of munitions and the manufacture of munitions is a State monopoly, so that to that extent and in that direction the co-operation of industrialists in this country stands on a different footing from similar co-operation in England. But, apart from that, at no stage has it been suggested that the War Supply Board or any other organization which deals with the supply of materials necessary for the prosecution of the war desires to work except with the co-operation of various industrialists and indeed of various labour organizations. During the past few weeks—if newspapers have been read aright, and very often they seem to know things which are still below the horizon and not within the cognizance of members of the Government—if newspapers have been read aright, Honourable Members must be aware that industrialists from all parts of the country have been invited to Simla and there has been close consultation and collaboration with various industries engaged in different matters.

Sir, Honourable Members have also stated that labour interests should be taken into consideration. I have no doubt that Government in the prosecution of this war and in getting the supplies necessary for the prosecution of the war wants the utmost co-operation from all interests concerned. We want the co-operation of industrialists and we want the co-operation of labour organizations at the same time. So far as labour is concerned, primarily it is the concern of Provincial Governments. If there are strikes, if there is the holding out of labour for the purpose of wage increases, the Provincial Government is first and foremost in charge of these matters and Provincial Governments are discharging these functions to the satisfaction of some at least of the Honourable Members of this House. A secondary stage may come when the Central Government, *vis-a-vis* the responsibility for labour in the current field of legislation and sometimes of executive action, may have to deal with these matters. And if it is necessary for me to give an assurance as Member in charge of Labour, I do give this assurance that I shall as far as possible, and my Department will in every way practicable, deal with this question in the most sympathetic manner and try to get as much co-operation from trade unions and labour organizations as is possible.

My Honourable friend Mr. Sapru talked of the underdog. I have every sympathy with the underdog. It is a phrase which I myself used in days past. It is a statement which it is very hard to controvert. But sometimes we have to realize that the underdog may try to become top dog also and I have only one caveat to enter, one warning to give, one suggestion to make,—that, even as Government is most anxious to get the co-operation of labour unions and of trade unions and other organizations of labour, even as they are most anxious to see that their legitimate grievances are satisfied, that they are not exploited unnecessarily, that their activities are not cribbed,

cabined and confined, even so may I venture to hope that in this time of stress and of acute difficulties in every field, trade leaders also will take the fact into consideration that a heavier responsibility rests on them today than in normal times, that it is very easy with the ignorant and very often misguided labour population to so accentuate their grievances, real or imaginary, that you can fan the flame but you will find it very difficult afterwards to put down the conflagration. I venture to make an appeal through this House to all trade unions, that just as the Government of India and the Provincial Governments are most anxious to see that in no way are legitimate trade union activities curtailed, that in no way are the grievances of labour minimized, they also in their turn will not (to use a word which fell from your lips, Mr. President) profiteer on this occasion. It is a double-edged weapon even as it is a dual responsibility.

With reference to industrialists and capitalists generally, Honourable Members are aware that Government have taken steps to see that there is no profiteering whatever with reference to necessities of life and in fact, while the House was still considering the measure, thanks to the Ordinance which was promulgated by His Excellency the Viceroy, the Government of India was in a position to respond to the appeals, and sometimes very frantic appeals, that were addressed to them by Provincial Governments and issue rules whereby profiteering was stopped at a very early stage so far as essential necessities of life are concerned. The one consideration that I had in mind when I made myself responsible for these rules was not the economic consideration. In the first days of a war there was bound to be an increase in prices, but these prices were soon bound to come down, as communications are normal in this country and supplies as large as they are. Those were not the considerations that I had in mind, though economically they were the right considerations. The consideration which weighed with the Government of India was the consideration which Mr. Sapru mentioned, consideration for the underdog, for the labourer whose wages could not be increased, consideration for the fact that the wage-earner has to get his supplies from day to day and could not wait for the fortnight or three weeks which our economic advisers assured me would bring down the prices, but that they had to get their supplies from day to day and that the prices had to be checked to that extent.

Now, Sir, let me go to one aspect of this Bill which has been referred to by most Honourable Members and it is not with any pleasure that I refer to that aspect. Honourable Members all concentrated their energies and their criticism on the provisions relating to the Special Tribunal. They said that drastic powers were given, that Special Tribunals were constituted to try these cases and therefore this Bill which gave such drastic powers was not acceptable to some of them. Honourable Members, besides my esteemed friend Pandit Hriday Nath Kunzru and Mr. P. N. Sapru in particular, said that it would be quite legitimate if a Legislature and a Government constituted in relation to each other on the basis of the British Parliament and the British Government had taken these powers or had asked the Legislature to give them these powers, but that under the present constitution with an irresponsible Government and with a Legislature which was not in a position to control the activities of that Government, it was somewhat risky. One

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Honourable Member even went further and said that it was much too dangerous to confer this power on that Government. Having addressed a similar argument from the other side of this House myself, I thought in the first instance that it was an argument that I could not meet, that there was a great deal of force in it, and that the Government of India should sit in sackcloth and ashes and admit the charge as legitimate. But I was astounded when Honourable Members proceeded to develop that argument, and when they came to the later portions of their speeches, I found they had given themselves a complete and cogent and logical and, I would say, Sir, a much better reply than I could give from my position in the House to that argument. When it was pointed out that these provisions were to be exercised by Provincial Governments on most occasions, that those Provincial Governments were responsible Governments, that they were bound by the mandates of their Legislature, that they were not like us who may not toil and certainly do not spin but they were carrying out the behests of a responsible Legislature, Honourable Members turned round and said in so many words (I am not quoting them) that these responsible Provincial Governments are much worse than the irresponsible Central Government. Sir, I hope I am not misrepresenting the case or putting it too strongly when I say that the unfortunate effect of many of the statements made by Honourable Members opposite was that an elected Legislature controlling a representative Government in the democratic sense of the word was not even as reliable or as trustworthy as this irresponsible Government with the constitution that it has at present. I venture to state that that is an argument of despair. Even if it would suit me very well, on this day and in this place, to accept this argument, I would not do so. For, what does it come to? So far as I can see, it takes the whole ground from under my feet. We are fighting this war to establish democratic principles. We are siding with democracies against totalitarian States. We are trying to see that democratic institutions all over the world flourish, that aggression is not the feature of the day, that totalitarian States, Nazism and Fascism do not establish themselves in the world and that the privileges which have been earned by decades and centuries of strife and struggle by the peoples of the democratic countries are not lost in this colossal and unfortunate war. Honourable Members, on the other hand, hope that even during this war, or at any rate immediately afterwards, this country would have all the benefits of such democratic institutions. And today, in this House, and the other day, in another place, it was my misfortune to hear speeches which suggested that democratic institutions did not have the faith that they deserved of Honourable Members in either House of the Central Legislature. I again repeat that that is an argument of despair. I do not want to minimize the fact that Honourable Members coming from various provinces may have grievances, may be deeply dissatisfied at some one act or another of the Ministry and may have legitimate feelings of despair even if the Car of Juggernath is rolling on, and not all the words of wisdom, and not all the words of criticism that have been addressed to these various Ministries have been able to stop the progress of that Car of Juggernath. But, Sir, having had for years my own training and belief in democratic institutions, I venture to think that we may pause and consider

whether, after all, we have not taken too serious a view of the situation, or have not come to our judgment too hastily. There are majorities and minorities in every province, and minorities will always have a sense of grievance. But it is my belief that the only way in which we can establish our faith in democratic institutions and justify our demand for progressive democratic institutions is to believe that the time will come when the wheel of fortune will change and the minority will become a majority, that institutions like human beings are under the control of the law of change, and that what may be happening today may well be reversed on another sunny day. That is my hope, and if that hope is lost, the very fundamentals of constitutional change in this country, the very fundamentals for which every political party is aspiring, will be lost for ever. With the expressions that have been voiced in this House, one set of Members suggesting that particular provinces are not carrying out their duties properly and another set of Members suggesting that other provinces are equally guilty, while some are impartially unjust to all provinces, if I may say so, that state of things will not continue long.

My Honourable friend Mr. Sapru and some other Honourable Members were very critical of the provision for Special Tribunals. Why they should have been so critical, what their apprehensions are and how a Special Tribunal is going to be a particularly vicious institution in connection with this Act, I honestly have not been able to see.

THE HONOURABLE MR. P. N. SAPRU: On a point of explanation, Sir. I did not criticize the principle of the Special Tribunal. I criticized the constitution of the Special Tribunal.

THE HONOURABLE SIR RAMASWAMI MUDALIAR: I was coming to the constitution of these Special Tribunals. My Honourable friend suggested that district magistrates should not have a place in the Tribunal, that their previous experience as executive officers biased them in favour of a certain way of looking at questions and that therefore their judgments would not be as fair and impartial as those of civilian judges. I do not wish to argue on that subject. But when my Honourable friend went further and spoke of civilian judges who manipulated records, I wondered whether a district magistrate with a bias for the executive was more dangerous than a civilian judge with a bias for manipulating records. No, Sir. It is a case of faith again, faith in our own men who will be called upon to discharge these duties of judges of Special Tribunals. There is no virtue in a gentleman who can aspire to be a High Court judge, nor is there necessarily any vice in a gentleman who acts the part of a district magistrate, and, in the present case, with provincial autonomous Governments, with the staff whether on the judicial or on the executive side equally under their control, and according to some friends under the influence of the executive Government I personally do not think that there is any more difference than between Tweedledum and Tweedledee, whether the officer is a sessions judge or a district magistrate. And, after all, the selection of these officers is vested in the Provincial Government. But, Sir, that is not the point. In the first place, it is not proposed to give power to Provincial Governments to constitute Special Tribunals straightaway. It is a power in reserve, meant to be used only when the

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state of legal work becomes so acute in any particular provinces or a particular class of crimes like terrorism breaks out that nothing but the constitution of Special Tribunals could relieve the position. In the second place, surely, responsible Provincial Ministers will go through the proceedings of this House—I take it that they will be as courteous as that—and I am perfectly certain that the criticisms that have been addressed will be borne in mind by the Provincial Governments in constituting such Special Tribunals. Sir, my Honourable friend Mr. Sapru, talking as a lawyer—and naturally so—spoke of differences of opinion between judges, and made great point of the fact that while a person who was condemned to 10 years' imprisonment had a right of appeal, a person who was condemned to 9 years, 11 months and 30 days, if it is an odd month, would not have that right of appeal. But wherever you set the limits, that sort of anomaly is bound to arise. It does arise now under the Penal Code and under the Criminal Procedure Code. Magistrates who sentence to six months' imprisonment do not give the accused a right of appeal. It is so with various other sentences. So that, it seems to me that it is rather a weak argument to suggest that only a particular sentence is appealable, and therefore there will be grave injustice if sentences below that are not appealable to a High Court. The fact is this. Does the Honourable Member think that it is any encroachment on the rights of the accused, if I might use the term, when he is placed before a Special Tribunal of three judges and not a single magistrate, and therefore the limit of appeal to a High Court is a larger and heavier sentence than would be given by a single magistrate? In the High Courts my Honourable friend knows that if a single judge is sitting in sessions there is a right of appeal under the Letters Patent if the Advocate General certifies. But if a Special Tribunal is constituted perhaps that right of appeal is taken away. The guarantee for the person lies in the fact that it is not a single judge who tries him but a panel of judges, three in fact, who try him, and it is because of that enhanced right which he gets at the trial stage that some right with reference to appeal has been curtailed.

Sir, I do not think I will be justified in detaining the House any longer, but I venture to say a final word. There is no doubt that we are living in extraordinary circumstances. There is no doubt also that extraordinary powers have to be utilized. If I know anything of the Government of India—my Honourable friends put it as a disadvantage to them that this Government is constituted in an irresponsible way—but if I know anything of the Government of India, and I have had sufficient time during the last four months to know something of it, it is that very irresponsibility that makes it more attentive to public opinion. A popular Government with a majority safe behind it can afford to take risks and can afford to embark on policies which an irresponsible Government, whatever it may do at other times, in these times of critical anxiety, of strife and struggle, with the need for getting the largest amount of goodwill and co-operation from all sides cannot do. I say very definitely, not merely in India but in every country and more particularly in India, an irresponsible Government will try to adjust itself more in consonance with public opinion and with public wishes. And I am giving no secret away when I say that every member of this Government

and its head are day after day trying to get into touch with public opinion, to follow the public mind, and if only the public can utter its opinion in clear and unambiguous language and not in language which mystifies every one and does not help the solution of any problem, I venture to state that nobody will be readier than the Government of India to meet the wishes of the public and thereby get their co-operation. (Applause.)

THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa : Muhammadan) : Mr. President, after the eloquent speech of the Honourable Commerce Member it is rather difficult to say much in criticism of this measure. Sir, realizing fully the gravity of the situation in which this Bill has been brought forward before us, we are prepared to concede that ordinary day to day rules cannot be applied to this measure. The calamity of a war which confronts His Majesty's Government has thrown its shadow on us as well. Living under the ægis of the British Empire we cannot escape the consequences of the general conflagration that is taking place in Europe. We are prepared to give special consideration to this measure, and it is due to that spirit, that the Government has found it possible for the Assembly to deal with this measure in such a short time. If that spirit of co-operation was not forthcoming it would have been impossible to get this Bill through. The Indian Members whether of this House or of the other place have not refused to consider this measure as they would have been justified in doing if this had come at any other time. We are here as trustees of the electorate who have sent us to this place. Legislative power is not a private property of our own which we can give to any one we desire to. When we are dealing with the liberty of the electorate it is necessary that we should act as trustees and do everything for the betterment of their interests, and it is only on that one condition that we can possibly hand over our powers to the executive, whether they be a responsible or an irresponsible executive. Sir, this Bill in short is an abdication of the Legislature in favour of the executive. Our Honourable colleague Mr. Williams has accepted the proposition that it is almost a blank cheque. But I say that it is in another way a restriction on the power of the executive, as under the Government of India Act the executive could have brought forward an Ordinance embodying anything they liked. They could have continued it, as we found them doing when we had this non-co-operation movement of 1929—1931. Ordinances were then issued and continued, so that we had a regime of executive laws for quite a long period. With regard to this measure, just as the Government of India Act has given power to the Governor General to issue Ordinances, here the executive Government comes to us and gets our sanction to issue Ordinances in the shape of rules. The rules are the material part of this legislation and the Bill itself is only a framework. It is on the rules that we have to concentrate our attention. In this connection I should like to deal with the progress of this measure in the other place. The measure was brought forward as soon as there was a state of war between His Majesty's Government and Germany. At that time the elected Members of the Assembly found themselves in great difficulty because their colleagues of the Congress were not present. They had left their post of duty at a time when the danger was the greatest. They were not in the Legislature in their own personal capacity ; they were there as representatives of the electorate, consequently their duty was primarily at the post of danger and not in their homes. Whatever sense there may have been in their

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decision to abstain from attending the Legislature at the time they made it, after the declaration of war the situation changed immensely. The Working Committee of the Congress was in session at the time and met on the 8th, and if they had any sense of responsibility and any regard for the interests to which they always pay lip service, they would have hastened to the post of duty and not left it to save their own skins. They were not able to decide for themselves what to do, whether to support the Government or to obstruct it or to play a game and sit on the fence; and therefore they decided to remain where they were and not come up and help us to shape this Bill in a better manner. Sir, it is not as members of the Congress Party that I claim this from them; I claim it from them as representatives of a section of India. If they thought that they could not co-operate with the Government, their duty was to resign and let others take their places. Whatever we have been able to get from the Government we have got through Government's benevolence, as a concession, and I do not want to belittle that which the Government has given to us. The Government have gone to the extreme limit to which they could; we had nothing to force them. The Legislature in the other place was for once helpless, as helpless as we are every day in this House. I wish our Leader of the House will be as reasonable as the Leader of the House was in the other place, and accept the amendments placed non-violently, as the Leader of the other House has done. The Leader of the other House has placed complete faith in Mahatma Gandhi's theory of non-violence. He was not forced to do anything, because there was no force behind. He was reasonable not only in Select Committee but also in the Legislative Assembly. It goes a long way to restore confidence to find that sometimes even an irresponsible Government is amenable to arguments. Our Honourable Commerce Member tried to twit us with the way in which we have dealt with Provincial Governments. Mr. President, it is a reality that some Provincial Governments are more often than not of the same stamp as the irresponsible Government in the Council of State. They have the same intoxication of power which in this House we see—because of the absolute inability of the Opposition to register anything or to be able to defeat the Government. That is the real trouble of our present democratic system. Democracy is a success in England only when the Opposition is strong. The weakness of the Opposition is always reflected in the deterioration of the Government of the day. When we formed democracy here, we did not realize this difficulty which we would have to face. Democracy has been tried and found successful in certain countries; in others it has failed. The system of government in France is based so much on personal party basis that it cannot be compared with the basic system which prevails in England. The English system too cannot be compared with the Indian system, where majorities and minorities are not factors of time, but perpetuals. The minority question is not directly concerned with this measure, I am sorry not to find my Honourable friend Mr. Sapru here, because I wish to quote to him from his past speeches against his present attitude towards the irresponsible executive. Speaking in this House on the 23rd of September, 1935, on the Criminal Law Amendment Bill, my Honourable colleague said:

"There is danger that these powers may be misused by Government in the future. I would rather trust the present executive than an Indian executive of vested interests in dealing with these dangers".

He was very clear in his mind on that day, that even the present bureaucratic and irresponsible executive of the Centre could be trusted to use drastic laws more mercifully than you could trust a Party Government which would try to use the powers in the interests of the Party Government and against the interest of those whose misfortune it is to differ from them.

Mr. President, I shall come to the Bill itself. The present Bill as has been described by Mr. Williams is somewhat different from what it was when it was originally introduced. Improvements have been made not only in the Select Committee but in the Legislative Assembly as well. But, as I said, we have not a complete picture to form an opinion, because the essential details which could only be supplied by the Rules are not present before us. There are certain provisions in this Bill which everybody can see are required for the exigencies of war. For instance, provisions enumerated in sub-clause (2) of clause 2 like items (iv), (viii), (x) and (xx). All these arise directly out of the war. But there are other provisions too which do not directly arise out of the war and on which there might be some difference of opinion whether they are essential for the prosecution of war. There are questions about the adequacy of the provisions which you have made. I am glad that the Honourable the Commerce Member described to us how he brought into action the provisions relating to profiteering. I should like to know a little more and in detail how they have worked? Does the experience that you have gained in these days show that they are sufficient, do you think it is too drastic or too lenient? While I am prepared to concede the necessity, it is mainly from the rules to be framed under this Act that you can come to a clear judgment whether there is too much power given or just sufficient. The Honourable the Commerce Member before he sat down said that it was the desire of the Government of India to get the support of public opinion. I am prepared to accept, Sir, that it is a genuine desire on the part of the Government. But I wish to see its results in a more concrete form.

I now wish to state certain conditions which, if fulfilled, would go a long way to give confidence. The first assurance that we want is that the widespread powers will not be used for furthering party motives but will be used solely for the successful prosecution of war and the maintenance of tranquillity of the civil population. Secondly, we want that the provisions of this Bill be extended to those areas only where there is necessity. And it will not be generally applicable, the rules will not be generally applicable to all parts of India. Thirdly, Sir, we want that the Government should consult the party

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leaders of the two Houses and consider sympathetically in the manner in which they have done at this stage the suggestions about alterations to the rules. As I say, the rules are the material portion. It is about the rules that I want an assurance that the Government will consult the Party leaders at the time of the Assembly session, if not earlier, and modify those rules to which the general opinion of the leaders might be against and be more lenient, and in other ways secure their support. Fourthly, Sir, I wish that the Government should lay down on the table of the House a statement of proceedings taken under this Act and the effect of these proceedings. It will be a general analysis because it is only in action that you can

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judge whether a thing is being fairly used or is being misused. If these conditions are acceptable to the Government, I think a great deal of suspicion which is prevalent at the moment would be removed.

Further, Sir, I would like the Honourable Mr. Williams to enlighten me on certain points which were obscure to me. Who will initiate the prosecutions under the Act? Whether the sanctioning authority will be the Provincial Governments or the Central Government?

THE HONOURABLE MR. A. DEC. WILLIAMS: I can tell the Honourable Member straightaway. If he looks at the Defence of India Rules, he will find it in rule 130.

THE HONOURABLE MR. HOSSAIN IMAM: Where the Provincial Government refuses to take action, who will take action then? As regards the powers given to the Provincial Governments, are they to be used by the Governor acting in his discretion or the Governor acting in his individual judgment or on the advice of his Ministers?

I would also like the Honourable Member to enlighten us why the other Ordinances which have been passed by the Governor General have not been consolidated in the form of a Bill. A measure to which some reference was made by my colleague the Honourable Haji Muhammad Husain also requires to be elucidated—whether the Provincial Governments can over-ride the ordinary Criminal Procedure Code and refer cases of offences not arising out of this Bill to the Special Tribunal—I mean ordinary criminal jurisdiction can be abrogated and Special Tribunals substituted for the ordinary conduct of justice. For, if that is the case, Sir, it goes too far. Then, Sir, a reference was made by my Honourable colleague Mr. P. N. Saprú to the fact that the Punjab Government has not the confidence of the Hindu population of that place.

THE HONOURABLE MR. P. N. SAPRÚ: On a point of explanation, Sir, I did not say that the Punjab Government hadn't the confidence of the Hindus. I said some Hindus say that it has not. I did not associate myself one way or the other with that criticism.

THE HONOURABLE MR. HOSSAIN IMAM: Then I need not bother about it. I only gave my mind to it because it came from you. If it does not come from a responsible person, I do not think it is worth replying to.

Now, Sir, having indicated the lines on which we want some assurance, I think the Government, if it is really willing to secure our co-operation, would take some concrete steps to have the active association of the non-officials in its prosecution of the war, rather than indulge in mere statements that it is willing to do so. I am quite prepared, Sir, to concede that it is not timely for us to ask for any great changes in the constitution of the country, but changes which can be brought about within the framework of the old Government of India Act by greater association of non-officials should not be delayed. The empty excuse that our energies are diverted towards war and we cannot allow it to go to any other side should not be brought out. Our troubles, Sir, are great. Not only the minorities, but others as well, are suffering and minorities need not be necessarily a religious minority. We have the experience of the Central Provinces

Congress Government in which a regional minority is being over-ridden and persecuted by a regional majority. We have also an ideological minority in the shape of Mr. Subash Bose and his party which is being tyrannized over by certain people who, though they may appear and pose as democrats, are in reality totalitarians.

THE HONOURABLE THE PRESIDENT: I would advise you not to bring up these extraneous subjects.

THE HONOURABLE MR. HOSSAIN IMAM: Sir, this arises because a provision in this Act exists—I am referring, Sir, to item (v) of sub-clause (2) of clause 2 of this Bill—which says:

“to promote feelings of enmity and hatred between different classes of His Majesty's subjects”,

and an Explanation has been added:

“To point out, without malicious intention and with an honest view to their removal, matters which are producing, or have a tendency to produce, feelings of enmity or hatred between different classes of His Majesty's subjects does not amount to promoting such feelings within the meaning of this clause”.

THE HONOURABLE THE PRESIDENT: That is quite plain and intelligible.

THE HONOURABLE MR. HOSSAIN IMAM: Sir, that is what I am saying, that in spite of that safeguard, which has been put in by the Government, there is still the danger that in interpreting it the magistracy—about whose being under the thumb of the executive there has been an open admission in this House on all sides (*Cries of “Question”, “Certainly not”*) may not be just.

THE HONOURABLE THE PRESIDENT: What do you do against so many misinterpretations that are made by judges in the courts?

THE HONOURABLE MR. HOSSAIN IMAM: Sir, misinterpretations are made and in appeal courts they are corrected until we go to the Privy Council and get a final dictum as to the real meaning. The constitution has provided, in the shape of the Federal Court, a machinery for the correct interpretation of the Statute. We have in the Law Department of the Government of India also a machinery of this nature. But here, Sir, our position is that you do not allow cases to go to a court of appeal. The Honourable the Commerce Member considers it sufficient that you have in place of a court of appeal a decision by a court consisting of three judges. But will that be a consolation, Sir, when all the judges are biassed? It is only in cases where we have a right of appeal to the High Court that we feel some security. Attacks have been made on the magistrates as well as civil judges, but nothing has been said so far against the High Court. I hope that High Courts will continue to be outside the influence of the Provincial Governments, whether it be in the Punjab, the United Provinces, Madras or Bihar for that matter. The High Court has been described by a very responsible Congressman as the last stronghold where British Imperialism flourishes, this slur is hurled because it is not amenable to Congress or to any other Government influence. It has earned a name for impartiality, it has created a tradition in these years

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for its independence; it is for these reasons that so much stress has been laid on the right of appeal to the High Court, because no one, no matter what province he comes from, has lost faith in that body, and that body alone stands out in entire India. It may not be the last refuge of British Imperialism, but it is the last hope of those who have the misfortune to differ from the Government and are unjustly accused of high-handed actions. In these circumstances, I appeal to the Government that as they began, they should end. They have begun by co-operation and by accommodation, and they should carry on this policy of accommodation and conciliation as far as they can go and then India will not have reason to oppose this measure.

THE HONOURABLE SAIYED MOHAMED PADSHAH SAHIB BAHADUR (Madras: Muhammadan): Sir, after the outburst of eloquence we have had from the Honourable the Commerce Member, it is indeed difficult, as my Honourable friend Mr. Hossain Imam observed, to try to criticize the Bill. I feel that it is not only difficult to criticize it but it is difficult also to say anything about the matter by way of making a substantial contribution inasmuch as my Honourable friend Sir Ramaswami Mudaliar, while he proceeded with his cogent and powerful arguments to demolish the case put up in opposition, he has, with his characteristic thoroughness, stated almost everything that can at this stage be usefully urged, in support of his case. Therefore, I feel that I am at a very great disadvantage in trying to address the House at this moment. Anyway, Sir, I will try to do my duty.

Sir, as has been observed by previous speakers—and the Government too have not made secret of the fact—the powers which are proposed to be given to the executive by this measure are indeed very wide and extensive. They are indeed of a character that they could never have been allowed to be given to the executive in ordinary and normal times. But we are all aware that we are not legislating for normal times or for any ordinary contingencies. We are now legislating for exceptionally abnormal times and for an emergency—a very serious emergency the like of which never before confronted our country or the countries which stand for democracy and for the protection and preservation of civil liberties and rights of humanity. Sir, as has been admitted by almost every speaker, the very existence of democracies is threatened and in this grim struggle to save democracies, to save civil liberties and rights so dear to the human heart, to save these from utter and total extinction, it is no undue sacrifice to suffer temporary restriction or curtailment of those rights and liberties. It was, therefore, in view of this fact and in view of the seriousness of the situation that the people's representatives in the other House gave their support to this Bill.

Again, Sir, we are glad to find that this measure is very much different from that which was originally introduced in the other House, and this fact is due to the many and important changes that were made in the Select Committee. It was very wise on the part of the Government in the other House to have listened to the suggestion of the non-official section in that House to refer this Bill to a Select Committee and since the Select Committee was able to make very substantial improvements in the measure, it

was possible for this Bill to have had a smooth passage in the other House. I am glad to find that most of the amendments that were proposed by the Muslim League were carried out in the Select Committee and that consequently, the Muslim League in the other House gave their full and unstinted support to this measure. Again, Sir, even in the second reading of the Bill, a few more amendments were carried out, which also were of a very important nature, the most notable among them being in regard to the recording of evidence in cases in which the offence alleged is punishable with death or transportation for life. Therefore, we feel that both the Government and the people's representatives did co-operate in an honest endeavour to make this measure as unobjectionable as possible. Sir, despite all that, we feel that there are still flaws in the Bill, and that there is still much room for improvement, and I wish that something had been done to set right these flaws and in spite of what has been urged by the Honourable the Commerce Member, I feel that things would have been different if the Government had tried to bring this measure before this House at a time when the Legislative Assembly was in session, for then there would have been at least some possibility of having some of the suggestions here being carried into effect, if we had been successful in convincing the Government of the justness and the reasonableness of our suggestions, it would have been quite possible for us to have persuaded Government to accept those suggestions and change this measure for the better. But now that course is altogether denied to us. There are a number of defects in the Bill. I would cite only one or two of them. As regards the recording of evidence, as I have just said, there had been this change made that in case the sentence is one of death or of transportation for life, evidence has to be recorded *in extenso*. But I feel that this provision should have been extended even to the other cases where the offence was punishable with 10 years' imprisonment, because it is useless to allow any appeal to be made to any court unless that court is in possession of the full evidence that was deposed to in the lower court. It is impossible for any appellate court to come to any judgment on evidence of which only the substance was recorded in the lower court. If we wish that the appellate court should come to a proper judgment, we should furnish the appellate court with full evidence that was deposed to in the lower court. I feel that provision regarding the recording of evidence should have been changed in these instances also. I also wish that appeal should have been allowed in many more cases than those that have been allowed under section 13. Of course, I feel that a limit has got to be put somewhere, but I do not think that 10 years is just the point at which the line should have been drawn. It should have been much less, and at least in the case of a man getting seven years or more imprisonment he should have been allowed an appeal to the High Court.

Again, Sir, there has been an exception made in the case of either a husband or wife screening the whereabouts of the other who may be an accused. I say this exception should also have extended to a parent, a father or mother. In India at least we know that the relationship between the mother and her children is of a very peculiar character. It is a sacred relationship. We may imagine the case of a widow who is a mother with an only son and her anxiety to save her boy. Therefore, such exception should have been made in the case of parents, and also of daughters, etc.

[Saiyed Mohamed Padshah Sahib Bahadur.]

Well, Sir, there are a number of other things in which improvement could have been effected, but we feel that there was such a short time at the disposal of the Government that it may not have been possible for them to have given the amount of attention that a Bill of this kind requires. But, on the whole, in spite of these defects, we feel that the result has been of quite a satisfactory character, that on the whole both the Government and the people's representatives in the Legislature have succeeded in devising a measure which is really useful and is calculated to help the efficient prosecution of the war and to ensure the object for which it is intended. It is but natural that in matters like this there should be differences of opinion, but we are glad to find that in spite of differences of opinion on detail there is practical unanimity not only in the Legislature but also in the country at large as to the duty of our country to assist in the successful prosecution of the war, to see that the cause of democracy emerges victorious out of the struggle, so that the civil liberties and rights of humanity may be permanently ensured. As some of my Honourable friends have observed, even though India is not actively engaged in the struggle, it is wrong to think that we ought to be inactive until hostilities begin nearer home. As has been observed, the defence of India is not distinguishable from the defence of the British Empire, and even of those countries which are now engaged in the struggle in Europe. The danger threatens not only the countries actually engaged in the struggle in Europe but all the nations which stand for democracy and which are anxious to protect and preserve the fundamental rights of humanity and those who care for those rights, for the natural heritage of man, should combine in a supreme effort to resist the present danger.

Just one word more about the caution necessary in using these powers. I am glad that an assurance was given in the other House and that here also an assurance was given to us by the Honourable the Commerce Member to the effect that every consideration would be given to public opinion and that Government was anxious to know what the public mind was and ready to try and satisfy public feeling if the Government was persuaded that the public was right. We are glad that this assurance has been given and we hope that the Government will take very great care that these powers so drastic in their nature are used with due caution and circumspection by those who are invested with them.

THE HONOURABLE THE PRESIDENT: I will now adjourn the House till 10-30 A.M. tomorrow, when we will first proceed with the non-official business and after the non-official business is concluded the debate on the Defence of India Bill will be resumed.

The Council then adjourned till Half Past Ten of the Clock on Tuesday, the 26th September, 1939.

COUNCIL OF STATE.

Tuesday, 26th September, 1939.

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

MEMBER SWORN:

The Honourable Mr. Shavax Ardeshir Lal (Nominated Official).

QUESTIONS AND ANSWERS.

INDIAN OFFICERS WHO HAVE SERVED IN THE DEFENCE DEPARTMENT.

38. THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: (a) How many Indian officers have served as secretary, deputy secretary and under secretary in the Defence Department during the last five years and for how long?

(b) Is there any Indian serving as such in the Defence Department now?

THE HONOURABLE MR. A. DEC. WILLIAMS: (a) One Indian officer has served as under secretary for about nine months.

(b) None.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: When did this Indian cease to be under secretary?

THE HONOURABLE MR. A. DEC. WILLIAMS: A few days ago. The officer was reverted to his province at the request of the Provincial Government.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: Is it intended to appoint another Indian officer in his place?

THE HONOURABLE MR. A. DEC. WILLIAMS: A British officer has been at the moment appointed in his place.

THE HONOURABLE MR. P. N. SAPRU: Is the British officer going to be permanent or is it only a temporary arrangement?

THE HONOURABLE MR. A. DEC. WILLIAMS: I cannot say whether it is a temporary or permanent arrangement. At the moment a British officer has been appointed.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: Why was no Indian appointed in place of this Indian officer who has reverted?

THE HONOURABLE MR. A. DEC. WILLIAMS: Presumably, Sir, the officer appointed was the best qualified officer available at the moment.

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THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Are there not equally qualified Indian officers of the same standing available ?

THE HONOURABLE SIR ALAN LLOYD : Are they available ?

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Are they not available ? If Government want them, why should they not be available ?

THE HONOURABLE SIR ALAN LLOYD : One has just been called away.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Are there not other Indian officers of equal qualifications available ? The Honourable Member has not answered my question.

THE HONOURABLE THE PRESIDENT : I cannot compel any Honourable Member to answer any question.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : That is what I wanted to know.

THE HONOURABLE THE PRESIDENT : Will you please go on with the next question.

STATUS OF HEADMASTERS OF INDIAN HIGH SCHOOLS MAINTAINED BY THE E. I. R.

39. THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : (a) With reference to the answer given by Government to question No. 295 put by me on the 17th April, 1939, excluding the Kindergarten section and classes I and II was the enrolment in the Oak Grove School and the Indian high schools maintained by the E.I.R. as follows on the 31st March, 1939 :

Oak Grove School for European and Anglo-Indian boys ..	319
High School, Asansol	615
High School, Jamalpur	321
High School, Khagaul	401
High School, Tundla	355

(b) Did the Chief Commissioner for Railways say on the 23rd March, 1939 during the debate on my Resolution asking for an increase in the recruitment of Indians of pure descent to senior subordinate services on the Railways that if the Indian schools were of the same size as the Oak Grove School their headmasters would belong to the superior service ? If so, do Government in view of the above mentioned figures propose to make the headmasters of the Indian high schools gazetted officers and to place them on a footing of equality with the headmaster of the Oak Grove School ?

THE HONOURABLE MR. J. D. TYSON : (a) Yes, except as regards Jamalpur and Khagaul, the figures for which are 356 and 420, respectively.

(b) The answer to the first part is in the affirmative. As regards the latter part the matter is under consideration.

INCREASE IN RESERVATION FOR ANGLO-INDIANS IN THE CADRE OF TELEGRAPHISTS FROM 20 TO 40 PER CENT.

40. THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : (a) Has the reservation for Anglo-Indians in the Telegraphists' grade been raised from 20 to 40 per cent. ? If so, what will be the reservation for (i) Hindus, (ii) Muslims and other minorities in future ?

(b) What are the circumstances which necessitated a change in the old rules framed under section 242 of the Government of India Act, 1935, under which there was a reservation of 5 per cent. in the clerical grades and 20 per cent. in the Telegraphists' grade for Anglo-Indians ?

(c) Was the change made in consequence of any inquiry made by the Government of India into the operation of the rules referred to in (b) or was it due to directions received from the Secretary of State for India ?

THE HONOURABLE MR. E. CONRAN-SMITH : (a) The reservation for Anglo-Indians in the Telegraphists' cadre in the Posts and Telegraphs Department has been increased from 20 per cent. to 40 per cent. The reservations for Muslims and the other minority communities are 25 and 33½ per cent., respectively. There is no reservation for Hindus but it is open to them to compete for the unreserved vacancies.

(b) and (c). The old orders were not framed under section 242 of the Government of India Act, 1935, but in pursuance of the provisions of the Home Department Resolution No. F. 14/17-B/33-Ests., dated the 4th July, 1934. The justification for the change is explained in the Home Department Resolution No. 14/5/38-Ests. (S.), dated the 1st May, 1939.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Would I be correct in concluding from the Honourable Member's answer that only about 30 per cent. of the posts in the Telegraphists' grade would be open to members of the majority community ?

THE HONOURABLE MR. E. CONRAN-SMITH : I think the Honourable Member's arithmetic is correct, but I would draw his attention to what is stated in the Resolution of the Home Department, namely, that the increased reservation for Anglo-Indians would be so distributed among the circles as to secure, after taking into account reservations for other minority communities, a reasonable number of vacancies in each circle for open competition.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : But the total percentage of such vacancies would only be about 30 ?

THE HONOURABLE MR. E. CONRAN-SMITH : As I have already observed, the Honourable Member's arithmetic is I think correct, but he has to bear in mind the reason for this increase in reservation which is the past association of the Anglo-Indian community with this particular cadre of the Department concerned.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Was any inquiry made to find out whether the old rules were causing any hardship ?

THE HONOURABLE MR. E. CONRAN-SMITH : Yes, Sir. An inquiry was held.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Has the result of that inquiry been published ?

THE HONOURABLE MR. E. CONRAN-SMITH : No, Sir. It was a departmental inquiry.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Do Government propose to publish it now in order to let the public know the grounds on which they acted ?

THE HONOURABLE MR. E. CONRAN-SMITH : No, Sir. I think it is unnecessary, because, as I have already explained, the Resolution of the Government of India gave a very full and fair account of the reasons which have actuated Government in making this increased reservation.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Were any directions received from the Secretary of State for India on the subject ?

THE HONOURABLE MR. E. CONRAN-SMITH : No, Sir. But the approval of the Secretary of State was secured to the issue of the new order.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : My question was, " Was the initiative in the matter of fixing the present remuneration and the percentage taken by the Secretary of State or by the Government of India ?"

THE HONOURABLE MR. E. CONRAN-SMITH : I have already answered that question, Sir. It was not done under direction from the Secretary of State, but his approval was taken to the new order.

FIXATION OF THE MINIMUM REMUNERATION FOR ANGLO-INDIANS IN THE RAILWAYS AT RS. 55 PER MENSEM.

41. THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : (a) Has the minimum remuneration of Anglo-Indians in the Railways been fixed at Rs. 55 a month in view of their liability to service in the Indian Auxiliary Force ?

(b) Is there any other Department in which the liability of an employee to military service is taken into account in fixing his remuneration ?

(c) Will Government in future be under an obligation to maintain the minimum remuneration now granted to Anglo-Indians whatever the condition of the railway finances may be and however drastically the scales of salary applicable to employees of other classes may be revised ?

(d) Will the minimum pay for all employees in the Telegraphists' grade whether Anglo-Indians or Indians be the same ? If so, do Government propose to follow the same principle in the case of railway employees ?

(e) Was the minimum remuneration of Rs. 55 a month fixed by Government on their own initiative or in obedience to orders received from the Secretary of State for India ?

THE HONOURABLE MR. E. CONRAN-SMITH : (a) Yes.

(b) Yes.

(c) All scales of remuneration are liable to revision if circumstances alter

(d) The answer to the first part is in the affirmative and to the second in the negative.

(e) By the Government of India, with the approval of the Secretary of State.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : With regard to the Honourable Member's answer to part (b), may I know what are the other departments in which the liability of an employee to military service is taken into account in fixing his remuneration ?

THE HONOURABLE MR. E. CONRAN-SMITH : Yes, there are certain civilian employees under the control of the Defence Department who have a liability to service in the field and their rates of pay have been fixed taking this liability into account. The employees are those in the Military Accounts Department and in the Indian Wing of the Royal Indian Army Service Corps.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Is this liability taken into account in any Civil Department of the Government of India ?

THE HONOURABLE MR. E. CONRAN-SMITH : Not that I am aware of.

THE HONOURABLE MR. HOSSAIN IMAM : Not even in the Posts and Telegraphs Department, Sir ?

THE HONOURABLE MR. E. CONRAN-SMITH : That is all clearly stated in the Resolution of the Government of India.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : But is it taken into account in connection with any other community, say, with regard to Indians who are members of the Indian Territorial Force ?

THE HONOURABLE MR. E. CONRAN-SMITH : Not that I am aware of, Sir.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Why should there be this differentiation between employees of one community and of another ?

THE HONOURABLE MR. E. CONRAN-SMITH : I don't quite understand the Honourable Member's point. I have explained that there is no differentiation. In the case of civilian employees in other branches of a Government Department who have a liability for service in the field, their rates of pay have been fixed taking this fact into account. The principle applies both to the persons I have referred to and to Anglo-Indians in the Railway Department.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Does not differentiation arise because the Indian members of the I.T.F. employed in any department are not entitled to receive higher remuneration ?

THE HONOURABLE MR. E. CONRAN-SMITH : That seems to be a matter of opinion.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Is that so ? Will the Honourable Member tell me why the principle of equality of pay for persons doing the same work which has been observed in the case of the Telegraph Department been discarded in the Railway Department ?

THE HONOURABLE MR. E. CONRAN-SMITH : The Honourable Member will find a full and very lucid explanation of that in the Resolution to which I have referred, which I presume he has perused.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : May I say that I have read that Resolution more than once and I have put this question to the Honourable Member because I have been unable to get the information I want from it myself.

THE HONOURABLE MR. E. CONRAN-SMITH : Well, Sir, I regret I cannot give any more information than is contained in that Resolution. It is stated therein that in adopting this course the Government of India have been influenced mainly by a desire to avoid a discrimination which is not based on any differential obligation but they have also taken into account the fact that the number of men affected in the telegraph cadre is comparatively small and the fact that the scales of pay of this cadre were subjected to particularly heavy reductions. That seems to be an adequate explanation.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : But is it not a fact that there was a heavy reduction in the scales of pay of the subordinate railway employees also ?

THE HONOURABLE MR. E. CONRAN-SMITH : I understand it was not so heavy as in the case of the telegraphists.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : In case Indians offer themselves for service in the Army in the same manner as the Anglo-Indians do, will they get the same allowance ?

THE HONOURABLE MR. E. CONRAN-SMITH : I must ask for notice of that question, Sir.

RIGHT OF REPLY IN MOTIONS FOR ADJOURNMENT.

THE HONOURABLE THE PRESIDENT : Honourable Members, before we proceed with today's work, I wish to bring one matter to your notice. The other day, when Pandit Kunzru brought his Motion for Adjournment on the unsatisfactory nature of the announcement made in connection with the Chatfield Committee, he came to me and asked me whether he had the right of reply. I recalled a previous ruling of mine in 1934 which I remember to have given when Mr. Hossain Imam moved a Motion for Adjournment and I requested the Honourable Pandit Kunzru not to make a reply. Since he has asked me to make a statement I have promised him that I shall consider the whole question at a later stage. I am very sorry I have no time this session to go into the question. We have followed for many years a decision given by that distinguished President of this Council, Sir Alexander Muddiman, in 1925, but I wish to reconsider the whole question again, and I shall consider it at length at the next Delhi session.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Will you permit me, Sir, to supplement your statement by informing you that you allowed me to reply in connection with my Adjournment Motion regarding the reorganization of the Indian Medical Service in 1937.

THE HONOURABLE THE PRESIDENT : I do not remember that. You did not bring it to my notice.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Yes, Sir, I mentioned it to you.

RESOLUTION RE PROTECTION TO THE STARCH INDUSTRY.

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 take measures to protect the Indian starch industry from uneconomic foreign competition."

The issue involved in this Resolution seems to me, Sir, a non-controversial and innocent one. The Indian starch industry has applied to the Government of India for protection against the uneconomic and heavy competition by the foreign manufacturers. Before I proceed, Sir, I propose to give a short history of the starch manufacture in India and will try to make out a case how far the grievances of the industry are reasonable for asking protection from the Government. Commercial starch is produced from maize and also from rice, potatoes and wheat. This starch is used in several industries, it is used in the textile industries, it is used in the soap industries, and in the paper industries. It is used as an adhesive in the biscuit industry. So, I may say that it is practically used in all essential industries and therefore the starch industry can be called a subsidiary industry or the basic industry because its produce is used as the raw material of numerous other industries. We have got in India about four factories and one factory in Rangoon. One big factory is under construction at Ahmedabad. The total amount of production of these factories is about 10,000 tons of starch which amount to about 20 per cent. of the aggregate Indian consumption. I understand that we import about 45,000 tons of starch for which we have to pay about Rs. 50 lakhs. Before these factories were started, the foreign manufacturers used to charge very heavy prices for their produce. After the start of the factories in India, they reduced the price of starch from Rs. 10-4-0 per cwt. to Rs. 6-12-0 per cwt. They reduced this price deliberately with a view I may say to kill the starch industry in India so that this industry may be ousted from the field and the foreign manufacturer may be able to get into the field and then fix his monopoly price. This cut-throat competition had very adverse effects on the indigenous industry, though the indigenous industry tried its level best by using economic methods to cut down their expenditure and to produce the manufacture at a competitive price so as to compete fairly with the foreign produce. The effect of it has been that some of the factories have to curtail their production by working shorter hours. I understand that one factory had to produce only converted starch while other factories have been working for four days out of six. The foreign manufacturers have adopted these methods in selling the manufactured starch at a lower price to gain a good market in India as well as to oust the Indian industry from the field. The Indian industry demands the imposition of an anti-dumping duty of Rs. 2 per cwt. on imported starch over and above the *ad valorem* duty of 15 per cent. They think that if this duty is imposed, they will be able to manufacture starch and will be able to run their factories economically and compete with the foreign manufacturer.

Sir, in order to obtain protection, we must see how far the industry which desires protection can satisfy the three conditions laid down by the Fiscal Commission. The first is that there must be abundant supply of raw material,

[Mr. V. V. Kalikar.]

sufficient labour and a large home market. The second is that the industry must be such as cannot develop in its infancy without protection, and is not likely to develop rapidly as is desirable in the interests of the country. The third is that the industry must be such as will eventually face the world competition within a short period, if protection is given. Sir, so far as raw material is concerned, the figures I have got from non-official sources show clearly that we have an abundant supply of raw material, i.e., maize, which we require for the manufacture of starch. In the United Provinces, Bihar, and some other provinces, maize is grown in two seasons. The total acreage of land under cultivation for maize is, I am told, about 6.6 million acres, which produce nearly two million tons of maize. We require about 100,000 tons of maize to meet our entire demand for the manufacture of starch. Our exports of maize are very insignificant. The average annual export comes to about 8,400 tons only—not even 1 per cent. of our total production—and the rest is used for home consumption. Most of the produce is utilized as a food crop for the poor and fodder for animals. There are two kinds of bye-product crops. One is maize cake and the other is maize oil. Maize cake is used as fodder for animals and maize oil is used for certain industrial processes. Thus, nearly 85 per cent. of our total maize production is grown in the provinces where the factories are located. We have got a large home market, because we find that the demand for starch is increasing gradually. In 1933-34, we imported about 5,55,635 cwts. of starch which cost us about Rs. 33 lakhs, while in 1937-38 we imported 8,41,762 cwts. which cost us about Rs. 55.5 lakhs. Moreover, India has got the hand-loom industry—cottage industries and infant industries. The starch which we require is not the starch which we get from the manufacturing factories but a crude sort of starch which we call *kanji*. So, that starch is not as good as the manufactured starch. If we are able to set up factories, we will be able to supply that sort of starch which is necessary and which will replace the crude starch now used in the hand-loom industry. As regards sufficient supply of labour, the House knows that people from many villages flock to the cities to get employment in mills and other factories. India being an agricultural country, and the majority of the population being dependent on it, many of the poor people do not find employment in villages and therefore they migrate to cities to find further employment there. Another point about the starting of these factories is the getting of cheap power. If these are started in cities, there will be no difficulty about generating electricity. With the advent of responsible Government in the provinces, I am sure that if you start new factories, you will be able to get electricity at a cheap rate on the recommendation of the Provincial Governments. So, when we find that the starch industry is not able to maintain itself as against foreign competition, it is the duty of the State to give some protection to this nascent industry in order that it may be able to maintain its own against foreign competition. There are signs of dumping by foreign manufacturers in India. The figures that I have got from unofficial sources show that a large amount of starch is being dumped in India at a very, very low price. I understand that the present selling price, which is Rs. 6-12-0 per cwt. does not cover even the cost of production, the cost of transport, the commissions and other expenses incurred by the foreign manufacturers in producing and sending this

product to India. The price of duty-free starch, including commission, transport charges and other expenses and excluding the *ad valorem* duty, comes to about Rs. 5-13-0. Now, I understand that the present selling price of maize in the foreign market is Rs. 2-12-0 per cwt. and as two cwts. of maize are required to manufacture one cwt. of starch, it comes to about Rs. 5-12-0 only. Hence if the foreign manufacturers have to sell the starch in this country they must undergo a very heavy loss. Their only intention in doing this is that they should be able to sell their product so that our industry should not flourish or be able to compete with them, and then after ousting our industry they would be able to fix a monopoly price, very much higher than it is now.

THE HONOURABLE MR. HOSSAIN IMAM: Which country is dumping in India?

THE HONOURABLE MR. V. V. KALIKAR: My information is that it is Germany and the United States.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Education, Health and Lands Member): Not Germany now.

THE HONOURABLE MR. V. V. KALIKAR: When I tabled this Resolution the war was not on, and now I think if we cannot get any manufactures from Germany we shall be able to help our industry if the Government comes in and gives protection against America.

Now, Sir, I shall submit the figures that I have got about the production cost of Indian starch. The present price of maize in India is Rs. 3-2-0 per cwt. So far manufacturing one cwt. of starch we require maize worth Rs. 6-4-0. Then the average cost of manufacture of starch comes to about Rs. 2 per cwt., and about Re. 1 for depreciation, commission and other factory expenses. So the total comes to Rs. 9-4-0 per cwt. On the bye-products the industry gets about 12 annas per cwt. Hence the reasonable selling price should be at least Rs. 8-8-0 per cwt., whereas they have to sell it at Rs. 6-12-0, which means a loss of Rs. 1-12-0 per cwt. and if an anti-dumping duty of that amount were put on they would be just able to make both ends meet. My point is, if we want this industry to flourish and if the figures that I have got are correct, then I submit that the industry has got a very good case for assistance from the Government. I am more afraid of my Honourable friend on the left, Mr. Hossain Imam, because he is always against protection to any industry. But I want to assure him that if he supports me in this demand all the agriculturists will be able to get a reasonable price for their agricultural products and we shall be able to meet their reasonable grievance. They have rightly been complaining that they have not for the last seven or eight years been able to get good prices for their products. I believe the industry has got a good case, because I have no reason to doubt the correctness of the figures which I have given. This is a very non-controversial Resolution and in the interests of the agriculturists and in the interests of the starch industry I hope the whole House will unanimously support my demand. I therefore move the Resolution for the acceptance of the House.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab: Non-Muhammadan): Sir, I rise to support the Resolution. The Honourable the Leader of the House observed that in view of the war the question of German

[Rai Bahadur Lala Ram Saran Das.]

competition does not now arise. That may be so for the time being but we are out to make India self-contained. I know that in the Punjab, the province from which I come, there are two starch factories, one situated at Batala in the Gurdaspur district and another at Jagadhri in the Ambala district. I find that their product has a good demand if the price be good, and I also find that due to the dumping of starch from other countries those factories are not doing so well as they ought to. There are two kinds of starch which are used in the textile mills, one is wheat starch and the other maize starch. This proposition does not necessitate any great reasoning because it is evident. Even when the prices of maize and wheat are low it is neither paying to the agriculturist nor to the manufacturer. The manufacturer naturally will pay a bigger price for his produce in case he can get a bigger price for his product. But because he cannot get a good price, the result is that the zemindar suffers, and India is not being made self-contained. If protection is granted now when dumping from foreign countries is at a standstill, it would help to establish the starch industry.

With these words, Sir, I commend the Resolution to the favourable consideration of the House.

*THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa : Muhammadan) : Mr. President, it is difficult to live up to reputation and I freely admit that when I came to this House I had every intention of supporting the Resolution which Mr. Kalikar had moved, because I make exception in the case of agricultural goods. Protection which would give a higher price to agricultural produce always had my support. I also admit that I had not studied the question of the origin of the country from which dumping started. I was under the impression that dumping is the monopoly of Japan and in that view I was prepared to support fully and whole-heartedly, but now the case has been materially altered. The Honourable Member had a very good case and at the time when he gave notice of his Resolution it was a subject on which it would have been difficult to have any difference of opinion. But we live in a world in which changes come with electrical rapidity. Circumstances change so materially that you cannot justify the same thing one week after you have made the enunciation. We had two competitors, first Germany, which is now out of the market; there can be no dumping from that source. The second was the United States of America. The House I think knows well how this war has affected the exchange. There has been already a difference of about 5 or 6 per cent.—depreciation of that amount—in the exchange value of rupee in terms of dollar. Dollar prices being what they are, Indian prices are bound to rise up. So you are secure from the possibility of competition from there too. Added to that is the fact that the United States of America is not a country which indulges in dumping *per se*. You might have a sort of dumping due to the fact that there is a certain measure of Government help to industries which reduces the cost of manufacture. There are subsidies to the carriers; there is no direct dumping in the sense in which dumping is used. Nevertheless I cannot say that these conditions are so reassuring that we can give up the matter and brush it aside. It does require anxious consideration of Government. We must also consider the effect of protection on the industries which

*Not corrected by the Honourable Member.

utilize the particular article as one of their materials. The textile industry has many competitions to face and if the cost of one of the raw materials which is required for that industry is increased, it would follow that the textile industry will also require a higher protection than you are giving it now if they have based their calculation on the price of starch at Rs. 6-12-0 per cwt. I would therefore request the Government to keep this matter in view and if the prices are uneconomic to come forward and refer the matter to a Tariff Board and in the meantime I would request my Honourable friend Mr. Kalikar to trust Government for six months more and see what happens in the next session.

THE HONOURABLE SIR ALAN LLOYD (Commerce Secretary) : The Honourable Mover of this Resolution twice expressed the opinion that it would be regarded as non-controversial. If it is impossible for us to accept that description of the Resolution, it is, I am afraid, the Honourable Member's own fault, because of the way in which he has worded it. Had the Resolution merely asked Government to give consideration to the question of extending protection to the Indian starch industry, it would have been very simple for me to answer, "Yes, we have that matter under consideration already", but for the moment we think—practically on the lines of what my Honourable friend from Bihar said—we think that we ought to suspend judgment for a few months in order to see what is happening as a result of the war, which affects one at least of the principal sources of supply of imported starch.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : We have the experience of the last war.

THE HONOURABLE SIR ALAN LLOYD : If I might venture to say so, the Honourable the Leader of the Opposition will find in the last war the prices of all imported commodities tended to go up.

But the Honourable Mover of the Resolution did not confine himself to asking the Government to consider the question of extending protection to the Indian starch industry. The Resolution as worded includes a finding of fact that there is uneconomic foreign competition. Now, Sir, we cannot accept a Resolution which includes a finding of fact unless we are certain that the finding of fact is quite justified. The effect of that finding of fact is quite obvious; the Honourable Member's interpretation of the word uneconomic is practically equivalent to what is among economists described as predatory competition designed to crush a competitive industry, or to use an alternative expression, that "dumping" is being resorted to in the cause of this predatory competition. Now, Sir, this matter first came up a few months ago and I think it will be quite clear that the Government were bound in a case of this sort to make extensive enquiries to know what the justification for that allegation of fact was. We have been pursuing those inquiries and I thought—as I was concerned with the matter—that one of the most important things to do was to study the course of prices in other parts of the world and in particular in London which may be regarded, ordinarily speaking, as giving a fair indication of the general trend of world prices, apart from any local activities. I find, having obtained with some difficulty the information that I wanted as regards the course of London prices, that there has been a consistent tendency for the prices in India of imported starch to vary with the world price, as represented by the London

[Sir Alan Lloyd.]

quotations, and consistently also, with very few exceptions the Indian price has been in the level of 10 per cent. above the London price. These researches have also brought to my notice two very interesting facts. The first is this. The only concern working in India which has applied for protection is in the Punjab and therefore I will take Lahore prices of maize. In the first half of 1939 the Lahore price of maize averaged 10 per cent. more than the average in 1938. But the London price of imported maize averaged 5 per cent. less than in 1938. That is a very significant fact. It shows that the price of the raw material in India has been moving in a contrary direction to its price elsewhere. Now, in the long run that sort of thing is likely to level itself out but in the short run it is quite possible that it should go on for some months because, as the Honourable Member remarked, there is practically no export trade and, I may add, no import trade in maize. But the fact that I have mentioned is in itself a very good explanation of the fact that in the first half of 1939 it was particularly difficult to compete with foreign countries because of the trend of the cost of the raw material, without substantiating any allegation against foreigners of deliberate price-cutting.

Then another very important fact that I noticed was that the margin between the London price of maize and the London price of starch when at its highest was hardly more than half the margin which is claimed by the Punjab concern to which I have referred as necessary to exist in the case of an Indian factory, in order to secure profitable working. Well, I hope that that does not mean that the claims of this particular concern have been put on an exaggerated basis. But, if it does not mean that, the explanation must be that there is some natural disadvantage which the industry in India suffers from. It may be that their methods are less efficient in making the best use of the raw material; another possibility that has occurred to me is that they have much more difficulty in disposing of their bye-products than is the case in countries like the United States and Germany where the breeding of pigs for bacon and ham is most important. Here I am afraid the breeding of pigs is left to the Sudras and I am afraid these pigs never see one mouthful of maize cake. I am not saying that this is a reason why the starch industry cannot flourish in India. I am only saying that there are factors disclosed by the statistics which I have studied which throw some doubt on the bare assertion which my Honourable friend opposite has unhesitatingly repeated that there is deliberate cut-throat competition and that the prices charged for the foreign produce are uneconomical. I must reserve judgment upon that point and I think anyone who has had the opportunities that I have had of studying the figures which I have obtained from other countries will find it necessary to reserve judgment on that point. Well then, Sir, that brings us to the position to which we were already inclined before these statistical inquiries were completed, namely, that this application should be treated not as an application for the introduction of what would be an entire novelty in our legislation but an application for protection in the ordinary way. On that point, Sir, I am not going to commit myself to any finding because all that the executive has to do is to satisfy itself that there is a *prima facie* case and that it is a matter which can suitably be referred to the Tariff Board; and so long as we have not decided not to refer it to the Tariff Board it

would be presumptuous for me to decide what the Tariff Board might have to say. I would only just remind Honourable Members that there are two factors which I think justify us in deferring for some time a decision upon the question as to whether the matter should or should not be referred to the Tariff Board. The most important factor is one which has already been mentioned, that the whole economy of this kind of industry has been altered by the war. One of the principal sources of supply to India is out of it; the other, as my Honourable friend from Bihar has so clearly pointed out, has had its prices, in terms of Indian money, automatically raised owing to exchange fluctuations. The other point, as has again been mentioned by my Honourable friend from Bihar, is that this is a matter in which we must really be cautious because starch is an important mill-store for industries that are already themselves protected. The most important of them is the cotton textile industry and that is an industry which is itself complaining that it is in difficulties and we have to think twice at least before increasing these difficulties. In this connection I should like to remind the House that the Tariff Board in 1927 actually recommended that the then existing revenue duty on starch should be removed and starch placed on the free list for the benefit of the textile industry. That was given effect to. In 1932 the Tariff Board considered the case of starch again on certain representations and their recommendation then was that a revenue duty of 15 per cent. should be imposed on starch, not for the purpose of protecting the starch industry in the ordinary sense but as a countervailing duty or tariff-equalizing duty to set off the duty which had been imposed on wheat with the result that wheat used in any factory would have the price raised by the amount of that duty, whether directly or indirectly. It is the case now that I have not yet had any representation from any concern using or intending to use wheat to make starch. Maize is the most natural raw material for the purpose. There is no import duty on maize and one might say that logically starch ought to go back to the free list instead of having the duty enhanced. That just shows that the effect of the duty on starch upon the position of the textile industry is one which will have to be most seriously watched. Notwithstanding, as I have said, if we are allowed to abstain from accepting allegations of predatory competitions which we do not think are substantiated and if we are allowed to confine our attention to the ordinary principles governing applications for protection, the matter is receiving our attention and will, as soon as we see daylight a little in the present chaotic condition of the world, continue to receive our attention. That is as far as I am able to go in accepting the Honourable Member's Resolution. As it is, I am afraid that for the reasons that I have given I shall have to oppose it.

THE HONOURABLE MR. V. V. KALIKAR: The wheels of the Government machinery, Sir, are always very slow in moving. My Honourable friend Mr. Hossain Imam has asked me to trust the Government in this matter and I have no hesitation in trusting the Government but, as I say, I wish that the Government should take early steps in this matter and should examine the question seriously and help the nascent industry if the industry feel that it has not breathing space and will be exterminated in a very short time on account of this competition. My Honourable friend Sir Alan Lloyd said that I had made certain remarks and had taken it for granted that there was

[Mr. V. V. Kalikar.]

uneconomic foreign competition. Well, I stated before in my opening speech that the foreign manufacturers used to sell starch for Rs. 10 and odd annas before the factories were started in India.

THE HONOURABLE SIR ALAN LLOYD: What was the foreign price of maize then?

THE HONOURABLE MR. V. V. KALIKAR: According to my figures it was Rs. 2-12-0 per cwt.

THE HONOURABLE SIR ALAN LLOYD: Wrong.

THE HONOURABLE MR. V. V. KALIKAR: If they have cut down the price and if they have fixed it at Rs. 6-12-0, as a layman I am entitled to say that it is uneconomic competition—cut-throat competition. However, Sir, they say that they have the matter under consideration, and I know that there is one weak point in my case, and that is, that the matter has to be referred to the Tariff Board for inquiry and it has not been referred now. I therefore wish to withdraw my Resolution and request Government to take serious steps in the matter so that the industry may not die on account of the foreign competition.

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

RESOLUTION *RE* IMPROVEMENT IN LIVING AND WORKING CONDITIONS OF INDIAN SEAMEN ASHORE AND AFLOAT.

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

“That this Council recommends to the Governor General in Council to institute an inquiry with a view to bringing about an improvement in the conditions under which Indian seamen both on steamers and in ports have to live and work.”

Sir, India is one of the principal maritime countries of the world. According to the figures available, the number of seamen working on ships in 1935 was 59,000 in India, 152,793 in Great Britain, 94,400 in the U.S.A., and 71,526 in Japan. Therefore, we are the fourth maritime country so far as the number of seamen employed is concerned. The number of seamen is also on the increase as the figures that I give below will indicate. I have taken these figures from the Statistical Abstract for British India. In 1927-28, the number of seamen employed was 19,501; in 1931-32, the figure had risen to 54,403 and in 1935 the figure had risen to 59,000. These figures give only the average number of seamen working on ships at any time of the year and not the total number of those who sign on during the course of the year, because many of the seamen who sign on are employed only for varying periods of less than one year. During the years 1926-27 and 1928-29 for which figures are available, the average number of seamen engaged in Calcutta was 58,300 and in Bombay, 34,600, making a total of 93,000 altogether. The total number of unemployed seamen was 113,000 in July, 1931. Taking both unemployed and employed seamen in the three principal ports of Calcutta, Bombay and Karachi, the total

number of seamen is 235,000. I am assuming that unemployed seamen remain in ports for the greater part of the year and even though they remain for prolonged periods unemployed, they do not give up their character of seamen. So far as the ships are concerned, the position would seem to be this. In large ships the crew works in three groups. You have the deck crew, the engine room crew and the saloon crew. The first two, i.e., those who work on the deck and in the engine room, work under *serangs* responsible to the Chief Officer and the Chief Engineer, and the saloon crew works under a *butler* responsible to the Bursar or the Chief Steward. The question of recruitment of seamen first came before the Indian Legislature and the Government of India in 1921. There was a Draft Convention adopted by the International Labour Organization in 1920, and the question in 1921 before the Legislature was whether that Draft Convention should or should not be ratified. The Legislature took the line that ratification was not practicable but that there ought to be an examination of the methods of recruitment and, if possible, a new system should be introduced. After that Resolution was adopted by the Legislature, a Committee was appointed, called the Seamen's Recruitment Committee, and it was presided over by our very distinguished friend the Honourable Sir Andrew Clow, whom we are so glad to see here in this House today. The Committee went thoroughly into the question and found that, in Bombay, recruitment was conducted through a single firm of licensed brokers, and that in Calcutta the principal company used to recruit through special servants of its own, and that other companies used to utilize the services of one of the local licensed brokers. *Serangs* and *butlers*, they found, used to be selected by officers. They were mainly responsible for selecting the crew. The Committee found that this system led to grave abuses. They found that the appointment of the crew through *serangs* and *butlers* led to grave abuses and they suggested a new system which did not involve the employment of intermediaries. They suggested the establishment of employment bureau under officers with practical experience. Then they suggested that as regards leading ratings, *serangs* and *butlers*, shipping companies should be allowed to nominate any one who had been discharged from a ship of the same line not more than three months before. In case of failure to do so the selection was to be made from the top of the roster maintained by the Bureau for that time. The object was to encourage lines to give men as far as possible continuity of employment and to ensure that each man shall have his claims regularly considered. In Bombay they found that the crew, especially the deck crew, were attached closely to particular *serangs* who came from the same or neighbouring villages. They recommended interference with the *serangs'* power of nomination only in the case of a particular type of crew. In Calcutta they found no attachment between the *serang* and the crew and they recommended a system whereby seamen would be taken by roster from a register maintained for the line concerned and from a general register. Ship-owners were to be free to take men who had been discharged from ships of the same line not a month before. The Committee also recommended that bribery whether direct or indirect to obtain employment as seamen should be severely put down. Bribery was the chief evil and elimination of bribery was the main object of the Committee, and they found that it was more rampant in Calcutta than in Bombay. Difficulties in preparing a register were

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found to be great and it was not found possible to restrict the power of the *serang* over the selection of his crew.

Then we come to 1924, and in that year the Government of India appointed an officer of the mercantile marine as Shipping Master to reorganize the shipping office in Calcutta. The Government of India further instructed him to examine the establishment of a recruitment bureau. A similar officer was also appointed at Bombay. From 1924, we come to 1929, and in that year the Government passed certain orders on these seamen's recruiting committees. Leading ratings, that is *serangs* and *butlers*, were to be recruited direct by shipowners or through the shipping office. No broker was to be appointed in selecting these men and companies were to give preference to men who had been long out of employment. Recruitment was to be made through the shipping office when shipowners or their agents were unable to make the arrangements necessary for them. A register of *serangs* and *butlers* was to be maintained, shipowners and their agents or the ship's officers were to select their men at an open muster. The *serangs* and *butlers* produced candidates in numbers and the marine superintendent and the ship's officers selected the crew from the men produced.

Now, Sir, the position now is that while licensed brokers and other intermediaries have not been abolished, they have no longer any voice in the selection of the higher ratings except where vacancies occur immediately prior to a vessel's departure. In Calcutta the greatest improvement has been in connection with the system of advances. While the present system is an improvement over the past, the Royal Commission on Labour which investigated this question in the course of its investigations regarding labour questions doubt whether it would remove one of the basic causes of bribery, namely, unemployment. The Royal Commission says one of the basic causes of bribery which is rampant is the large number of unemployed seamen. In Bombay, for example, there is employment at any one time for only one-third of the men available for employment. In Calcutta conditions are slightly worse. There is employment only for one-fourth of the men available for employment at any particular time. The Commission came to the conclusion that acceptance of the demand which was put forward on behalf of the seamen that the seamen should be employed in rotation to secure equitable distribution of the available employment was not a practicable proposition. They made their recommendations at pages—I am quoting from the summary—505 and 506 of their Report. They say:

"For a period of 12 months no fresh continuous discharge certificate should be issued unless the shipping master is satisfied that the recruit is required for employment and that suitable men are not already available;

"Thereafter continuous discharge certificates should be issued only to persons for whom posts are available and unnecessary recruiting should be discouraged;

"If necessary, after a suitable break there should be a further period of 12 months in which recruitment is again restricted.

"Shipping masters should be authorized forthwith to exclude from the register all seamen who have not been in employment for a period of three years, and, to begin with, a seaman should be struck off the register automatically on the expiry of three years from

his last discharge. The period of three years should be steadily reduced to 18 months, but the latter period may be altered, if necessary, in consultation with representatives of ship-owners and seamen.

"Shipping companies should have liberty of choice from men who have been in their employment within a specified period. To begin with, this period should be two years, but it should be steadily reduced to nine months. This latter period may also be altered, if necessary, in consultation with representatives of both sides.

"If a shipowner is unable to fill his crew from those of whom he is entitled to make free choice, he should be required to take men selected from the register by the Shipping Office.

"The licenses granted under section 24 of the Indian Merchant Shipping Act should not be renewed.

"Shipping masters should encourage seamen to use the provisions of the Indian Merchant Shipping Act relating to the allotment of wages".

They admit the employment of licensed brokers for the recruitment of seamen and recommend that licenses granted under section 24 of the Indian Merchant Shipping Act be not renewed. They also note that Indian seamen have so far failed to secure the benefit of the provision of the Indian Merchant Shipping Act relating to the allotment of wages. They point out that under this Act a seaman may allot by means of a stipulation in his articles of agreement any portion of his wages not exceeding one-third to a relative or a member of his family. They recommend that seamen should be informed of the existence of this arrangement and encouraged by shipping masters to make extensive use of it. The Royal Commission further recommend that the amount of their allotment should be remitted regularly by the shipping officers by means of money orders to the name and address of the person named in the allotment note. They go on further to observe that there is possibly some delay between the signing on and actual engagement and recommend that Government should make inquiries in this matter and take such action as may be found necessary. They also suggest that the possibility of reducing the maximum period for payment on discharge and also of signing on taking place in the shipping office should be considered. Finally, they draw attention to the absence in ports of welfare organization centres for seamen. Now, Sir, I have drawn the attention of the House to the recommendations of the Whitley Commission in full, because I would like to know to what extent these recommendations of the Whitley Commission, which are intended to reduce unemployment and secure the welfare of Indian seamen, have been given effect to. I find from the note which has been supplied to us in 1937, Memorandum on the action taken on the recommendations of the Whitley Commission, that on financial grounds the Government of India have not found it possible to take action in the direction indicated by the Whitley Commission at the various ports in India. How long are these financial considerations to prevail? When is the action likely to be taken by the Government of India on the lines recommended by the Whitley Commission so far as Indian seamen are concerned? Then, Sir, there is another question to which I would like to invite the attention of the House and that is the housing conditions under which Indian seamen live. It has been said that they live in crowded houses in Bombay, in dirt and filth, in insanitary places; they live in the most sordid conditions imaginable. In Bombay they have an Indian sailors' home. This Indian sailors' home provides accommodation for about

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450 seamen at one time. The extent of accommodation provided for, considering the vast number of Indian seamen in a city like Bombay, would seem to be grossly inadequate. It would seem therefore desirable that an additional home providing for about 1,000 seamen at any one time should be erected in Bombay. It is to be hoped that a similar request will be complied with so far as Calcutta is concerned. It is to be hoped that the Government of Bombay, the Port Trust, the great Municipal Corporation, the Government of India, various shipping concerns, will contribute something towards the cost of a home for sailors. I should like to say a few words about welfare work. I should like to invite the attention of the House to the recommendation of the International Labour Conference at Geneva in regard to welfare work in 1936. This is the recommendation of the International Labour Conference :

" Arrangements should be made, at least in the larger ports, for the material and general assistance of seamen while in the port and such arrangements should more particularly include :

- (a) the institution or development of seamen's hostels of a satisfactory character and furnishing suitable board and lodging at reasonable prices ;
- (b) the institution or development of institutes—which might be distinct from the seamen's hostels, but should keep as far as possible in touch with them, providing meeting and recreation rooms (canteens, rooms for games, libraries, etc.) ;
- (c) the Organization, where possible in co-operation with ships's ports clubs, of healthy recreations, such as sports, excursions, etc.
- (d) the promotion, by every possible means, of the family life of seamen "

I would like to draw the attention of the House to the last part—the promotion, by every possible means, of the family life of seamen. Particular care is necessary so far as the health of seamen is concerned. One of the dangers to which their life exposes them is venereal disease which constitutes a menace not only to seamen concerned but also to their families and their children. It would therefore seem desirable that there should be proper facilities for the treatment of venereal and other diseases from which seamen might be suffering. Another thing which I would like Government to consider is the possibility of establishing a joint maritime board as the constitution of such a board will have the effect of helping seamen's organizations to effectively negotiate with shipping concerns. I understand that in England there is an International Maritime Board which was set up in 1917 ; I find that in Japan according to the Report of the International Labour Organization the Board has been of great value to the shipping industry. The constitution of the Board should in principle be similar to that of the British Board.

I should have liked to have said something about the indebtedness of Indian seamen. I have an extract from the Whitley Commission's Report, but as my time is up I shall not read that extract. I find from that extract that seamen have to pay a higher rate of interest than other labourers for sums that they borrow and that they are in a state of chronic indebtedness. Another grievance to which I should like to invite the attention of the House is in regard to the wages of these seamen. The Indian seamen gets far less

wages than British Seamen. I have got figures before me, but I cannot go into those figures. These wages are grossly inadequate. They are much less than the wages of British seamen and they are less than the wages that Chinese seamen—Chinese are an Asiatic race—get. It is therefore necessary to look into the question of their wages and their indebtedness also.

I have not suggested any particular method of inquiry ; I have not suggested that there should be a committee or anything like that. I have suggested that an inquiry by any competent officer who can look into the grievances of these seamen will be sufficient.

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

THE HONOURABLE SAIYID MOHAMED PADSHAH SAHIB BAHADUR (Madras : Muhammadan) : Sir, I give my whole-hearted support to this Resolution moved by my Honourable friend Mr. Saprū. The

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Honourable Mover has made quite a strong case for the suggestion that he has made. He has been able to show from the history which he traced of the seamen in recent years how the conditions under which they have been living both in port and on board the steamer have been so unsatisfactory that Government found it necessary to institute an inquiry from time to time. It has shown how there have been committees, commissions, royal commissions on labour, investigating the conditions under which these seamen are suffering. But, Sir, it is regrettable to note that, in spite of these inquiries and the recommendations that have been made from time to time, the lot of seamen has not very much improved. It might be because the number of seamen has grown up very much and the amenities that could be provided for them could not keep pace with the number. But whatever the cause, it is obvious that something should be done to see that their lot is substantially improved. The Indian seamen seem to be labouring under various disabilities. Not only are they not in a position to secure employment for even half their number but even those that actually do secure employment do not find sufficient relief when they are engaged. From the speech of the Honourable Member it is clear that there is necessity to make rules to see that the wages of the seamen while in employ should be regularly sent to their families while the seamen are engaged on board a steamer. There seems again to be necessary to provide welfare institutions for these seamen in ports. As has been shown by my Honourable friend Mr. Saprū there is urgent need for hospitals to be opened up in centres where they live, and some arrangement should be made where they live, and some arrangement should be made to see that the housing conditions under which these people live are improved, that they should no longer be allowed to live in these filthy and insanitary houses and they should be provided with residences which are fit for human habitation. It is a pity, Sir, that the seamen are not allowed even to have the benefit to which they are otherwise eligible, the benefit of the Indian Merchant Shipping Act. Something should be done to see that these people do take advantage of the Act, and are enabled to avail themselves of the benefits provided by this Act. Therefore, Sir, I feel that my Honourable friend Mr. Saprū has made a strong case for the suggestion he has made. After all, he has made a very modest request. He does not want any huge inquiry

[Saiyed Mohamed Padshah Sahib Bahadur.]

to be set up. All he wants is that there might be a departmental inquiry so that conditions might be investigated and some remedy devised for improving these conditions.

THE HONOURABLE SIR ALAN LLOYD (Commerce Secretary) : Sir, my attitude towards this Resolution is a little difficult for me to formulate for this reason that we in the Government have the fullest sympathy with the underlying motives of the Resolution ; we are very anxious to see the conditions of Indian seamen improved ; we are particularly anxious to see the difficulties arising from unemployment alleviated ; but the Honourable Mover has made it clear that the matter has been very fully inquired into by committees and commissions from time to time and I really believe that he would agree that a stage has now been reached when the Government of India have all the information that they want and that what is necessary is the consideration, the repeated and frequent consideration by the Government of India of that material, in order that they may decide when action can be taken and what action should be taken. For that reason it is hardly possible for me to accept a Resolution which would enjoin us to institute any special kind of inquiry to do what we are constantly doing in the ordinary way by our departmental activities arising out of the materials which, as I have said, are all very fully before us in the light of changed conditions from day to day. I therefore wish to express the hope that the Honourable Member will not put us in the embarrassing position of having to oppose this Resolution by pressing it to a division. At the same time, I do find it difficult, while fully sympathising with the motives underlying it, to accept the Resolution.

The Honourable Member who moved the Resolution has given us a very full account of previous inquiries of a more formal nature including the Whitley Commission and what has been done as a result of those inquiries, and he has also shown that he is familiar with the reports on action taken in pursuance of the Royal Commission on Labour's Report published from time to time. I think, therefore, in these circumstances, I need not detain the House by attempting to traverse the whole of the ground which the Honourable Member has covered ; but I should like to turn to the specific points which he asked should be dealt with. The first of these is the question how long are the financial difficulties which stood in the way of a certain reform to obtain. Well, Sir, I am afraid I can only repeat the jest which was popular in another place a year or so ago and say that I am not an astrologer. If we had financial difficulties in 1937 and 1938, it would be very bold of me to suggest that the financial position will be easier within the next few years, faced as we are with all the complications and expenses involved in the war and the probable reduction in revenue which will result from that misfortune.

Then the Honourable Member referred in particular to the question of housing and welfare work in the ports. Now, Sir, I think I am correct in saying that that is a matter primarily for the Provincial Governments and indeed my Honourable friend when giving his list of organizations which might put up money for this purpose began with the Provincial Governments and Municipalities and, I think, shipping associations and dragged in the Central Government at the tail—a position which in this case we are very glad to occupy. But

subject to that, I can assure him that nothing would give us greater pleasure than to see these amenities provided. It is a misfortune that the traditional source of funds from which we have so far been able to help such activities has shown a considerable tendency to decline recently, partly owing to the separation of Burma which, it must be admitted was to some extent a milch cow in this respect. I mean the Sunday Fees with which during my long association with the Customs Department I have had a great deal to do. But, although I am afraid I can give the Honourable Member no words of comfort in the sense of any definite promise, especially in view of the financial difficulties to which I have already referred, if any move in the direction which he indicated takes place, it will have our greatest moral support, although I cannot say how much financial support it will be able to receive from us. In this connection he referred specifically to the question of the treatment of venereal diseases, which of course is a bye-product of the difficulties of accommodation in the ports. I do not know whether he is aware that since 1937, the Seamen's Welfare Association at Calcutta, which was reconstituted in 1932, under the Companies Act, has been running clinics at Calcutta for the benefit of Indian seamen. Any expansion of that will again have our support.

As regards a Joint Maritime Board, that has been considered and will be considered again when times are appropriate. But there are certain difficulties, the most serious of which is the uncertainty of obtaining the collaboration of a trade union movement among seamen as well organized and as representative as it is possible to find in other countries. For this reason I think that the matter will have to await further developments.

Finally, on the question of wages, I do not think it would be common sense, if I may say so, to institute an inquiry at the present moment when we are liable any minute to receive a telegram from some port or other saying that lascars are receiving an increase of 100 per cent. in order to induce them to go into danger zones. Fluctuations on that scale are possible ; it would therefore be out of the question to consider any long term policy now. I am sorry to have to repeat this plea on this Resolution as I did on the last one, but I am afraid that it is inevitable. For these reasons, Sir, I must, as a matter of form, oppose the Resolution, although I do so very reluctantly, and I hope that in view of what I have said, the Honourable Member will see his way to withdrawing it.

THE HONOURABLE MR. P. N. SAPRU : Sir, I have no desire to embarrass Sir Alan Lloyd. He has expressed his sympathy with the object underlying my Resolution. He has pointed out that an inquiry at this stage will do no good, because they have had a number of inquiries and the time now is for action. He has pointed out that it is difficult for Government to act having regard to the financial condition in which they find themselves and the fluctuating exchange. Well, Sir, I must say that I recognize the force of some of these considerations. It is rather difficult, I know, in this time of financial stringency, to take immediate action. My object in moving this Resolution was to draw the attention of the House and of the Government to the grievances of Indian seamen and as an assurance is forthcoming that their condition will be improved as soon as the financial condition improves, I do not think I will serve any useful purpose by pressing this Resolution to the vote of the House. Sir Alan

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Lloyd has pointed out that in Calcutta they have a Seamen's Welfare Association, which was started in 1932, and that it has been running a clinic for the treatment of venereal diseases. I hope, Sir, that similar institutions will be started in the other port towns also—Karachi and Bombay—and that special facilities will be provided for the treatment of venereal diseases so far as Indian seamen are concerned in the out-patient departments of General hospitals. For example, in Bombay, you have the Grant Medical College Hospital and the J. J. Hospital. In Karachi and Madras there must be similar hospitals specially attached to the Medical Colleges. I hope facilities will be provided for seamen so far as the treatment of venereal and other diseases is concerned.

Sir Alan Lloyd then referred to the question of the Joint Maritime Board and said that one of the difficulties in the way of setting up a Joint Maritime Board is that there are no effective trade union organizations amongst seamen. That is true. There are no effective trade union organizations amongst seamen. But the point that I wanted to make, so far as the Joint Maritime Board is concerned, is that it will facilitate the growth of a healthy trade unionism. We need not wait until trade unions arise. We can establish a Joint Maritime Board even before trade unions become effective amongst seamen. Sir, I should like to point out what the constitution of the Joint Maritime Board in England is. First of all, the objects of the Board in the United Kingdom are :

“ To prevent and adjust differences between shipowners and seamen ; to establish, revise and maintain national standard rates of wages and approved conditions of employment, and to establish a single source of supply of sailors and firemen, jointly controlled by employers and employed. The Board in England consists of five panels, each made up of twelve members of each side, dealing respectively with (1) masters, (2) navigating officers, (3) engineers, (4) sailors and firemen and (5) the catering department. The employers' representatives of these panels are elected by the Shipping Federation and the Employers' Association of the Port of Liverpool jointly. The seamen concerned are represented on their respective panels by the nominees of their respective unions. The five panels sitting together constitute the full Board. The panels sit separately and independently, to negotiate wages and other conditions of employment on a national basis for the grade or grades which they represent. There are two chairmen, one elected by and from each side, who take the chair at alternate meetings. The chairman has no casting vote. No stoppage or lock-out is to take place or indemnity, strike pay, or assistance to be offered by either side in the event of a difference or dispute, until the question has been dealt with by the Board. Each panel (excepting the masters' panel) has power to appoint district committees known as district panels. The district panels appoint one or two representatives of each side of each panel who are called ' Port Consultants '. It is the duty of the Port Consultants to prevent delay to vessels by endeavouring to settle all differences arising between masters and crews on the basis of such existing agreements as may have been concluded by the national panel. Any question which cannot be settled by the Port Consultants is referred to the district panel and, if necessary, to the national panel. But neither the district panel nor the Port Consultants have power to alter, vary or amend any scale of charges or other conditions formulated by the Board ”.

That is the constitution of the Board in England, and I should like to see a Board similar in principle and character to be set up in India also at as early a date as possible. I do not say the constitution can be exactly the same as the constitution in England. We shall have to take into consideration the varying local conditions here. But, generally speaking, the principle on which that Board is founded is sound and it offers an opportunity to have disputes settled through the method of negotiation and conciliation.

Then, Sir, so far as wages are concerned, of course I have some statistical material before me, and the wages of the Indian seamen compare, as I pointed out, very unfavourably with the wages paid to British seamen, and compare unfavourably even with the wages paid to Chinese seamen. But I know that that question cannot be taken up immediately at the present moment, and I would not press that question further.

Sir, in view of the sympathetic nature of Sir Alan Lloyd's reply—he said of course that an inquiry is no use, but he was sympathetic to the Resolution, and one could see that he thought there was point in the Resolution—in view of the sympathetic nature of Sir Alan Lloyd's reply I do not think I would be justified in pressing my Resolution. I would therefore beg the leave of the House to withdraw the Resolution.

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

RESOLUTION RE DEVELOPMENT OF CIVIL AVIATION.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU (United Provinces Northern : Non-Muhammadian) : Mr. President, I beg to move :

“ That this Council recommends to the Governor General in Council to take immediate steps, following the example of England, to encourage the development of civil aviation in India.”

Sir, expenditure in connection with civil aviation has been going on in India since the year 1921-22, but for several years in the early stages the expenditure was very small. It was only in 1926-27 that Sir Bhupendra Mitra asked for a supplementary grant of Rs. 10 lakhs for the promotion of civil aviation in the country. He pointed out in his speech the main purposes for which expenditure was to be incurred. Apart from the acquisition of suitable sites, a Director of Civil Aviation had to be appointed and he was to be provided with an office. Then the provision of aerodromes and airports had to be undertaken. It was also proposed that subsidies should be given for external air services. Another point on which Sir Bhupendra Mitra laid some stress was the development of internal air routes and internal transportation services, and the last point mentioned by him was the provision of instruction in the science and art of civil aviation for Indian youths. This was to be provided for according to him in two ways. In the first place the subsidized companies were to be asked to undertake the training of the pilots whom they needed, and, in the second place, the establishment of light aeroplane clubs which would provide facilities for flying at a comparatively small cost was to be encouraged. He pointed out that in these ways instruction in flying was being given in England and Australia. I think it was these two countries which he referred to in his speech, and he thought that the same methods might be suitable in India also.

Now, as regards the training of Indian youths in connection with civil aviation, this question involves the provision of personnel of various kinds. You first need the subordinate personnel, for instance, artisans and mechanics. Then you need pilots and you also need persons with scientific qualifications like air navigators, wireless operators and ground engineers. Since Sir Bhupendra Mitra spoke, civil aviation in India has made fairly good progress. At present, including the Indian Trans-Continental Airways, we have six aircraft operating

[Pandit Hirday Nath Kunzru.]

companies and seven flying clubs. The flying clubs receive, roughly speaking, an annual subsidy of Rs. 1,40,000. Now, Sir, while, as I have said, the progress made during the last 12 years cannot be under-rated, I ask that we should go much faster in the direction in which we are already going. I have already said what is involved in civil aviation. It is a very wide subject but I do not propose today to concern myself with all the points mentioned by Sir Bhupendra Mitra in the speech which he delivered in the Legislative Assembly on the 1st March, 1927, to which I have already referred. I do not propose in this connection even to deal with the training of air navigators or wireless operators or ground engineers. I propose to deal, broadly speaking, with the encouragement of flying and the training of pilots.

The Government of India framed a scheme in 1928 under which scholarships were to be given to suitable candidates for study in England for a period of three years. I believe these scholarships have come to an end. Their purpose was to secure qualified men who would be needed for employment in the Directorate of Civil Aviation. No undertaking was, however, given to the men concerned that they would be employed by Government, but they were told that in case their services were required they would have to serve Government for a term of four years on an initial salary of not less than Rs. 400. Although, however, this scheme is no longer in force, the training of pilots is going on under the auspices of the various flying clubs and is being undertaken to a certain extent by subsidized aircraft operating companies. The scholarships to which I have referred were not meant for the training of pilots, but it was hoped that, when the necessary staff for the Office of the Director of Civil Aviation had been obtained, progress would be fairly rapid. I have already stated that the Government of India give help to the flying clubs by way of subsidies. This, however, is not the only kind of help given by them. Where it has been necessary to give advanced training to pilots holding "B" licences but having experience of light aeroplanes only, the Government of India have allowed the use of their planes. Apart from this, they have given scholarships from time to time for the training of ground engineers, wireless operators, and so on. Besides, the civil aviation scholarships granted by the Government of India are also granted by some Provincial Governments. Neither the Government of India nor the Provincial Governments have bound themselves to offer a fixed number of scholarships annually, but during the last few years scholarships from both sources have been forthcoming. I should also mention here that in October, 1935 an institution called the Aeronautical Centre of India was established at Delhi which according to the Report for 1935-36 "made a propitious start with 50 cadets". The Centre, according to this Report—

"was organized to give comprehensive courses in all branches of aircraft, ground engineering, including mechanical drawing and instruction in wireless telegraphy, etc."

It had also entered into arrangements with the Delhi Flying Club for flying instruction up to the "A" license standard to be given by the Club to those cadets who wish to include a pilot's licence amongst their qualifications. It is also stated in the Report that the Centre proposed to undertake the further

training of these persons in flying, so that they might take their commercial licences. This institution which started so well has had to close down, I understand, for want of support from Government.

Now, Sir, I may be asked as to what I expect Government to do when they are already doing so much for the advancement of civil aviation. I do not at all minimize the interest taken by Government in this matter, but let us see what is the net result of their efforts during the last 12 years so far as the training of pilots goes. According to the figures I have with me from 1931 to 1937 about 700 pilots were trained—the exact number according to the Annual Reports of the Civil Aviation Department is 689—but the total number of those holding current licenses according to the figures supplied the other day is only 313. This shows how unsatisfactory the position is for a vast country like India. I have in my Resolution drawn the attention of Government to what is being done in this connection in England. I have asked them to copy the British example. The Director of Civil Aviation has been good enough to supply me with information on this subject. We all know the great interest taken not merely in military flying but also in civil aviation by America and Europe during the last few years. The interest of these countries in civil aviation is due partly to commercial reasons and partly to political and military reasons. We are yet a long way behind these countries both in the development of internal air routes and in the encouragement of flying among the people of the country. There is, I think, considerable interest in aviation in the country, but the cost of obtaining an "A" licence, and particularly a "B" licence, is more than many individuals can bear. The cost of obtaining an "A" licence is between Rs. 600 and Rs. 700 and that of obtaining a "B" licence is about Rs. 2,500. If training could be made cheaper, I have no doubt whatsoever that flying would be taken up enthusiastically by people in all walks of society. It is in order to place instruction in flying within reach of people with moderate means that Government have been giving subsidies and have arranged since the 1st April, 1939 that pilots should receive a bonus of Rs. 100 for a new licence and Rs. 50 for the renewal of such a licence. Even so, however, I doubt whether the cost would be reduced to such an extent as to encourage say that class of young men which goes to the colleges and universities to learn flying. Now, let us see what has been done in this connection in England. There is in England the Royal Aero Club which occupies the same position there as the Aero Club of India does in this country. The Government of England, however, place at the disposal of this body larger funds than are given to the Aero Club of India by the Government of India. But, apart from this, Sir, recently the British Government have started an organization for having a Civil Air Guard. This Civil Air Guard consists, according to the information supplied to me by the Director of Civil Aviation, of about 30,000 persons and

"is open to any person between the ages of 18 and 50 irrespective of sex but the persons who have undertaken Reserve liability in any of the three Forces will not be eligible. The scheme has been organized to provide a cheap flying tuition and in order to qualify for inclusion in the scheme a Flying Club must give an undertaking that Civil Air Guard members will not be required to pay more than the rates fixed by Government and undertake to operate a Civil Air Guard section of not less than 12 members".

[Pandit Hirday Nath Kunzru.]

Now, what is the purpose of this Civil Air Guard scheme? The members are required to sign an undertaking that they will offer their services at once in any state of national emergency, for the purpose of employment in connection with the Royal Air Force requirements, or in any other direction concerned with aviation. The fees that have been fixed for the training of persons included in the Civil Air Guard scheme are low. For instance, for the Standard Moth training type, the instruction is 5s. per hour in mid-week and 10s. per hour during week-ends, and so on. The scheme is to last for a period of four years and will involve a total expenditure of about Rs. 40 lakhs. Now, this shows really what can be done in this country also if Government realized the importance of encouraging flying.

There is one other point and a very important point that I should like to deal with in this connection. In England, it is not merely the Royal Aero Club that is promoting interest in aviation. There is another body called the British Gliding Association which is also doing very important work in this connection. It is developing an air sense amongst the population at large and particularly amongst the younger people. Gliding has been taken up by the Governments of Great Britain, France, Germany and Russia. America and Japan too are taking a keen interest in it. In Germany, I understand, almost every big village has got a gliding association. In France both boys and girls of school-going age are given training in gliding. In England interest began to be taken in this form of aviation in the year 1929 and a sufficiently big grant is given by the British Government to the British Gliding Association in order to develop gliding. Gliding, I understand, is both cheap and safe and if so many countries including England have thought it worth their while, notwithstanding the development of the Air Forces and Civil Aviation in those countries, to encourage it, there is no reason why we should not encourage this type of aviation. A gliding association was established in this country with its headquarters at Bombay in August, 1931 but there is no mention of it in the reports subsequent to that for the year 1931-32. I think, therefore, that it is no longer in existence. Some non-official Members who are keenly appreciative of the value of gliding have recently tried to interest Government in the subject. Let me say that it is not only Indian Members but also European Members of the Legislature who have taken a keen interest in the subject and who have approached Government with a view to obtaining financial help for the gliding institute that has been established. I am acquainted with the negotiations that have taken place between them and the Government of India. It is unfortunate that the Government of India have not seen their way to giving any assistance in the matter. My association with the institute places me in a position to say that an agreement could have been easily reached on essential points between the Government of India and the Gliding Institute. It seems to me that the blame for the present state of things, for the absence of an agreement must rest on the shoulders of the Government of India. I still hope that they will change their point of view and that they will not try to impose conditions on the Gliding Institute which would virtually place it under their control. The Institute is quite prepared to accept any reasonable

conditions which the Government of India might lay down and would be prepared to go in for affiliation with the Aero Club of India provided it was left a fair amount of liberty and initiative in the management of its affairs.

There is just one other thing that I should like to draw the attention of the House to in this connection. In three British Universities—the Universities of Oxford, Cambridge and London, air squadrons have been established with the object of influencing the flow of candidates for commissions in the regular Air Force, the Air Force Reserve and the Auxiliary Air Force, and the stimulation of interest in air matters. This scheme is certainly connected with the R.A.F., but it shows what the British Government are doing in order to develop interest in flying both among University people and the general public.

The Defence Department have recently turned their attention to the creation of an Indian Air Force Volunteer Reserve. They propose to establish five reserve units. This is all to the good. But I do not think that in the present situation this can be regarded as enough. Developments have taken place all over the world and are taking place now, which must give us serious cause for anxiety. Not merely are the Air Forces of other countries very large, but they also possess means which would enable them to strengthen their Air Forces rapidly, should it be necessary to call them into action. I do not want to appear to be an alarmist. But no one who keeps his eyes open can but feel that the position of India may be very seriously affected by what may take place in the Far East or in Central Asia. An enemy from Central Asia may find it very difficult to transport land forces to the borders of Afghanistan or India, but it will be very easy for him to create panic, at any rate in Northern India, by sending down a few aeroplanes from the well-known air bases that exists in Central Asia and raiding important towns in the North West Frontier Province and the Punjab. It is necessary, therefore, that we should immediately attend to the development of aviation in this country. I may be told that the question to which I have referred is primarily the concern of the Defence Department. So it is. But in no country does the Defence Department rely entirely on its own resources in this matter. Civil aviation is encouraged partly because it provides the large reserves which an Air Force must perforce need during war. If the British Government decide on an expansion of the Indian Air Force, they will need larger reserves to draw upon than exist in this country, in case this Air Force has to take part in prolonged operations.

For these reasons, Sir, I hope that Government will pay very serious attention to this matter and that steps will soon be taken in addition to those taken by the military authorities to create keen interest in flying throughout the country and to bring instruction in this subject within reach of the ordinary person. The question is one of great national importance.

Sir, I move.

The Council then adjourned for Lunch till Half Past Two of the Clock.

The Council re-assembled after Lunch at Half Past Two of the Clock, the Honourable the President in the Chair.

THE HONOURABLE MR. J. D. TYSON (Communications Secretary): Sir, I vividly recall at this moment an observation made by another most distinguished member of the Servants of India Society with whom it was my good

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fortune to be closely associated for 18 happy and instructive months. In a lecture on the subject of the Society he explained that it was one of the Society's rules that a newcomer should neither speak nor publish anything to the public till he had served a seven years' apprenticeship in the Society; to which he added, characteristically enough, "We do not think it right that out of their inexperience they should instruct the people". Sir, I could well wish that there was some such duty of self-denial in force in this House, for then I should not be in the position in which I find myself today, on my fifth day in the House, of being called upon, out of my own inexperience, to reply to, and I fear in some measure to oppose, so practised an orator as the Honourable Member who has proposed this Resolution. I am reminded of a reply which was once made by a candidate for a Parliamentary election many years ago in the City of Oxford to the Returning Officer. The Returning Officer on nomination day addressed the two candidates and expressed the hope that the election would be fought in a friendly way and without rancour and added, "And may be best man win"! To which the more diffident of the two candidates hastily and with fervour replied, "God forbid"! (Laughter.) It is somewhat in the spirit of that candidate, Sir, that I face this Honourable House today.

I gratefully acknowledge the moderation with which the Honourable Member who proposed the Resolution made out his case in the well-informed speech to which we listened just before the recess. I can say straightaway that there is nothing that our civil aviation officers would like better than that Government should be able to say "agreed" to the Resolution proposed. Any newcomer to the Department, as I am, must be impressed by the keenness displayed by our civil aviation officers to extract the last anna from Government for civil aviation and to devote it to the best of their ability to that object. We too would like to do what the Resolution suggests, but there are always difficulties in the way of laudable wishes of that kind. At any time there are financial difficulties, and I hope to be able to satisfy Honourable Members today that at the present time there are other difficulties as well in the way of accepting this Resolution. Now, while I recognize that the Honourable Member who proposed the Resolution is under no illusions on the subject, other Members who perhaps have not made so deep a study of the subject may follow and therefore I think I ought to say at this stage that we laymen, and I certainly include myself in that, are apt at times to think of civil aviation simply in terms of aeroplanes and pilots. Of course, there is far more to it than that. You cannot let aeroplanes go up in the air like toy balloons, hoping for the best as to what happens to them during their flight and as to their place of coming down. You must have aerodromes for them to return to and you often have to give them a good deal of assistance from the ground while they are in the air. All this means ground organization. In fact our current five-year programme of capital expenditure, for ground organization only, approximates very closely to what we shall have to spend in the same period for the rest of our civil aviation budget. You must have aerodromes. For modern commercial flying, the tendency is to require very well equipped aerodromes,—aerodromes with facilities for night flying. And even that is

not enough; you must have meteorological facilities and you must have wireless telegraphy with which to receive and transmit Forecasts and observations. In some respects the vast size of our country enhances our difficulties and enhances the cost of civil aviation activities. For example, on our comparatively few regular civil aviation services the routes total 7,600 miles. In the British Isles, with their much more numerous internal aviation services, the total of routes flown is only about 5,000 miles, against our 7,600. I would therefore ask Honourable Members to bear in mind these rather elementary considerations when they are invited to consider in isolation one or another of the various activities that are comprehended in the term "civil aviation". What I have just said applies with particular force to the development of air routes to which the Honourable proposer of the Resolution referred.

Now, the Honourable Member has pressed his Resolution mainly on the side of encouragement of flying and training of pilots. I shall come to this presently. I should just like to clear out of the way two other aspects of civil aviation, because Government have to look at the picture whole, and any development of one aspect of civil aviation beyond a certain point must, since the money is limited, be at the expense of other aspects which in their own way are probably just as important. But I will deal with these two other aspects as briefly as I can as the Honourable Member has not pressed them.

The first is this question of ground organization. I should like to tell the House very briefly what we have done in that way because ground organization, as I have said, is very necessary. But unfortunately it is also very expensive. Before the inauguration of our present five-year programme of capital expenditure, a programme for an expenditure of about Rs. 87 lakhs in India now that Burma has been separated, we had already expended Rs. 54 lakhs on capital expenditure on ground organization and we are spending at the rate of about Rs. 20 lakhs a year. But this has only given us a working organization, and by no means a complete organization, on three routes,—the frontier of India at Karachi to the frontier of India beyond Calcutta: Karachi-Lahore and Karachi to the South of India on the Ceylon route. So far from that expenditure giving us what we require, I hear a rumour that the Director is threatening us with another programme of Rs. 2 crores for capital expenditure. That sounds a high figure, but I can tell the House that it is not as much as His Majesty's Government were contemplating paying on the reconstruction of a single aerodrome which they recently acquired. So far as recurring expenditure on ground organization is concerned. So far as recurring expenditure goes our expenditure during the last few years is between Rs. 11 and Rs. 15 lakhs a year, which is inclusive of wireless, but exclusive of meteorological services and the cost of the latter is heavy. As I say, these figures for ground organization are very high, but they are nothing compared with what is spent in Europe and I may say that in Europe many cities and smaller municipal areas maintain their own aerodromes. The City of London recently undertook to spend £1 million on a single aerodrome.

Leaving ground organization, another form which Government help to civil aviation commonly takes is that of subsidies to air transport. I will not weary the House with detailed figures, but Honourable Members are aware

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that besides providing ground organization,—I would not not say all the ground organization—but ground organization for air transport,—we participate through Indian Trans-Continental Airways in the Empire Airways Scheme and also assist with mail contracts and with certain landing and housing facilities the existing commercial services between Karachi and Lahore and Karachi and Ceylon. So far as policy goes, the Air Board in 1926 recommended participation by the Government of India in any contract where external services touched India and, so far as internal air services were concerned, the acceptance of the principle of subsidizing such services in earlier years. Now, the Government of India have been perhaps rather slow in working to the second of those recommendations, but in this, we have only followed the same policy as His Majesty's Government in England, to whom reference was made several times this morning. It is only since the 1st of January this year that His Majesty's Government have in any way subsidized internal air transport in the United Kingdom. Hitherto their subsidies, which have been very substantial, have all been given to air transport proceeding out of the United Kingdom. Air transport service is of interest even in the more limited aspects of civil aviation treated by the Honourable Member this morning, because air transport forms a very important avenue for the employment of pilots and ground engineers trained in this country. Hitherto in India the supply of trained pilots with commercial qualifications has exceeded the demand and considerable difficulty is experienced in finding posts for many of the pilots with "B" certificates and ground engineers who have been trained here. Therefore, when we speak of training more pilots and making the people air-minded, we want to be quite clear what we are training them for. If we are, training them for commercial aviation, we want to be clear that there is some chance of their being absorbed; if we are training them as a reserve for war that is a different matter and one that brings me to the next aspect of civil aviation, which is the matter of training.

To this the Honourable Mover attaches—and rightly, if I may say so—the greatest importance. Training civil pilots in India has mainly been done by the flying clubs. As the Honourable Member has said, there are seven of these assisted by Government—seven in British India assisted by Government—and there are two or three in States. They have altogether a membership of about 1,600 and they have 250 or thereabouts pilots with "A" certificates on their active strength. The Honourable Member seemed to think that because there had been more people trained and they had not renewed their certificates, there was a wastage and a loss. I do not think that necessarily follows. People do not always renew their certificates, but, unless they leave the country, they still constitute a reserve which can be drawn upon and with a little training they can recover their previous skill. Most of these clubs were not started by Government, but on their starting they received a gift of two aeroplanes from Government and also an initial grant, and each club at present enjoys the use of a "Tiger Moth" machine, the property of Government and necessary for really advanced training. The total amount spent in direct cash subsidy for flying clubs from 1928 to date is about Rs. 13 lakhs, and though training is not the club's only pre-occupation, I may mention that, during that

time, out of about 1,000 "A" licences issued in India, 824 pilots learnt their flying in subsidized flying clubs. During the last three years, out of 234 "A" pilots trained in flying clubs, as many as 193 were trained with the help of Government subsidies. Training is also given for higher qualifications and for ground engineers. The Honourable Member has mentioned that the subsidy provided for these clubs is about Rs. 1,40,000 a year. I find in the United Kingdom provision has been made for subsidizing about 50 clubs out of the 77 clubs that exist but the total provision was only £25,000 until two years ago and then £35,000 in 1937-38 for these 50 clubs. Our provision is Rs. 10,500 for seven clubs and the £25,000 and £35,000 provided by His Majesty's Government are in a Civil Aviation Budget of £2,700,000—nearly Rs. 2½ crores. I do not think therefore that our £10,500 out of a budget of about £300,000 is a contribution that we need be ashamed of. Government have also assisted wholly or in part in training 54 Indians for posts in the Civil Aviation Department and in commercial aviation, and recently we acquired a most interesting machine called the Link trainer—a machine which for training purposes and test purposes reproduces all the problems and tests to be made in flying without the risks attendant on leaving the ground.

It has been said that flying is cheaper in England than in India. I believe it has always been cheaper. Machines are cheaper there. Petrol is cheaper there. But until the recent development of a Civil Air Guard I doubt if it was due to any greater intervention on the part of Government there that flying was cheaper than it is in India. We too, through our subsidies to Flying Clubs and our bonuses to pilots, have tried to make flying cheaper for the learner. The great advance to which my Honourable friend drew attention this morning only came last year—on September 1st, 1938—rather a significant month. On that date the Civil Air Guard scheme was introduced. I won't outline the object of that scheme, the Honourable Member explained it this morning. The immediate effect on the Club subsidies in England last year was a jump from £35,000 to £127,000, the difference, I presume, represents the cost, in subsidies to the Clubs, of this scheme for about six months of that financial year and also at a time when it had not been worked up to its full capacity. The Honourable Member mentioned a figure of 30,000 people affected. I took him to mean that there were 30,000 people actually enrolled and under training. That, I think, is not quite correct. Within a very short time of the launching of the scheme, the scheme had to be temporarily closed because they had received 30,000 applications; but up to the end of the year they had only been able to enrol 5,672, of whom 633 were women. Now, that is a very ambitious scheme and it seems to have worked very well in England for the nine months of its existence before the war. By Christmas they had already trained 300 pilots. But any scheme like that not only calls for a large increase in expenditure on subsidies but you must have the aeroplanes for people to learn on. I find that on the 31st December, 1937, there were 1,660 civil aircraft on the Air Ministry register in the United Kingdom,—1,660 as against 148 registered in India. About 24 of these 148 were the property of clubs. Let it not be thought that 148 is a contemptible figure in itself. I find it is more than the comparable figures for Holland or Rumania or even for Japan. But this shortage of aeroplanes for any scheme of flying is a very great difficulty. I think it must be accepted that we cannot yet manufacture aeroplanes in

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India, I have only heard of one authentic case of a motor car being manufactured in India—the Calcutta Corporation car—and we have not heard any more of that since its completion. We shall undoubtedly have to import engines. I think we shall have to import most of the instruments also, and I am told research has not yet found a wood in India which could be used in place of spruce. The latter does not apparently grow here, but this is the wood which is used for aeroplanes spars in those machines that are not made of metal. We might be able to assemble aeroplanes in India, but even there you must have a very highly trained technical staff for assembling so intricate a machine as an aeroplane and I am not sure from whence such a staff would be forthcoming in war time. If we want to expand our training activities on anything like the model of the Civil Air Guard we are driven, I think, to the necessity for importing more machines. And I am not in a position—and I doubt if anybody in India is in a position—to say whether the kind of machines that are used by Flying Clubs for training purposes are being manufactured at the present time and can be imported. It is legitimate to imagine that the countries that could make aeroplanes and export them to us are now manufacturing types with the European market in view !

The Honourable Member also mentioned gliding. Gliding undoubtedly has its uses as a sport—although I do not believe it is or ever can be a poor man's sport and for making people air-minded. But I am told that gliding is a very long-range method of turning out pilots. It is true that the United Kingdom Government has given assistance to gliding. The Honourable Member did not mention the sum though he mentioned that assistance had been given. The sum is £5,000 a year. This subsidy has been given for several years—£5,000 in an aviation budget which before the war exceeded £3 millions. Now, gliding has made immense progress in England in popularity but even so I think the true figures will afford a necessary corrective to certain ideas entertained in India. Gliding started in England in 1929. By 1937, there were 44 clubs, only 10 of which were subsidized by Government. The total number of certificates issued from 1929 to 1938 was about 2,500 of all categories, but as the rules insist upon your taking a lower certificate before you take any of the higher ones, it would appear that the 1,202 who received the lowest certificate represent all the individual people who have achieved that or any higher measure of success in gliding. No doubt 1,200 qualified gliders is a good figure, but it compares rather feebly with the hoped for figure of 25,000 gliding pilots in three years which has come to us from Allahabad !

This brings me to what seems to be the inevitable answer to the present Resolution. The present Resolution asks India to adopt in war time a policy followed by England in peace time. I hope I have been able to show that, as far as possible, we have attempted to follow in India the same policy as has commended itself to authorities in England and other countries in the matter of civil aviation, especially in the matter of subsidizing clubs and cheapening flying to club members. The Resolution requires "immediate steps" to be taken "following the example of England to encourage the development of civil aviation in India". We do not know exactly what the present position of

civil aviation in England is. To some extent air transport, internal air transport at all events, is functioning. We gather that from the newspapers and also because we know that twice a week in both directions an Empire Air Mail is passing through India. But so are internal services in India also functioning. Then, as regards flying clubs in England, we understand that their activities have of necessity been greatly curtailed if they have not altogether ceased. This is the inevitable result of the declaration of large "prohibited areas," of petrol rationing and of the mobilization of expert personnel. Here, in India, our Flying Clubs at present are carrying on and we shall certainly do all that we can to maintain our present support of them, subject to con-

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siderations of Finance and of Defence, so long as they are able to maintain their usefulness. But, in times of war, as Honourable Members will realize, considerations of defence must have priority both as regards supply and as regards training. As regards supply, it is impossible at present to say whether the Clubs will command renewals for their machines or retain their expert personnel. They are particularly vulnerable on the side of their pilot instructors and their ground engineers and without them they would not be able to keep going. As regards training, I would like to say this. In peace time, training directed to the building up of a reserve for war can afford to be voluntary, occasional, and for the most part unpaid. In war time, such training tends to become compulsory, continuous and (when compulsory) fully paid—but by the Defence Department : and it then ceases to be "civil aviation." The maximum of result in the minimum of time may in war time become the desideratum ; in such circumstances training will probably be intensified, but I doubt very much if it will be "civil aviation". That is why I say that in war time, if money is available, we should prefer to see it used for training on "power" machines straight off, rather than for gliding. Gliding is, if I may so put it, training for the *next* war. That is also why, if it becomes clear that intensive training with defence units is necessary to turn out pilots within a given time, training by the Clubs on club machines may have to be subordinated to the requirements of defence. We hope the clubs will be spared to continue a work of which they have every reason to be proud. And while I am on that subject I would like to tell the House, for this arises out of something the Honourable Member said, of the very excellent response we have had to a questionnaire which the Director sent out to pilots, ex-pilots and ground engineers trained by the Flying Clubs in India. He sent out a questionnaire to all the people on his books,—not merely the 250 active pilots,—and the result has been most gratifying. Over 50 per cent. have already replied and of these 97 per cent. have expressed their great desire to place their services at the disposal of Government in an emergency. Many of these are married men with good posts. They know that they will get less pay—that they will have to support their families on less—than in their present civil occupations. If that is the spirit that animates the Clubs, it is natural that we in the Communications Department should wish to maintain their activities. But Honourable Members will see why, with the uncertainties of supply both of material and of trained staff and the possibility of over-riding claims from Defence, we cannot pledge ourselves to maintain civil aviation as such during war time, let alone to develop it on the lines pursued in England or anywhere else. We cannot, at the very outset of war, lay down a policy

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for civil aviation. I think, therefore, that while I have every sympathy with the spirit behind the Resolution, I must say that we shall find it very difficult to accept it from this side of the House.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan) : Sir, I rise to support the Resolution. I am sorry the Honourable the Communications Secretary has not seen his way to accept the Resolution notwithstanding the expressions of sympathy that he made in his speech. Sir, the aeroplane is the chief weapon of the present day, and therefore it is necessary that India should have air pilots to the best possible extent. I must pay my tribute to Mr. Tymms, the Director of Civil Aviation, and to the Government for the grants and the encouragement that they have given to the various Flying Clubs in India. I must say that advantage of being trained has been taken by many pilots and it is mainly through the subsidies from Government that the Flying Clubs are now existing. There was a time when there was a rumour of the stoppage of the subsidies altogether, and I must give credit to Mr. Tymms for having saved civil aviation in India and for keeping the Clubs going by continuance of subsidies.

The Honourable Mr. Tyson has already given you the figures of pilots that these Clubs have produced and also the number of pilots who have offered their services to the Government at this period of war. I am also grateful to the Government of India for presenting Indian Flying Clubs with aeroplanes. Some clubs have been given two aeroplanes and some have been given one. But, owing to the present emergency if my information is correct, these planes have been taken back for the time being and I hope that when the war is over, these planes will be given back to clubs, or new planes presented in their stead. Sir, though we are thankful to the Government of India for the subsidies they have given to the Clubs and the planes they have presented to them, they have not provided enough prospects for the employment of trained and qualified pilots. As was the case with the Roorkee Civil Engineering College, there must be reserved a few appointments in the Air Force for qualified and deserving pilots who hail from the Flying Clubs. I am thankful that out of the pilots who have offered their services for war from these Flying Clubs, a few have been given temporary King's Commissions. But I wish this to be made a permanent measure, that those of the pilots who distinguish themselves in their tests and examinations should automatically be given a certain number of appointments in the Royal Air Force. That is the practical way of encouraging the students who join Flying Clubs. Out of the 200 odd pilots who have offered themselves, only a few have been given appointments in the Air Force. This is discouraging to those enthusiasts who have offered their lives and services for this war. I hope Government will let them have a chance and let them show their efficiency and ability and loyalty in the field.

The Honourable Mr. Tyson has said that a few scholarships have been given to certain flying clubs. As far as the Northern Indian Flying Club is concerned, with which I have been connected from its very beginning, to my

knowledge so far no scholarship has been given. All the Provincial Governments should give such scholarships for air training, but except for the Government of the United Provinces and perhaps of Madras, I do not know of any Government which has done so.

The Honourable Mr. Tyson has also referred to the British flying clubs and to the subsidy that the British Government is giving to them. Perhaps Mr. Tyson forgets that the average income of a Britisher is much more than the average income of an Indian. There you have very rich people who can afford to send their sons for air training and they do not mind the expense. I say the Punjab is, comparatively speaking, a poor province. (Some Honourable Members made inaudible remarks.) Sir A. P. Patro does not speak loud enough to enable us to hear him. However that does not matter. I think he will, with his usual habit, attack me on various points without his knowing the subject. As I was saying, the average income of an Indian is so low that he cannot afford to spend even Rs. 600 or Rs. 700 which are required to spend to secure an "A" licence. As far as my club is concerned, I know of many able persons who offer themselves for training but who are unable to find Rs. 600, and they say that if given a scholarship or other support they shall very gladly take up professional air piloting, or join the Air Force.

Then the Honourable Mr. Tyson says that as compared with England our aircraft are much less in number. That goes without saying. India is not so rich and it cannot afford to have so many planes in its clubs. I know from experience of our own Club that we had to raise several thousands of rupees at intervals to meet the cost of replacements of planes due to accidents; and it was after all Mr. Tymms who came to our rescue and he lent us a Government plane to keep us going.

Mr. Tyson said we cannot even manufacture a motor car in India. Mr. Tyson will be pleased to know that a company, the prime mover of which is Sir Viswasweriah, is being established in Bombay for the manufacture of motor cars, and any firm which can manufacture motor cars, can be trusted to make aeroplane engines and parts as well.

Then, Sir, he said that subsidies in future will be given subject to financial consideration. In my own experience I have found that where there is a will there is a way. There was a time when the Honourable Sir George Schuster in this House observed that civil aviation does not benefit the ryot in the least. Soon after there was a change in policy and the same Sir George Schuster allotted about a lakh of rupees for civil aviation. If the Government has a mind to do a thing, money can be easily found. I know from my experience on the Retrenchment Committee, that there are ways and means of finding money. My lips are closed and I cannot go into details. I know, however, that whenever Government likes to find money it can always find a convenient way of doing it, by reappropriation here and there. I hope that the Government will see its way to increase these subsidies continually every year.

Then I come to the Aeronautical Training Centre. That company was established in Delhi at the instance of the Government. Anyhow, it was established on the promise of the Government to help it by subsidies. Later

[Rai Bahadur Lala Ram Saran Das.]

on, that company fell into difficulties as regards its finances. It approached the Government a number of times and stated that if help was not forthcoming the institution would go to the dogs. And, Sir, it pains me to say that no heed was given to that appeal and to my knowledge that institution has been forced to go into liquidation.

The Honourable Mr. Tyson cannot really say that Government have been improving or accelerating the air-mindedness of India. It is a pity, Sir, we all who take an interest in promoting civil aviation feel that Government should give such a kick as it has done in the case of the Aeronautical Training Centre. My information is that Government is taking up that institution themselves or anyhow what is left of it, to train the Reserve Air Force pilots there. I think, Sir, that Government will always see its way to supporting an institution which they themselves start.

Then, Sir, I come to the Civil Air Guard. Mr. Tyson has observed that the Civil Air Guard has just been started in England. There is no reason why it should not start in India, because all of Great Britain can be put into a part of any one of the provinces of India as far as area is concerned. Look at the long distances here, from Peshawar to Cape Comorin is 4,000 miles. You require quick transport for the Army in times of emergency, and nothing equals an aeroplane. I think the Civil Guard will do more service in India than in a small country like the British Isles. When qualified people offer their services and thus come forward their services ought to be accepted as you require a number of pilots. If my information is correct, even in the United Kingdom there is a dearth of good pilots; and therefore if India has a big number of pilots, they will serve not only India but also the Empire in time of emergency. Therefore, it is in the interests of the Government of India to encourage the training of more Indian pilots and to encourage civil aviation to the extent that they possibly can. By these remarks, I do not say that we are not grateful to Government for what they have done, but I wish that they should do more and make India air-minded and fit to render service with her pilots in India and abroad.

THE HONOURABLE SIR ANDREW CLOW (Communications Member) : Sir, in peace time we should, I think, have welcomed this Resolution. We have as the Leader of the Opposition said, in Mr. Tymms an enthusiast who has done a great amount for civil aviation in this country, and if he was able to get funds commensurate with his ambitions he would effect a complete revolution in air transport here. But the position, so far as the purely civil aspects of aviation are concerned, is that although in our ground organization there is almost unlimited scope for expenditure, we have already produced, as I think the Honourable Mover of the Resolution recognized, more men than can at present be profitably employed, and also we have facilities of various kinds for training. Reference was made, I think, by both speakers to the fact that we are not sending at the moment any persons with scholarship to England. The original intention of sending young men with scholarship to England was to secure trained men for our own Civil Aviation Department, for we were confronted with the position that we had no trained officers and we had to form a nucleus.

But we have recently been successful in training men in India for that type of work. In the last three or four years the Director of Civil Aviation has, I think, taken over 20 young officers for work on aerodromes and has been successful in securing adequate training for them in India.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Where, at the Aeronautical Training Centre ?

THE HONOURABLE SIR ANDREW CLOW : Mainly at Karachi, I think.

I thought at one time that the Honourable Pandit was a little in danger of falling into the prevalent fallacy that if you train people and they get sufficient experience, developments in India would follow; for example, that if you train a very large number of engineers, engineering works would spring up all over the country irrespective of the demand for their products; but I think he put his finger on one of the most important factors which underlies the development of civil aviation in many countries when he said that it was done with an eye to military needs. A great many countries encourage it because the country wants to defend its shores from aggression and a country occasionally encourages it because it wants to make itself a menace to neighbouring countries. Now, when we are actually in war the position is obviously altered. In peace time you encourage your civil aviation, because you hope that it may meet the needs of war; but obviously in war time the needs of war must be met directly, as Mr. Tyson explained, in the form of military aviation. And it is along those lines that I shall expect to see the more important developments in the period that lies immediately ahead of us. I must dwell on that as some critics regard it as purely negative expenditure only directed towards defeating enemies. But the experience of the last war, with its researches in the field of aviation, advanced probably by several decades the progress of our command of the air. I do not doubt that the same effect will be seen in this war. Here in India as we proceed, with military objects more directly in view, to develop training and to develop aviation, I hope when we come through this dark period, there will remain a legacy of trained men, of air-mindedness and of ambition and hope for the future. I do not think I need say any more on this except that, as Mr. Tyson said, our objection to the Resolution is that "immediate steps" should be taken in this country. I take the words from the Honourable Mover's Resolution. The "immediate steps" must be in the military direction.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : If instead of "immediately", we say "after the war", will you accept ?

THE HONOURABLE SIR ANDREW CLOW : "Ultimately" ? If I were a prophet and could foresee the end of the war, perhaps I would accept that.

There is one further point and that is about gliding. The Honourable Pandit seemed to be under the impression that we have been turning a very cold eye on gliding developments.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : That is true.

THE HONOURABLE SIR ANDREW CLOW : That is not true. Our difficulty is this. I myself have always had a belief—it may be born of insufficient knowledge—that gliding has a big future in India. In the next generation we may see a man with little or no motive power going along the hills here and moving down from the hills to the plains in a few minutes. We were prepared to

[Sir Andrew Clow.]

assist any practical scheme for the development of gliding here. The Bombay Association which has been the pioneer in this matter is not dead as the Honourable Pandit supposes.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : What is it doing ?

THE HONOURABLE SIR ANDREW CLOW : I met a very competent Indian glider who had been in Germany and had done extremely well there ; he was taken on by them shortly before the war for the purpose of developing their activity.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : If the Honourable Member does not mind my interrupting, will he kindly tell me what has the Association in Bombay done during the last eight years ? Has it just succeeded in getting one trained man referred to by him ?

THE HONOURABLE SIR ANDREW CLOW : It has done more than any other Association has done in that direction. So far as I could judge, it was likely, if the war had not come to interrupt its ambitions, to do a little more than any other Associations. Then we have the official body, which is the Aero Club of India—a body authorized here to give certificates. And then we have the institution nearest to the Honourable Member's residence, if not to his heart ! Now, I will say quite frankly as regards that Association that I have yet to see a practical scheme emanating from it, and although my own belief is that the exigencies of war will operate to prevent the importation of machines and of men, if a practical scheme were yet advanced, we should not be disposed to be unsympathetic to it. At the same time, as Mr. Tyson remarked, gliding is a matter in which you are looking not to the immediate future but a long way ahead and, faced as we are now with a war, we have to concentrate on getting more immediate results. That, I think, is the main difficulty in proceeding by what I might call the slow motion of gliding at the present juncture. We have to train men quickly and we have to make an advance but I hope that, when peaceful days are restored to us, gliding will come into its own.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Mr. President, my Honourable friend Mr. Tyson, in his persuasive speech, referred to the many difficulties that must be considered if my Resolution is to be given effect to. He did not doubt the utility of civil aviation. Indeed, he is himself strongly in favour of encouraging it. But his plea is that the circumstances in which we are placed are such as to make any advance at the present time most difficult, if not impossible. He has asked us to consider what our objective should be and how the difficulties with which we are faced should be overcome. One of the questions that he has put relates to the employment of pilots. He wants to know what we should train them for, as commercial pilots or defence pilots. If we mean to train them as commercial pilots, are we aware that there is no scope for their employment ? If they have to be trained for defence purposes, then will it not be better to leave the initiative to the Defence Department and wait till the war is over to take a further step forward. Then he has asked us to consider the difficulties in respect of the supply of the material that we shall

need, and also the difficulty of getting the trained staff that we shall require if the Resolution before the House is to be accepted by Government. Lastly, he referred to the financial difficulties of Government at the present time. As regards gliding, he facetiously observed that it could not be regarded as a serious contribution to the question of defence. It could only be regarded as preparation for a future emergency.

Sir, I will take up these questions one by one and try to deal with them as best I can. Take first the question of the employment of pilots. I do not see that that question arises at all. I am not asking for the training of commercial pilots or ground engineers or persons of that kind. All that I am pleading for is that Government should, precisely because of the crisis in which we are involved, wake up, take steps to spread air-mindedness among the people, and encourage them to acquire pilots' licences. Take England itself, where efforts have been made to create large reserves by encouraging civil aviation. Can anyone say that, although England is at present engaged in a big war, that all the men who have received training in civil aviation will be employed by Government ? There can be no such guarantee. Just as not every educated man can be employed in a Government Department, similarly not every trained pilot can expect to be employed directly or indirectly by the Government of India. Just as education is necessary for itself, so in these days it is, if not necessary, at any rate desirable to give a little education in air matters to the rising generation.

Now, I come to the next question, the supply of the material that is required. It will not be easy, I grant, to get aeroplanes of the type that we require but I could not quite follow my friend Mr. Tyson when he said that most of the aeroplanes produced in England were meant for the European market whose requirements were different from those of India.

THE HONOURABLE MR. J. D. TYSON : I did not say they were meant for the European market but were produced with the European market in view.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Nevertheless, I take it that aeroplanes fit for civil purposes will continue to be produced. We shall certainly need more aeroplanes if aviation is to be encouraged. But surely this question will not present insurmountable difficulties. It will still be possible for Government to get a few aeroplanes from England just as it is still possible for India to get a good many of the articles that she needs from that country. As regards the trained staff, we have yet to see to what extent the staff employed by the Flying Clubs is fully employed. I do not know to what extent it will be possible to expand instruction in flying without adding to the instructional staff already employed by the Flying Clubs. But I take it that some increase in the staff will be necessary if civil aviation is to be encouraged. Is this again an insurmountable problem ? If you take the matter in hand now, is it not possible for you to get men with the requisite qualification ? Mr. Tyson has already said that the men who had been trained—I thought he was specially referring to ground engineers—had not been able to find employment. Similarly there may be pilots who are not fully employed. If, therefore, training is to be given to them in order to enable them to become

[Pandit Hirday Nath Kunzru.]

pilot instructors, our requirements may for the time being be met. I personally think that, if Government were more sympathetic to my proposal than they are, the difficulties mentioned by Mr. Tyson could be easily overcome even at the present time. The financial difficulty in apparently a more formidable one than any of the other difficulties mentioned by Mr. Tyson but I am not impressed by it any more than by the other difficulties. I put a question yesterday in reply to which I was told that the salaries of certain highly-paid officers of Government had been raised because they were entrusted with responsibilities in connection with the provision of supplies that would be needed during the war. I understand that the Supply Board is not the only body where salaries have been increased in certain cases. There are other bodies too where the same has been done. If Government can at this time raise the salaries of officers whose responsibilities were as high as those of any officer could be before the war, if at this time it can raise the salaries of these well-paid men, it does not lie in the mouth of any Government official to ask us to consider the financial difficulties involved in a proposal of the kind that the House is now considering. As my Honourable friend Rai Bahadur Lala Ram Saran Das said, where there's a will there's a way. If Government are serious about the matter, I think that they can take steps to give effect to my Resolution. I am afraid that if they do not take any steps now, they might go to sleep after the war. I do not for a moment mean to say that the Director of Civil Aviation will cease to pester them with requests for more funds. But, his voice may not be listened to in future as I understand from Sir Andrew Clow it has not been listened to in the past.

THE HONOURABLE SIR ANDREW CLOW : When ?

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : So far as the subsidies given to the Flying Clubs are concerned, they have been practically constant during the last few years, I have no doubt that Mr. Tymms has been asking for more money, but I do not see that he has succeeded in getting it.

Now, as regards gliding, I will certainly grant that gliding is not the same thing as learning flying on power machines. But that does not mean that gliding may not, even in the immediate present, be of great importance. If you want a larger reserve, you will have to attract men to flying and what better way can there be of doing so than by encouraging gliding in this country, so that air-mindedness might spread in the country.

THE HONOURABLE SIR ANDREW CLOW : This may be done in other ways.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : When the Honourable Member spoke, he did not mention even one single method which would better the one suggested by me. It has been said that as at present war is going on, we cannot think of gliding now. We want the trained men who are available. Sir, nobody says in the case of land forces that we must continue to rely on the trained troops that we have and that at a time like this we cannot be training more men—the man who argued like that would be regarded as being out of his mind. Similarly, if in connection with the question

of air defence any person says that gliding should not be encouraged now because it cannot be of any use in the near future, I should venture seriously to doubt his understanding of modern conditions. The remarks of my Honourable friend Sir Andrew Clow on this subject were a little more helpful so far as the future of gliding in this country is concerned. He said that if a practicable scheme were produced, we would not find Government unsympathetic. I do not want to go into details concerning the past in view of the encouraging reply he has given. If he will allow me, I will get into touch with him in order to find out what exactly he has in mind.

THE HONOURABLE SIR ANDREW CLOW : On a point of personal explanation, Sir. We were certainly not unsympathetic to any of the schemes put forward in the past. But I must be quite frank in saying that in view of the altered situation, there may be practical difficulties in encouraging gliding. I am perfectly prepared to look into any scheme of that kind.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Any number of schemes can be sent to my Honourable friend—

THE HONOURABLE SIR ANDREW CLOW : They have not been.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : If conditions not consistent with the self-respect of the Gliding Institute had not been sought to be imposed on it, I think that an agreement between Government and the Institute would have been arrived at long ago. Secondly, it has to be borne in mind in connection with this Institute that its object is to give the utmost encouragement to gliding. If, however, the Institute is asked to fix a fee of Rs. 10 per hour, as I understand was suggested, what would be the use of a Gliding Institute ? It is against a condition like this that the Gliding Institute rebelled, and I am sure that even my Honourable friends opposite, who have spoken today on behalf of Government, will not consider the attitude of the Gliding Institute unreasonable.

Sir, I am sorry to find that my Resolution has not met with a sympathetic response from Government. My Honourable friends opposite think that the time for taking up the question with which we are now concerned will come when the war is over. I venture respectfully to differ from them and to think that this is precisely the time when they ought to go forward in the direction indicated by me. I am afraid that they may not be able to do anything for years after the war, for we shall not find ourselves with plenty of money, the moment the war is over. In fact, after the war, we might be faced with serious economic stringency and unless we are able to do something now, I am seriously afraid that we may not be able to make a start at all. My Honourable friend Sir Andrew Clow even threatened us with a decrease in the expenditure at present incurred on flying.

THE HONOURABLE SIR ANDREW CLOW : I made no threat at all.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : I think the Honourable Member said that if the war continued, it might not be possible to provide the same money for civil aviation that is available now?

THE HONOURABLE SIR ANDREW CLOW : I made no such statement.

THE HONOURABLE THE PRESIDENT : I think the Honourable Mr. Tyson said that.

THE HONOURABLE MR. J. D. TYSON : I think I said something like that : I certainly intended to convey that impression.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : I am sorry I ascribed to him a statement made by his Secretary, but as they are practically interchangeable so far as I am concerned, I think it does not matter which of the two spokesmen of Government made the remark I referred to.

Sir, in view of the attitude of Government, I have no option but to ask that my Resolution should be put to the vote. I do not at all want to embarrass Government, but as they have not even promised to look into the matter and see what further advance can be made, I do not see how they can reasonably expect me to withdraw the Resolution? Had they uttered one word of hope and encouragement they would have been justified in expecting a response from me ; but having refused totally to accept my Resolution or to give any hope for the future they have left me with no alternative but to press my Resolution.

THE HONOURABLE THE PRESIDENT : Mr. Tyson, you are entitled to reply.

THE HONOURABLE MR. J. D. TYSON : In spite of what the Honourable Member has said about finance and about there being a way where there is a will, I am afraid, from past experience both inside and outside the Finance Department, that a plea for "training for training's sake", to which the proposer of the Resolution referred, will not exert a claim to priority in the Financial mind.

As regards aircraft supply, I did not wish to convey the impression that I knew that we should be unable to get aeroplanes. The position is that within three weeks of the beginning of the war we simply do not know whether we can get aeroplanes or not. The "Tiger Moth" is a machine much used for advanced training and it may be produced at home in England for advanced training there with a view to training pilots for the Air Force ; if they turn out large quantities we may be able to get some of these expensive machines, the pre-war price of which was Rs. 17,000 landed in India. We may be able to get some out here. But what the Honourable Member asks us to do is to pledge ourselves by accepting his Resolution now to develop civil aviation as in England. Within three weeks of the start of the war we are so completely in the dark as to what the future will bring that we do not feel that we can pledge Government to the extent of his Resolution. We are sympathetic enough. We hope to be able to maintain civil aviation, but it would be rash to give a promise at this stage which we might not, for reasons quite beyond our control, be able to honour.

There is one other point—as regards gliding. I do not think that we ever laid down any condition that a charge for gliding must be Rs. 10 an hour. I do not think we went further than to say that, contrary to the much more optimistic figures which were suggested for our consideration, we were informed and believed that Rs. 10 an hour would be found to be the necessary charge. I think we put it forward as advice and I do not think it was made a condition.

Sir, I am sorry that the Honourable Member feels he cannot withdraw his Resolution, but in the circumstances I have explained I am afraid we cannot accept it.

THE HONOURABLE THE PRESIDENT : Resolution moved :

"That this Council recommends to the Governor General in Council to take immediate steps, following the example of England, to encourage the development of civil aviation in India."

Question put and Motion negatived.

DEFENCE OF INDIA BILL—continued.

THE HONOURABLE THE PRESIDENT : We shall now proceed with the further discussion on the Consideration stage of the Defence of India Bill.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan) : Sir, I admit that in the present critical situation we must give enlarged powers to the Government in this time of emergency. But, Sir, I must say that the present Bill gives more powers than the Government had in the Great War. Some people think the reason may be that the Government has less trust in the public than it used to have. For instance, the Bill before us has a clause regarding forfeiture of property. That is a very excessive punishment, and for that there is no appeal to the High Court. We know that people who misbehave, some of them are such experts that they will manage to go scot-free themselves while they get others involved. I know that that happened in the last war, when the real culprits got off and are even now walking about free while innocent people were punished for their guilt. These are the experts in evading the law. I hope that the assurance given here on behalf of Government that these powers will only be used sparingly and in emergency will be kept up.

Sir, I have expressed my views regarding the war and the services that we should render in my speech on the Resolution conveying expression of sympathy with Poland which was moved by the Honourable the Leader
4 P. M. of the House. I will not repeat those arguments simply to save the time of the Council and will confine myself to certain observations which I did not then make.

The debate yesterday reached lengths which it was not expected. For instance, if I may say so, there was a campaign against Provincial Governments run by Congress or non-Congress Ministries. I view them with one glass and by one test, namely, whether in the circumstances in which they are placed with difficult problems staring them in the face, they have acquitted themselves well or ill. To say, as my Honourable friend Syed Muhammad Hussain observed that he has no faith in the United Provinces Government is to deny faith in oneself. I am glad that the Honourable the Leader of the House and the Honourable the Commerce Member came to the rescue of these Governments. I believe the time has come when we must all stand by the Governments of the provinces during this war. I know, Sir, that every Government is humane and is liable to err. I know that certain Governments have erred more than others but I am sorry to find that the Honourable Syed Muhammad

[Rai Bahadur Lala Ram Saran Das.]

Husain did not even spare the Punjab Government in which Sir Sikandar's Ministry is working. Although it is a fact that the influence of the Punjab Ministry is dwindling down, there are other Provincial Governments also whose influence is also going down fast, but there is no justification to condemn outright all the Provincial Governments. As far as the Punjab is concerned, even now without any persuasion or any effort on behalf of various associations—whether they be Soldiers' Boards or not—my information is that the supply of recruits is more than the demand, and I consider that a credit to my province which will always give a lead to other provinces in this respect.

The Honourable Syed Muhammad Husain belongs to the Muslim League Party and owes allegiance to Mr. Jinnah. He made certain observations, but he did not deny that he was expressing his personal opinion. Sir, Mr. Jinnah on the platform of the Muslim League observed—

THE HONOURABLE THE PRESIDENT: What have we got to do with Mr. Jinnah here?

THE HONOURABLE MR. P. N. SAPRU (United Provinces Southern: Non-Muhammadan): His henchmen are here, Sir.

THE HONOURABLE THE PRESIDENT: You please proceed with the Defence of India Bill.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Sir, the speech concerned the Defence of India Bill and so I think I am relevant in making some observations which of course are relevant to the question under consideration. Mr. Jinnah was talking on the Defence of India Bill.

THE HONOURABLE THE PRESIDENT: Thousands of others outside the House are saying various things.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: The Muslim League cannot be treated as thousands of others. I expect from such responsible bodies responsible action. It cannot be said they are just like 33 million other people. They are the representatives of the people who count. I was rather astonished to find that a member of the Muslim League Party went against the decision of the Muslim League, and so I would like to quote what Mr. Jinnah said. Before giving a final reply Mr. Jinnah said that all the Muslim demands must be conceded before there could be a full and whole-hearted co-operation of Muslims with Britain in this war, and among his 14 points he stressed many things. The reply which the Honourable Syed Muhammad Husain gave to the House was not convincing at all. He was speaking for himself. If he was speaking on behalf of the League, I will feel pleased that there was a change in the mentality of the Muslim League.

THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa: Muhammadan): Change for the better?

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: That is for you to judge. I want change for the better. Mr. Jinnah has said that they are not satisfied with the Provincial Autonomy which has been given to them at

present. So, Sir, there is no need to discuss the shortcomings of the Haq Government, the Sikander Government, the Pant Government or any other Provincial Government. This is a time of emergency and we should help Provincial Governments and help to end this war successfully. Therefore, I am not entering into any communal discussion. I know that the tension among the communities is on the increase. His Excellency the Viceroy while addressing both Houses observed that in these times we must sink our differences and unite to help the Empire in this emergency. My Honourable friend Mr. Sapru said that the Jallianwalla tragedy was due to the Defence of India Act. I must say that it is not so. At that time martial law was in force and there was no Defence of India Act in existence.

THE HONOURABLE THE PRESIDENT: It may be the Rowlatt Act.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: The Rowlatt Act was not a defence measure.

THE HONOURABLE MR. P. N. SAPRU: I was thinking of the Special Tribunal. It was not under the Defence of India Act, but under the Martial Law Ordinance.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Now Mr. Sapru admits that it was under the Martial Law Ordinance. I wanted simply to correct him.

Sir, my Honourable friend Pandit Kunzru was asking for the association of non-officials in the War Supply Board. I know, Sir, that we have three Indian officers as Ministers but they are officials and the public demand is that; along with the Indian officials, qualified Indian non-officials should be associated. If I rightly understood my Honourable friend Pandit Kunzru, his request was that Indian non-officials should be associated with officials in times of emergency like the present and see how it works. Sir, I must also say; that at this time you require the full co-operation of all the subjects of His Majesty the King Emperor and no racial discrimination should be made, particularly during this time. I am sorry to observe, Sir, that racial discrimination is going on still. This morning answers to questions and supplementary questions of Pandit Kunzru proved that there is racial discrimination being launched and supported by the Government. This thing, Sir, does hurt the feelings of self-respecting Indians. When you make racial discrimination; you yourself alienate the feelings of some people, and this is not the time to alienate feeling but to secure the goodwill of the people so that they may be able to give you their support. I would therefore urge, Sir, that if you are giving extra allowances to Anglo-Indians who join the Army, the same concessions should be extended to those Indians serving in the Railway or any other Department offering similar services.

THE HONOURABLE THE PRESIDENT: What has that to do with the Defence of India Bill?

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Sir, with due deference to you, I must say, that the goodwill of the people is the greatest asset of the Government and if that is sacrificed, then of course there will be difficulties which the Government will have to face. I say that, Sir, because

[Rai Bahadur Lala Ram Saran Das.]

I consider it my duty to bring before the Government anything which appears to be wrong in the opinion of the public and asked the Government to amend their step, which in my opinion is essential. As far as the Punjab is concerned, Sir, you will find that though this has been a fact in the past, the Punjab will do its very best to render greater services in this war. I would say, Sir, that in this time, if the war is expected to last for three years, it will be advisable to have more training of Indians in the Army as well as in its auxiliary branches in which they can render service. I believe, Sir, that in this time the University Training Corps, the Territorials and the Indian Militia ought to be expanded and people trained to discharge their duties with as much vigour and with equal efficiency with Europeans. You have given publicity by issuing an Ordinance that all Anglo-Indian and European boys who want to go to England should not be allowed to go without permission because they are wanted here for the Army and are likely to get King's Commissions in it. Why not apply the same principle to Indians as you do to them? You can expand the Militia. You can train them in other professions which are much needed for the prosecution of the present war. And why put in this racial discrimination? Sir, it pains me to see this but I consider it my duty to tell you that to wound the feelings of Indians in these small matters and to show racial discrimination at a time of emergency like this (if you will pardon me for saying so) is a great mistake. Even, Sir, the defeating of the Resolution moved by my Honourable friend Pandit Kunzru shows that, although Government seem to have a lip sympathy with the expansion of civil aviation, yet in practice they do not want it. That is the impression created. Sir, that Resolution could easily have been accepted with a proviso that as soon as possible civil aviation would be expanded. To defeat that Resolution, Sir, creates a sort of suspicion in the minds of the public that, when people are offering themselves for the Air Force, Government does not even express one word of sympathy or give an assurance that, when the time comes they will tackle the problem with all the force at its command. Sir, the pity is, as I said before, that even those enthusiastic young men who have offered themselves for enlistment in the Air Force Reserve to show their patriotism, the majority have not been accepted. That is not right, Sir,—to treat so shabbily those young men who have loyally offered their services to Government or who in other words have offered their lives. The people who have been taking interest in civil aviation and advising these patriots to offer themselves, they must feel dejected when the offer is rejected. I should say that when a qualified pilot offers his life to the Government, the Government ought to accept it. On the one hand they say they are stopping Anglo-Indians and Europeans from leaving the country because they are wanted in India, but on the other hand when Indians come forward for such recruitment their services are not accepted.

Sir, I have made these observations in the spirit that at this hour the relations between the ruler and the ruled ought to be so good that by their full co-operation the need which you have in view of stopping undue aggression and helping democracy be fulfilled. I hope, Sir, that the Government will see and will do its level best to train people for the various professions so that

they may have an equal share or more share in the winning of the war which we all wish.

With these words, Sir, I will resume my seat.

THE HONOURABLE MR. A. DEC. WILLIAMS (Nominated Official): Sir, my task in replying to this debate has, if I may say so, been enormously lightened by the speech of the Honourable the Commerce and Labour Member, to which this Council listened with so much appreciation yesterday. There remain, however, a few points with which I will endeavour to deal.

My Honourable friend Pandit Kunzru, at the opening of his speech, made a reference to what he described as the unreality of the atmosphere of the discussion on this Bill in this Council. I must say that nothing, in my humble opinion, could have been more unreal than the attitude of the Honourable Pandit himself. The atmosphere in which the debate opened was not one in which it was possible to convince oneself that this Council was discussing an emergent measure in such an emergency as India has probably never known before. At times, during the debate, it occurred to me that a stranger, accustomed from year to year to the procedure of this Council, might have imagined himself to be present at the discussion of the second reading of the annual Finance Bill, an occasion on which Honourable Members are permitted to discuss on any subjects dearest to their hearts.

The Honourable Pandit referred to an order recently issued restraining Europeans of certain classes and ages from leaving India. That order, I may say in passing, did not apply to Anglo-Indians—

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU (United Provinces Northern: Non-Muhammadan): I did not say that.

THE HONOURABLE SIR DAVID DEVADOSS (Nominated Non-Official): The Honourable Rai Bahadur Lala Ram Saran Das, the Leader of the Opposition, said that.

THE HONOURABLE MR. A. DEC. WILLIAMS: There is no racial discrimination whatsoever underlying this order. The intention of it was simply this. In this emergency, India requires all available manpower, whether European, Indian or Anglo-Indian. That manpower is required, not only for fighting, but for industry, commerce and technical purposes, and the intention of this order was to prevent those who are most likely to leave India from doing so. There was certainly no sinister intention behind the order. Nor was there any intention of thereby interfering with the normal progress of Indianization.

It seemed to me that the speech of the Honourable Syed Muhammad Husain did introduce a note of reality, for he made the assertion, with which I hope this Council will cordially agree, that trust, to be of any value at all, must be complete and unconditional.

In passing, I will deal with one question which the Honourable Syed Muhammad Husain asked, which was, "What would happen if a Provincial Government failed in the discharge of its duties under this Bill?" The recent amendment of the Constitution reposes authority in the Central Government to issue instructions—reluctant as it would naturally be to do so—to Provincial Governments in an emergency of that kind.

[Mr. A. deC. Williams.]

I may say that it was rather disheartening to me when I thought I had really a good argument, namely, that so many of the most stringent powers under this Bill have been entrusted to the responsible Provincial Governments. That argument appears to have recoiled upon me like a boomerang. I cannot say that I have heard much enthusiasm expressed during this debate for those responsible Governments.

The Honourable Mr. Kalikar suggested that some safeguard should have been introduced into the Bill itself as regards its working. It seems to me that clause 15, both taken literally and in the spirit, as it should be, if observed by Government servants working the Bill, contains as much in the way of safeguards as the Honourable Mr. Kalikar could possibly desire. It runs :

"Any authority or person acting in pursuance of this Act shall interfere with the ordinary avocations of life and the enjoyment of property as little as may be consonant with the purpose of ensuring the public safety"

Clause 14 further provides that, save as expressly provided, the ordinary criminal and civil courts shall continue to function.

The Honourable Mr. Kalikar further inquired whether Provincial Governments had been consulted on the terms of this measure. I can state that they were so consulted, that for the best part of a year past, various proposals for war legislation have been sent to Provincial Governments in draft and their comments have from time to time been received.

I now come to my Honourable friend Mr. Sapru—

THE HONOURABLE MR. HOSSAIN IMAM: Will the Honourable Member throw some light on the opinions that he received?

THE HONOURABLE MR. A. deC. WILLIAMS: It is not usual, Sir, to disclose confidential correspondence between the Central and Provincial Governments.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: Can he not give us some information without mentioning the name of any Provincial Government?

THE HONOURABLE MR. A. deC. WILLIAMS: I am afraid not, Sir.

THE HONOURABLE MR. V. V. KALIKAR: I will ask whether the Provincial Governments agreed to the proposals contained in this Bill?

THE HONOURABLE SIR DAVID DEVADOSS: Even that is not disclosable.

THE HONOURABLE MR. A. deC. WILLIAMS: I now come to my Honourable friend Mr. Sapru—

THE HONOURABLE MR. V. V. KALIKAR: I am sorry to say that my Honourable friend has not given any reply to my question.

THE HONOURABLE THE PRESIDENT: He is not bound to give any reply.

THE HONOURABLE MR. A. deC. WILLIAMS: At one stage of the speech of my Honourable friend, I was cast into the greatest dejection by the gloomy

picture which he drew of the judiciary of this country. This, however, was speedily dispelled by the fact that he announced that the United Provinces Ministry mean well. Heartened by that thought, I pass on to a question which the Honourable Mr. Sapru asked in relation to the rule imposing restrictions on processions. He inquired why section 144 of the Criminal Procedure Code did not give us all we want. That was considered at the time when this rule was drafted. The difficulty found as regards section 144 was that an individual order in each case by a magistrate is required; whereas under the rule it will be possible to issue general orders.

The Honourable Mr. Hossain Imam made certain suggestions and asked certain questions. He suggested that several undertakings should be given by Government. I have not noted them all down, but I did note that the first three or four of them are entirely covered by the undertaking which I gave at the beginning of this debate that Government would instruct its officers, and request Provincial Governments, to observe the greatest care and circumspection in the working of the drastic provisions of this Bill.

A further suggestion of my Honourable friend was that some such arrangement might be set up as consultation with leaders of Parties on the rules—I presume after they have been made, because naturally delay could not be tolerated in issuing them. Well, Sir, I do not exclude that possibility; but I am not in a position to give an undertaking on the point. I can, however, promise that Government will consider it.

His last suggestion, that a kind of "progress report" on action taken under the Ordinance and Rules should be laid before the Legislature, is, I fear, quite impracticable. There will be an enormous mass of orders of every description passed under these rules and the labour involved in collecting them and laying them on the table would be quite impossible to carry out. But it seems to me that there is one safeguard. After all, it is indiscreet or improper action—of which I hope there will be little—but it is action of that character—which attracts most attention, and surely Honourable Members will speedily come to know of instances of that kind through their constituencies.

The first question that the Honourable Member asked—as to what control can possibly be exercised over Provincial Governments—has already been answered by me. His second question, which raises very profound issues, is whether a Governor acting under this legislation will act on advice, in his discretion, or in the exercise of individual judgment. I can only say that, as in the case of action under any other enactment, it will depend on the subject-matter with which the Governor—which under the Constitution Act means the Provincial Government—is dealing.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: But under this Act the powers of the Provincial Governments will be greatly restricted.

THE HONOURABLE MR. A. deC. WILLIAMS: It will depend on the subject-matter. If the subject-matter attracts, for instance, the special responsibilities of the Governor he will act in his individual judgment. One

[Mr. A. deC. Williams.]

must read the Act with the Constitution Act and draw one's own conclusions. It is quite impossible to give a categorical answer to that question.

Well, Sir, I have no more to say. I can only commend this Motion to the Council and I hope that there will be no dissentient vote.

THE HONOURABLE THE PRESIDENT: The Question is :

"That the Bill to provide for special measures to ensure the public safety and interest and the defence of British India and for the trial of certain offences, as passed by the Legislative Assembly, be taken into consideration."

The Motion was adopted.

THE HONOURABLE THE PRESIDENT: Honourable Members, at this stage it is impossible to go through the second and third reading of the Defence of India Bill. Also there are several other legislative measures down for disposal today. As it is not possible to deal with all that business before this Council adjourns today I think that this is a convenient time to adjourn.

The Council then adjourned till Eleven of the Clock on Wednesday, the 27th September, 1939.

M39CS

COUNCIL OF STATE.

Wednesday, 27th September, 1939.

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

DEFENCE OF INDIA BILL—concluded.

THE HONOURABLE THE PRESIDENT: We will now proceed with the second stage of the Defence of India Bill.

Clause 2.

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

"That in part (ii) of sub-clause (2) of clause 2 of the Bill for the word 'prejudice' the word 'affect' be substituted."

The clause reads thus :

"Without prejudice to the generality of the powers conferred by sub-section (1), the rules may provide for, or may empower any authority to make orders providing for, all or any of the following matters, namely :—"

and then you come to clause (ii) :

"prohibiting anything likely to prejudice the training, discipline or health of His Majesty's forces ;"

I should have thought that the word "affect" was more definite and more precise. I do not understand the word "prejudice". Even if you made a *bona fide* pacifist speech, you might come under this word "prejudice", and therefore with a view to eliminating all possibility as to what is meant by this clause I am suggesting the word "affect" for the word "prejudice".

THE HONOURABLE MR. A. deC. WILLIAMS (Nominated Official) : Sir, on the contrary, I would suggest that the substitution of the word "affect" for the word "prejudice" makes the clause vaguer and wider. I do not know if that is the intention of the Honourable Member, but Government are quite satisfied with the wording as it is ; they consider it is quite enough for their purpose.

Question put and amendment negatived.

THE HONOURABLE MR. P. N. SAPRU : Sir, I move :

"That in part (v) of sub-clause (2) of clause 2 of the Bill, after the word 'reports' the words 'knowing the same to be false' be inserted."

(277)

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COUNCIL OF STATE.

[27TH SEPT. 1939.]

[Mr. P. N. Sapru.]

The clause reads as follows. I have already invited the attention of the House to sub-clause (2) which governs all these parts. This part reads as follows :

“preventing the spreading without lawful authority or excuse of false reports or the prosecution of any purpose likely to cause disaffection or alarm, or to prejudice His Majesty's relations with foreign powers, or to promote feelings of enmity and hatred between different classes of His Majesty's subjects”.

I would like the words “knowing the same to be false” to be inserted after the words “false reports” because a man may have unwittingly repeated what he has heard and then he would come within the mischief of this clause. We must penalize deliberately dishonest reports. You must show that the report is intentionally dishonest. That is why I think my words will improve the section.

THE HONOURABLE MR. A. DEC. WILLIAMS : Sir, I suggest that the words inserted in this clause by the Select Committee, namely, “without lawful authority or excuse” fully meet the intention of the Honourable Member of limiting the offence to the spreading of a report knowing the same to be false. The fact that the accused does not know that the report is false is covered by the word “excuse”. I submit, Sir, that the amendment is unnecessary.

Question put and amendment negatived.

THE HONOURABLE MR. P. N. SAPRU : Sir, I move :

“That to part (vii) of sub-clause (3) of clause 2 of the Bill the following proviso be added, namely :

‘provided that the prohibition shall not apply to persons who stand in near relationship to each other’.”

The governing clause here is sub-clause (3) of clause 2 ; and then we come to paragraph (vi) which says :

“prohibit attempts by any person to screen from punishment anyone, other than the husband or wife of such person, contravening any of the rules”;

My Honourable friend Mr. Williams knows the joint Hindu family system and though there is no joint family system among Muhammadans in law, in fact there is a joint family among the Muhammadans also. We know that the relationship between the mother and the son is a very sacred relationship in this country. There may be a mother who has got, as was pointed out by the Honourable Mr. Padshah, an only son and I suppose an only son is loved by a mother more than the wife loves her husband. If the husband is dead, well in certain communities the wife can find another husband for herself or she can satisfy herself in some other manner. So far as the mother is concerned, the son means everything to her. That is the case with the father also and therefore, Sir, I would suggest that we should take cognizance of the instinct of family relationship in this country and not only go by the English law in this matter. The conditions in England are different. Here the mother and the father stand in a very peculiar relationship to their children and we should make some exemption for the mother and the father. That is really why I am pressing this amendment, Sir.

THE HONOURABLE MR. A. DEC. WILLIAMS : Sir, if we proceed on the generally accepted principle that a proviso introduces some modification in the substantive part of a legal provision, the effect that the suggested amendment would have would be somewhat unfortunate ; because, if we take paragraph (vii) to provide certain exemptions for husbands and wives, it would appear that the Honourable Mr. Sapru does not regard husband and wife as standing in near relationship with each other. The provision in question was added in the other place. It is based on existing provisions in the Indian Penal Code and it is also based on the common law principle which affords protection to married couples. I suggest, Sir, that this amendment is not necessary.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU (United Provinces Northern : Non-Muhammadan) : Sir, my Honourable friend Mr. Williams has given a very technical reply. Undoubtedly if the clause stands as it is and only the words proposed by my Honourable friend Mr. Sapru are added to it, the amended clause will be open to the objection raised by Mr. Williams. But surely my Honourable friend understands the purpose of the amendment moved by Mr. Sapru and if he wishes to be helpful he can easily draft an amendment which would bring out what Mr. Sapru has in view without being open to any legal objection. The main point made by Mr. Sapru was that in the special social circumstances of India it was not enough to consider the relationship existing between a wife and a husband in connection with the giving of information regarding the commission of offences. It was necessary also to consider other relationships—for instance that of children to their parents. I personally think that this is a very reasonable point of view. I have not the legal knowledge to draft an amendment which would satisfy the legal pandits on the other side but I am sure that they can themselves put forward an amended clause which will be more in consonance with Indian conditions than the present clause is.

THE HONOURABLE THE PRESIDENT : Amendment moved :

“That to part (vii) of sub-clause (3) of clause 2 of the Bill the following proviso be added, namely :

‘provided that the prohibition shall not apply to persons who stand in near relationship to each other’.”

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Leader of the House) : I think, Sir, Mr. Williams has not replied.

THE HONOURABLE THE PRESIDENT : He has not the right to reply on an amendment. Neither the Mover nor the Government Member is entitled to reply.

Question put and amendment negatived.

THE HONOURABLE THE PRESIDENT : The Question is :

“That clause 2 stand part of the Bill.”

The Motion was adopted.

Clause 2 was added to the Bill.

Clauses 3 and 4 were added to the Bill.

Clause 5.

THE HONOURABLE MR. P. N. SAPRU : Sir, I move :

"That in sub-clause (3) of clause 5 of the Bill the words 'or attempts to abet' be omitted."

Well, Sir, I would invite the attention of the House to this sub-section 5 (3), which says that—

"for the purposes of this section, any person who attempts to contravene, or abets or attempts to abet, a provision of any law, rule or order", etc.

Now, Sir, I understand the word "contravene" and I understand the word "abet" but I do not understand the words "attempts to abet". That is, you punish a man for committing an offence or abetting an offence. But, I do not know, Sir, what this phrase "attempts to abet" means. Anything done directly or indirectly might amount to an attempt to abet. I think, Sir, the words "attempts to abet" are very wide and therefore are liable to be misunderstood and misinterpreted and therefore I think we should restrict ourselves to using language which we can understand. "Attempts to abet" does not convey any meaning.

THE HONOURABLE MR. A. DEC. WILLIAMS : I think, Sir, the statutory meaning of the word "attempt" as set out, for instance, in the Indian Penal Code, is sufficiently well understood. I will not myself attempt at this moment to give an exhaustive definition of it ; but, for instance, if a person takes action with a view to abetting, that I imagine constitutes an attempt to abet. The object of including this provision is to provide a somewhat severer penalty than flows from the relevant provision in the Indian Penal Code. It was inserted deliberately and we would not be prepared to see it deleted.

Question put and amendment negatived.

THE HONOURABLE THE PRESIDENT : The Question is :

"That clause 5 stand part of the Bill."

The Motion was adopted.

Clause 5 was added to the Bill.

Clauses 6 and 7 were added to the Bill.

Clause 8.

THE HONOURABLE MR. P. N. SAPRU : Sir, I move :

"That in part (i) of sub-clause (2) (b) of clause 8 all the words after the words 'Additional Sessions Judge' be omitted."

This, Sir, I confess is a rather important amendment from our point of view. Clause 8 deals with Special Tribunals and their constitution. I am not in this amendment raising any question of principle so far as the Special Tribunals are concerned. I concede that Special Tribunals may be necessary for the purpose of expeditious justice in a war such as we have today in the

world. But it is necessary for us to consider what the constitution of this Special Tribunal may be. You must remember that there will be a finality attaching to the judgments of these Special Tribunals so far as imprisonment up to 10 years is concerned. That is to say, if a man has been convicted for a term of imprisonment, shall we say, of 9 years 11 months and 30 days or 29 days, he cannot get any right of appeal. Therefore, the powers of these Special Tribunals are very, very great indeed. We are giving a finality to their decisions and therefore it is necessary to see that these Tribunals are properly constituted. I would not care for a right of appeal if I got a Special Tribunal of three High Court judges. Then I would feel that I was getting a fair chance and that an appeal would not be of much value to me. But here, if I were the accused, I would not be getting a Tribunal of that character. I would be getting a Tribunal of this character, viz., a man who is qualified to be a High Court judge. Well, a man who is qualified to be a High Court judge does not necessarily become a High Court judge. I am qualified to be a High Court judge. I have practised for more than 15 years. But I do not find myself on the Bench of my Court, or, for the matter of that, of any Court. There are others who have practised for 15 years at the Bar and who have the technical qualifications for a High Court judgeship, but I am sure are not likely to be ever fit to be High Court judges. The other members of the Special Tribunal may be sessions judges, additional sessions judges, chief presidency magistrates, additional chief presidency magistrates, district magistrates or additional district magistrates. The sessions judges and additional sessions judges, I confess, stand on a different footing from chief presidency magistrates, additional chief presidency magistrates, district magistrates and additional district magistrates. The sessions judge himself is a judicial officer. When he tries cases, he tries to approach them from a judicial point of view. He is not interested directly or indirectly in the maintenance of public order in his district. He has no executive bias. He generally is a man with a larger experience of judicial work. In our province, before you become a sessions judge, you must have been a sessions and subordinate judge. Therefore, he has that much training and he is able to get rid of the executive bias to some extent. At all events, he has been able to get rid of the executive bias which he acquired in his early days, as an assistant magistrate or as a joint magistrate. If he happens to be a Provincial Service man, when he is a man who has never had any executive experience, he starts as a munsif in our province and then he becomes a civil judge and then he is invested with sessions powers and becomes a sessions judge. Therefore, he is essentially a lawyer and therefore in trying these cases he will approach the questions raised before the Tribunal from a lawyer's point of view. So far as the district magistrate is concerned, apart from district administration—and district administration takes a good deal of the time of the district magistrates—and apart from revenue administration—and revenue administration is getting more and more complicated in these days of landlord and tenant problems—apart from the district and revenue experience, his judicial experience is confined to trying ordinary simple cases which involve a maximum imprisonment of two years. He also hears appeals from subordinate magistrates. He has not that command and that knowledge of criminal procedure and the law of evidence which the sessions judge has and he is not—I am not blaming him ; I am blaming

[Mr. P. N. Sapru.]

the constitution of his mind and the subconscious bias which he has imbibed—he has not that judicial experience which fits a man to be a good judge. You may have a Tribunal where you may have a man who was qualified to be a High Court judge. He may have one view of the guilt or otherwise of the accused. You may have two district magistrates and they may take a different view of the guilt or otherwise of the accused. As the majority view is to prevail, the result will be that the man will be convicted by two men of—shall I say without giving any offence—inferior judicial qualifications and inferior judicial equipment. Now, Sir, it is essential that justice should be done; but it is also further essential that the accused should have a feeling that he has had a fair trial and that justice has been done. Our whole jurisprudence is based upon this principle that the accused should have no reasonable apprehension that justice is not being done to him. You have the transfer provisions in the Criminal Procedure Code. Most of the applications that are filed in the High Court for transfer of this case or that case from this magistrate or that magistrate are of a frivolous nature. I am sure that the magistrate, in most of these cases, has no prejudice either for or against the accused. But the High Court very often interferes on this ground that there is a reasonable apprehension in the mind of the accused that he is not likely to have a fair trial before a particular magistrate. You get applications making the sort of allegation that the magistrate is friendly with the complainant or that he has been dining with him at the United Service Club or at the Allahabad Club. You get these kinds of frivolous applications before the High Court. But these applications sometimes succeed because the judges say, “Well, there is a reasonable apprehension in the mind of the accused that he is not going to have a fair trial and therefore it is necessary for us to see that the accused feels that he is having a fair trial”. You ought to engender this feeling by constituting your Tribunal in this manner.

Then, Sir, it is said that we have popular Governments in the provinces and therefore we must trust them because it will be the duty of those popular Governments to constitute these Tribunals. Now, Sir, I do not want to say anything against those popular Governments. I think they have a very hard task before them and I am sure we all wish them success in the task, but the answer to this line of criticism is, why have any qualifications at all, why do you have a qualification for High Court judges in the Government of India Act, why not trust the Secretary of State who is responsible to Parliament for appointing the right kind of men as High Court judges, why prescribe the qualifications that a man must be a barrister of 10 years' standing, or an advocate of 10 years' standing or a civilian who has exercised judicial powers of some years' standing before he can be appointed? Why have any statutory qualification at all? Why not leave everything in the hands of the responsible Government? You have these qualifications because you think that some statutory safeguards are necessary to ensure confidence in the administration of justice so far as the public is concerned. Therefore, I say that this clause ought to be revised. It is desirable that those who are going to be tried by the Special Tribunal should have confidence in the impartiality of these Special Tribunals. Sir, I strongly urge my Honourable friend Mr. Williams even at

this late hour to agree to this amendment. It will make a vast difference so far as we are concerned in our attitude towards this Bill if this amendment is accepted.

THE HONOURABLE HAJI SYED MUHAMMAD HUSAIN (United Provinces West : Muhammadan) : Sir, I am very glad that my Honourable colleague has brought an amendment like this before the House. There is considerable force in what he has said and I think that this amendment ought to be accepted by the Honourable Mr. Williams. The most unfortunate thing is that the Bill has come very late to this House, though it could not be helped, and if an amendment is carried here it will have to go before the Assembly, which has dispersed. As I said the other day these emergency powers are necessary and they must at once be given. The effect of the amendment, if carried, would be that the Bill will have to be postponed till the next session. (*An Honourable Member* : “There is an Ordinance in existence”.) Yes, I want to draw the attention of the Honourable Mover to the fact that although the emergency powers are necessary, yet the authority to which the powers are given should be properly constituted, and there is no emergency as regards the constitution of these Tribunals. They are not going to be set up at once. Probably the Provincial Governments will see whether the ordinary judicial machinery is not sufficient to cope with the situation, and it will be after that that the Tribunals may be constituted. Therefore, there is plenty of time for consideration.

I hope it will be realized and appreciated that the ordinary Criminal Procedure Code does not give any power to any magistrate of any standing for the trial of serious cases which are exclusively triable by a Court of sessions, unless the magistrate is given power under section 30, which is given after a good deal of consideration. You will see, Sir, that when in ordinary cases triable by a Court of sessions a magistrate is not empowered to try the case, there must be some reason and that must have been considered when that legislation was passed. In these cases the Tribunal has been given jurisdiction over very, very serious offences and the procedure is what one might call a summary procedure, or a procedure very similar to that adopted in courts-martial. Therefore, I would request the Honourable Mr. Williams to consider that in cases where a Tribunal is set up it should be such as will have the confidence of everybody and nobody should have any complaint about it at all. I had experience of a Special Tribunal in normal days, when the Government of India set up a Tribunal to try the Kartarpur riot cases. I was appearing for the Crown at that time, and the Tribunal was composed of Sir Charles Ross Alston, Mr. Justice Dalal, who was then a Sessions Judge, and a High Court Judge Mr. Justice Tudball. In that case nobody could say anything as to the constitution of that Tribunal. There was no appeal from that Tribunal as here. There was no inquiry before the commitment. And therefore the Tribunal which should try cases like these ought to be such that it should have the confidence of the accused that he will have as impartial trial.

Now, there is another thing which I would like to draw the attention of the Honourable Mover to, that in cases like these, when a Tribunal has power to try cases which are not appealable, cases in which the procedure is very, very summary, a magistrate is not needed. Why should he be there at all?

[Haji Syed Muhammad Husain.]

It is because this is a summary trial and there is a final judgment? What is the necessity of keeping a magistrate also there when the Tribunal could be constituted of persons who have higher qualifications. Therefore, it is entirely unnecessary to have a magistrate as one of the members of the Tribunal. I would have certainly supported this amendment and voted for it had this not been a time when it is not advisable to support it because of the delay it would cause. At the same time I would say that a supplementary Bill should be brought in the next session, and we should wait to see what the constitution of the Tribunal is if any is set up. Although you have taken the power and can appoint a magistrate, yet in practice it is not necessary that you must appoint one. You have power to appoint such persons as are qualified for judgeship of a High Court or is a person of sufficient judicial standing or is a sessions judge.

With these words, Sir, while I support the reasonings advanced by my colleague in support of his amendment, I am exceedingly sorry to say, owing to the necessities of the time, I would ask the Honourable Mover of the amendment to withdraw his amendment and content himself with what we have said here and see whether the principle of the amendment is accepted by the Government or not.

THE HONOURABLE SIR DAVID DEVADOSS (Nominated Non-Official): Sir, the Bill provides for a Tribunal of three persons. It is not one magistrate or one judge that is going to try any of the cases coming under any of these clauses, but three judges. The Honourable Mr. Sapru said he would be satisfied if three High Court judges would try the case. I have some experience of criminal cases and I am yet to know of an accused person who was satisfied with a judgment against him.

THE HONOURABLE MR. P. N. SAPRU: Then abolish the High Courts!

THE HONOURABLE SIR DAVID DEVADOSS: I will come to that. If I might take up the time of Council, I would say this. There is a well known case called the Ashe murder case. It was tried by three High Court judges, the learned Chief Justice, the late Sir Sankaran Nair and a Civilian Judge. The case was tried by the High Court and all the persons who were accused in the case were convicted; they were not satisfied with the judgment. A certificate was obtained from the Advocate General and the case came before five or seven judges. You will find it reported in 30 or 31 Madras. It is impossible to say whether any accused person who after conviction could be said to be satisfied with a judgment given against him. I can mention half a dozen other cases from Madras. There was the well known case of Subramania Ayyar. He was tried in sessions on the Original Side of the High Court sessions and he was convicted. Then he was not satisfied and he obtained a certificate and went before the whole Bench of the High Court—I believe of seven Judges. He was not satisfied with that either and he went up to the Privy Council. I can mention other cases. Therefore, it is no question of the number, of three High Court judges trying the case. It is a question of the mentality of the accused. As I said, is there any single accused person who after conviction feels that he is satisfied with the correctness of the judgment? It has been

said that you must have at least a sessions judge. We know that the sessions judges of today become High Court judges tomorrow; and chief presidency magistrates become judges as well. If you will pardon a personal allusion, Sir, Sir Abdur Rahim, who now occupies such an important place in the Legislature today, was appointed a Judge of the Madras High Court in the year 1908 or 1909. He was one of the most excellent and most independent judges. I believe before that he was a Presidency Magistrate in Calcutta. Therefore it is a question of personality. I have known men whom we call sub-magistrates in the Madras Presidency, men who are getting only Rs. 100 and who exercise what are known as second class powers, to be thoroughly independent of the executive and there are persons who occupy very high positions who cannot be said to be so independent. It is not therefore a question of sessions judge or magistrate or presidency magistrate. Then it is said why should we have qualifications, why don't you leave it to the Government to appoint anybody as a High Court judge? There must be some minimum qualification for a place? Otherwise anybody may apply for it; a chaprassi may apply for it. Therefore, we have a minimum qualification. But in the making of appointments it is not the minimum qualification that is taken into consideration; it is the maximum qualification that is taken into consideration. Therefore, Sir, I fail to see the objection to the appointment of a chief presidency magistrate or additional district magistrate. In Madras, so far as my experience goes civilians are made district judges and also Provincial Service men who begin life as district munsiffs rising to be sub-judges and being promoted as sessions judges and from the Sessions Court coming up to the High Court. I know two or three eminent Judges of the Madras High Court who rose from the Provincial Service. They were first taken on as district munsiffs, then they became sub-judges and then they became district judges and then they got into the High Court. It is not a question of a district magistrate not being eligible to sit on this Tribunal, but a proper person being appointed. It is for the Local Government to choose a thoroughly independent person and a person who will do justice without fear or favour.

With these words, Sir, I strongly object to the amendment.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: Mr. President, I am sure that when my Honourable friend Sir David Devadoss was speaking Mr. Williams was saying to himself, "Save me from my friends!" If all that Sir David Devadoss said is true, there is no reason for prescribing the constitution of the courts or for providing for appeals. The accused is never satisfied; people who have served as executive officers may in reality have a more judicial frame of mind than judicial officers and so on. I am sure that the Honourable Mr. Williams has carefully noted these points and when the amendment of the relevant laws is under the consideration of the Government of India he will try to benefit by the advice given to him by Sir David Devadoss.

Sir, the proposition put forward by Mr. Sapru is a very simple one. At present the constitution of the Special Tribunal is such that only one of the three persons composing the Tribunal may be a person possessing judicial experience or experience as a lawyer.

THE HONOURABLE SIR RAMASWAMI MUDALIAR (Commerce Member): Two.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: It is not so. The remaining two can be persons who have served all their lives as executive officers only. My Honourable friend Sir Ramaswami Mudaliar interrupted me and said that two members of the Tribunal must be persons having judicial experience. That view, I submit, is not correct. It is stated in sub-clause (3) of clause 8 that where only one of the members of the Tribunal is qualified under part (a) of sub-clause (2) at least one other member of the Tribunal shall be qualified for appointment under clause (b) of that sub-section exclusive of those specified in sub-clause (ii) of the said clause (b), that is, one of the persons must belong to sub-clause (i) of clause (b). Who are the persons mentioned in sub-clause (i): Sessions judges, additional sessions judges, chief presidency magistrates and additional chief presidency magistrates. It depends on the Local Government concerned whether it would select a sessions judge or a chief presidency magistrate. It is perfectly possible therefore for two members of the Tribunal to be men with no previous judicial experience at all. I would draw the attention of Government to the constitution provided for the Special Tribunal under the Defence of India Act, 1915. Sub-section (3) of section 4 of the Defence of India Act says:

"(3) All trials under this Act shall be held by three Commissioners, of whom at least two shall be persons who have served as sessions judges or additional sessions judges for a period of not less than three years, or are persons qualified under section 2 of the Indian High Courts Act, 1861, for appointment as judges of a High Court or are advocates of a Chief Court or pleaders of ten years' standing".

The Defence of India Act, 1915, thus required that at least two members of the Special Tribunal must possess judicial experience and it was not necessary under the Act to have any executive officer at all on the Tribunal. All the three persons might be men who had served as judicial officers or were judicial officers and lawyers. In the present case, however, it is quite possible that two members of the Tribunal may have never served as judicial officers. The amendment is a very simple one and ought to have the sympathy of Government. My Honourable friend Mr. Williams, who has served as a judicial officer, cannot but sympathise with our point of view. He may, however, say that, whatever the merits of the amendment, he is precluded from accepting it as the Assembly has adjourned. The acceptance of the amendment will only mean the continuance of an Ordinance which admittedly is more drastic than the Bill before us. Well, I am sure that my Honourable friend Mr. Sapru will be satisfied if he assures the House that the amendment has the sympathy of Government, that the Local Governments will be requested to see that at least two members of the Tribunal are persons who have had previous judicial experience and then he would have the law modified in the direction suggested by Mr. Sapru's amendment as soon as the Assembly meets. If this is done, I am sure the purpose that Mr. Sapru has in view will be satisfied.

*THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa: Muhammadan): Mr. President, the amendment which has just been moved is a very necessary amendment and one on which there is not much ground for difference of opinion. Sir, I cannot deal with the speech of the Honourable Sir David Devadoss because I was not present to listen to his full

*Not corrected by the Honourable Member.

speech, but I learn that he indicated that people have not full confidence either in the magistracy or in the judiciary. Well, that opinion no one will be prepared to endorse. I personally think, Sir, that there is some misapprehension about the provisions of section 8. Out of the 11 provinces of India, in eight provinces there are no chief presidency magistrates, so in those provinces you will have necessarily a man qualified to be a High Court judge and another an additional or sessions judge only. There will be no presidency magistrate because they do not exist. In the three presidencies of Madras, Bombay and Calcutta, where you have chief presidency magistrates only in the towns of Calcutta, Madras and Bombay, you will have chief presidency magistrates. As we know, in fact, there is already a provision to have two judicial officers or persons qualified to be judicial officers under the Act itself. Now, we come to the third provision. Where is the necessity of having a district magistrate? There is going to be no commitment proceedings. The decision of the Tribunal, except in cases specified, would be final. It would be better, Sir, if the Government would circulate to the provinces the opinions of the Legislature that they prefer that it should be composed entirely of the judicial officers. It is not incumbent to include a district magistrate and as the Provincial Governments have the confidence of Mr. Sapru and Pandit Kunzru, there need be no doubt that they will not include a district magistrate!

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: I am sure the Punjab and Bengal have your support!

THE HONOURABLE MR. HOSSAIN IMAM: Well, I have not defended them here.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: You only attack some; you don't defend the others.

THE HONOURABLE MR. HOSSAIN IMAM: I may mention, Sir, that under the provisions of this Act, it is incumbent to have someone qualified under clause (a) and also to have another person qualified under sub-clause (i) of clause (b). But there is no necessity of having anyone qualified under item (ii) of clause (b). So it is perfectly in the hands of the Provincial Government either to include a district magistrate or not to include a district magistrate altogether. If the Provincial Governments are the representatives of the people and have regard for their interests and if public opinion is strong against the inclusion of district magistrates, then it stands to reason that they will not include district magistrates in the Tribunal. But to be on the safe side, I would request the Honourable Mr. Williams, if he finds it possible, to intimate the opinion of this House that it prefers not to have district magistrates in this Tribunal. But there is one question, Sir, that where the Central Government is the authority and where the Chief Commissioners are regarded as the Provincial Governments, there the Central Government can give us an assurance that it will consider this matter. The action required by this amendment can be taken by means of executive orders and executive advice and so there is no necessity of pressing this Motion to a vote of this House if the Government is prepared to consider sympathetically the idea behind this amendment.

*THE HONOURABLE SIR A. P. PATRO (Nominated Non-Official): Sir, the amendment relates to the deletion of the chief presidency magistrate and the additional chief presidency magistrate. It does not relate to district magistrates. The clause reads thus:

"(2) No person shall be appointed as a member of a Special Tribunal unless he is—

(b) (i) a sessions judge, additional sessions judge, chief presidency magistrate, additional chief presidency magistrate".

There is no reference whatever to district magistrates. Sir, whatever may be the constitution or the organization of judicial matters in the United Provinces, the experience of other provinces is entirely different. The presidency magistrates or chief presidency magistrates are appointed as judicial officers. They act under the Criminal Procedure Code and they apply all the sections of the Defence Act. Are they not judicial officers? If they are judicial officers, where is the objection to the section itself? That is the whole misunderstanding or misreading of this clause. They admit the arguments relating to sessions judges or High Court judges. All that is beside the point. The only point is whether chief presidency magistrates and joint presidency magistrates are judicial officers or not. They administer the law. They are not outside the law, and being judicial officers, where is the objection to them? As a matter of practice, these presidency magistrates take cognizance of the highest criminal cases. After all, this Tribunal is a Criminal Tribunal to try criminal cases—offences committed under this Act. The offences committed under this Act are triable by these magistrates who have had experience in trying criminal cases. They are therefore best qualified for this purpose—better than a sessions judge or district judge who has been appointed from the Bar. There are district judges and sessions judges who are appointed straight from the Bar. What is their experience? These magistrates have experience of trial of very extreme cases, especially in presidency towns. They have been exercising judicial powers under the Criminal Procedure Code. Therefore, they are most qualified to take cognizance of cases under this criminal law. Several High Court judges have been appointed straight from the Bar. It may happen that the Honourable the Mover of this amendment may be appointed a High Court judge. I ask, What criminal experience has he got in order to try these very important cases and to weigh the evidence? What is the experience of members of the Bar, appointed straight as High Court or sessions judges, in the administration of criminal law and in the weighing of evidence? Therefore, it is absurd to say that these chief presidency magistrates and additional chief presidency magistrates, who have life-long experience of administering criminal law in presidency towns, are not judicial officers and are not competent to sit on a panel of judges constituted to administer this law.

THE HONOURABLE SAIYED MOHAMED PADSHAH SAHIB BAHADUR (Madras: Muhammadan): Sir, so much has been said on this amendment that it is not necessary for me to adduce any further arguments about the justifiability of the demand which my Honourable friend Mr. Sapru has made. I should only like to draw the attention of the House to one point which

cannot be denied by anybody. My Honourable friend who has just sat down was also one of the eminent lawyers in our presidency and my Honourable friend Sir David Devadoss was one of the most distinguished Judges of the Madras High Court. But both of them cannot say that the chief presidency magistrates and district magistrates are empowered under the existing criminal law to try cases and give judgments in cases where the offence is punishable with death or transportation for life. These magistrates are under the present law debarred from passing a judgment in the case of offences punishable with death or transportation for life. All that these people—first class magistrates and chief presidency magistrates—are allowed to do is to hold a preliminary inquiry. These people are not trusted to do the right thing, and to take a proper view of the law where complicated questions of law and evidence are involved. It is for this reason that they are not now allowed to pass a judgment in these matters.

THE HONOURABLE MR. P. N. SAPRU: Can they try such cases?

THE HONOURABLE SAIYED MOHAMED PADSHAH SAHIB BAHADUR: They cannot try. They can only hold a preliminary inquiry. That is why I say that these people are not competent to deal with cases of serious offences. Even today they are not supposed to be competent to pass judgment over these offences. Why should these people now be given that power under this law, where the procedure is thoroughly summary, where there is no appeal from the lower Courts and where there has been no preliminary inquiry and where the evidence recorded would mostly be not *in extenso* but only the substance of it?

THE HONOURABLE SIR A. P. PATRO: There are appeals from sessions judges to the High Court.

THE HONOURABLE SAIYED MOHAMED PADSHAH SAHIB BAHADUR: Sessions judges are today empowered to try cases and pass judgments even though there might be an appeal. That is another matter. But magistrates have not the power to try cases punishable with death or transportation for life. All that they can do is simply to conduct a preliminary inquiry and send the records to the sessions judges. They are considered incompetent to pass any judgment in cases in which the punishment is death or transportation for life. They do not pass judgment. They simply pass an order, committal order. My Honourable friend Sir David Devadoss may, with his breadth of view, consider that the district magistrate or any magistrate for the matter of that—even an ordinary second class magistrate of the Bench Court—could be expected to be quite as discreet and as correct in his view of law as the High Court judge. But this is a proposition which none of us will be prepared to accept. My Honourable friend Sir David Devadoss thinks that there might be people who could have this kind of capacity. But they are not to be found everywhere. After all, we have got to deal with people of ordinary ability, and we have got to go only by what ordinarily happens. It cannot be denied that the sessions judge will be able to bring a much more judicial mind to the case before him than a district magistrate, and the sessions judge will be able to take a more accurate and proper view of the law of evidence than the district magistrate who is not at all used to give himself much pains in understanding complicated questions of law. As has been observed by most of our friends, it may not be

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possible for Government to accept this amendment at this moment, but it is still possible even under this law to give effect to the suggestions made. This law may not be altered, but it gives full power to the Government to give instructions to the Local Government to see that the constitution of this Tribunal is set up in such a way as to satisfy the demand of the Honourable Mr. Sapru.

THE HONOURABLE MR. A. DEC. WILLIAMS: Sir, the discussions on this amendment constitute as much an indictment of those provisions of the Criminal Procedure Code and other parts of the criminal law of this country which confer jurisdiction on magistrates as of the provisions of this Bill. If certain Honourable Members opposite are to be believed, magistrates are not fit to try cases punishable even with two years' imprisonment. If there is anything regrettable in the course of the discussions on this Bill it is, I submit, the constant and prolonged attacks of certain Members of this House on a magistracy which, I am convinced, does substantial justice in the courts. The Honourable Mover of this amendment, if he is to be included amongst those holding these views, has certainly adopted a somewhat peculiar method of giving effect to it. If he will carefully look at his amendment, he will see that he is excluding chief presidency magistrates and additional chief presidency magistrates from the Special Tribunals but is retaining district magistrates and additional district magistrates.

THE HONOURABLE MR. P. N. SAPRU: How?

THE HONOURABLE MR. A. DEC. WILLIAMS: I do not wish to be accused again of making capital out of a drafting point, but still the fact remains that that is the way in which—

THE HONOURABLE MR. P. N. SAPRU: I have said, "all the words after 'additional sessions judges, .'"

THE HONOURABLE MR. A. DEC. WILLIAMS: In part (i).

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: Even if the words "district magistrates" and "additional district magistrates" remain, it will be certain that the Tribunal shall contain two persons of judicial experience.

THE HONOURABLE THE PRESIDENT: Is it a personal explanation? You are not entitled to make a second speech.

THE HONOURABLE MR. P. N. SAPRU: On a point of personal explanation, Sir. I say that "all the words after the words 'additional sessions judge' be omitted".

AN HONOURABLE MEMBER: But that is only in part (i) of sub-clause (2).

THE HONOURABLE MR. A. DEC. WILLIAMS: I am afraid the Honourable Member will find that he is in the wrong. However, as I say, I have no desire to make capital of this point. Indeed, I have a suggestion to make and an undertaking to give which I hope will go a long way to meet the difficulties experienced by Honourable Members opposite. We have just been told that a convicted accused is never satisfied, and I have often been inclined to wonder

whether the same dictum does not apply to my Honourable friend Pandit Kunzru. However, I hope on this occasion to be able to please him. As I said before, in the Assembly the Government accepted an amendment of the commencement clause of the Bill which enables them to bring various provisions of the Bill into force at various times, and I can say straightaway that it is not the intention of the Central Government to bring Chapter III of the Act into force until it is definitely called for and then only in the area for which it is called for. (Applause.) Further, so far as this particular amendment is concerned, the Central Government are quite prepared to address Provincial Governments and to suggest to them—they cannot go further than that—to suggest to them that so far as possible all the members of a Special Tribunal should be either qualified for a High Court judgeship or be judges. (Applause.) I take this opportunity to make this statement because I see that all the remaining amendments relate to Chapter III and this undertaking may have some relevance to them.

I hope, Sir, that the Honourable Member will now not wish to press his amendment.

THE HONOURABLE THE PRESIDENT: Does the Honourable Member wish to press his amendment?

THE HONOURABLE MR. P. N. SAPRU: No, Sir.

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

THE HONOURABLE THE PRESIDENT: The Question is:

"That clause 8 stand part of the Bill."

The Motion was adopted.

Clause 8 was added to the Bill.

Clause 9 was added to the Bill.

Clause 10.

THE HONOURABLE MR. P. N. SAPRU: Sir, I move:

"That sub-clause (2) of clause 10 of the Bill be omitted and the subsequent sub-clauses be renumbered."

THE HONOURABLE MR. A. DEC. WILLIAMS: Sir, I oppose the amendment.

Question put and amendment negatived.

THE HONOURABLE MR. P. N. SAPRU: Sir, I move:

"That for sub-clause (2) of clause 10 of the Bill the following be substituted, namely:

'In trial before the Special Tribunal the evidence shall be taken down at length in writing in the English language and the record of such evidence shall be signed by all the members of the Tribunal'."

Sir, as will be seen from another amendment which is against my name, I am providing for an appeal where there is a conflict of opinion among the members of the Special Tribunal. I am providing that where there is a dissentient judgment the accused shall have a right of appeal. Then, Sir, if the accused is to have a right of appeal, the appellate Court ought to have the

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proper material for giving its decision ; and therefore it follows that the procedure in regard to the taking down of evidence needs revision. In fact, Sir, under sub-clause (2) of section 10 the procedure for the taking down of evidence in cases punishable with death or transportation for life is different from the procedure prescribed for cases which do not involve a sentence of death or transportation for life. As I envisage the possibility of an appeal in all cases the procedure for the taking down of evidence has also got to be revised. It is for this reason that I have suggested this amendment ; in order that the appellate Court might be able to do full justice ; it should have a proper record of the case before it. For this reason it would seem necessary that evidence should be recorded in full. It may be said that if you record evidence in full it will take a long time, but then you can give your Special Tribunal special facilities for having the evidence recorded in full.

Sir, I move.

THE HONOURABLE HAJI SYED MUHAMMAD HUSAIN : Sir, the only thing which appears to me about this clause is that in cases which are not appealable this procedure will give a sort of immunity to perjurers. If the evidence is not taken down and a record kept there cannot be any prosecution for perjury. Therefore, people will think they have a license to speak lies, either for the prosecution or for the defence. There should be some sort of record of their evidence to which they should be pinned down. It is not only the judgment which we should see to in the end but also the procedure during the trial. That should give some sort of protection to the person who makes a statement, and care should be exercised about his statement. I cannot understand the force of "at length", either in the amendment or in the sub-clause. Either the evidence is taken down by the Tribunal as given, or the Tribunal has power to take down only as much as it pleases. I cannot see how evidence which is given can be taken down at length—

THE HONOURABLE THE PRESIDENT : That principle is observed in all summary trials.

THE HONOURABLE HAJI SYED MUHAMMAD HUSAIN : That is so, but in summary trials we know that hardly once in a blue moon can a case of perjury succeed, because there is no proper record of the evidence. It is open to the accused person always to say, "I did not make this statement, or that it was not my intention to say that".

In fact there was a time when instructions were issued at least in our High Court that a single record in English should be kept in civil cases. That was one of the criticism that was put forward—that we are feeling that difficulty in prosecuting people for perjury on account of the absence of double record. So I think there is a good deal of force in this amendment that a record of the evidence of witnesses should be kept.

THE HONOURABLE MR. A. DEC. WILLIAMS : Sir, I suggest that the balance of convenience and profit to Government in the conduct of the war is that Special Tribunals should be permitted to get on quickly with their work, not that the courts should be burdened with the trial of perjury cases.

agree with the Honourable Mover of this amendment that this amendment is the logical consequence of the amendment to clause 13 if accepted. But as I regret to say I shall have to oppose that amendment, I must oppose this one also.

THE HONOURABLE THE PRESIDENT : Amendment moved :

"That for sub-clause (2) of clause 10 of the Bill the following be substituted, namely :

'In trial before the Special Tribunal the evidence shall be taken down at length in writing in the English language and the record of such evidence shall be signed by all the members of the Tribunal'."

Question put and amendment negatived.

THE HONOURABLE MR. P. N. SAPRU : Sir, I move :

"That in sub-clause (5) of clause 10 of the Bill after the word 'opinion' (where it occurs for the first time) the words 'for reasons to be recorded fully in writing' be inserted."

Sub-clause (5) of clause 10 reads :

"After an accused person has once appeared before it, a Special Tribunal may try him in his absence if, in its opinion, his absence has been brought about by the accused himself for the purpose of impeding the course of justice, or if the behaviour of the accused in Court has been such as, in the opinion of the Special Tribunal, to impede the course of justice."

The ordinary rule of law is that you may not ordinarily try an accused in his absence. That rule has been to a certain extent reversed in this sub-clause and as in certain cases we are providing for an appeal it would seem desirable that the appellate Court should have before it the reasons of the trial court for proceeding with the case against the accused in his absence. I am not suggesting any change of substance. What I suggest is that the opinion should be recorded in writing so that the appellate Courts may have before them proper material for deciding as to whether the Special Tribunal was or was not justified in trying the accused in his absence.

THE HONOURABLE MR. A. DEC. WILLIAMS : I am afraid, Sir, that I must question the intention, as drafted in the amendment of the Honourable Member again. He wants the opinion of the Tribunal recorded when the absence of the accused has been brought about by himself, for the purpose, in their opinion, of impeding the course of justice ; but he does not apparently want the opinion of the Tribunal recorded if the behaviour of the accused in court has been such as, in their opinion, to impede the course of justice. I do submit that this amendment is wholly unnecessary. I cannot conceive of any responsible court or tribunal taking action of this character without recording the grounds for its opinion on the order sheet of the case.

Question put and amendment negatived.

THE HONOURABLE MR. P. N. SAPRU : Sir, I move :

"That part (ii) of sub-clause (7) of clause 10 of the Bill be omitted."

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The sub-clause reads :

"The Provincial Government may, by notification in the official Gazette, make rules providing for—

(i)

(ii) the procedure to be adopted in the event of any member of a Special Tribunal being prevented from attending throughout the trial of any accused person".

I would like more light to be thrown upon what is intended by these words—

"the procedure to be adopted in the event of any member of a Special Tribunal being prevented from attending throughout the trial of any accused person".

How can any member of the Special Tribunal say whether an accused is guilty or not if he is absent and if he has not a full record of the evidence before him and if he has not had the opportunity of watching the demeanour of the witnesses before him. We attach importance in law to the opinion of the trial court because the trial court has the opportunity of watching the demeanour of witnesses. Here the member of the Special Tribunal will have to give his verdict even without having before him the evidence in full of the witnesses who were examined in his absence. That is something which is not humanly possible for any member of the Special Tribunal to do. He is not going to have before him a record of evidence in full except in cases which involve a sentence of death or imprisonment for life; and as the Honourable Syed Muhammad Husain pointed out, we cannot convict a man for perjury on the substance of the evidence given by him. You have got to have the precise words used by him. How can you reasonably expect a member of a Special Tribunal who happens to be absent for three or four days to give any verdict on the seventh or eighth day of his attendance on evidence which has not been recorded in full and which was recorded in his absence. Perhaps the Honourable Mr. Williams will be able to enlighten us as to what this clause really means?

THE HONOURABLE HAJI SYED MUHAMMAD HUSAIN : Sir, I agree with what the Honourable Mover of the amendment has said. There is only one thing to which I want to draw the attention of the Government in connection with the framing of rules. I only want to mention that in drafting rules the Provincial Government or the Central Government should take non-officials into confidence for the sake of mutual trust and confidence.

THE HONOURABLE MR. A. DEC. WILLIAMS : Sir, I do not think that this Chapter contemplates the carrying on of a trial before a Special Tribunal with one of its members absent. I myself interpret sub-clause (1) of clause 8 as requiring that the Court shall consist of three members who shall be there throughout, subject to the special provision in sub-clause (4) of clause 10, which says :

"A Special Tribunal shall not, merely by reason of a change in its members, be bound to recall and rehear any witness who has given evidence", and the provision which paragraph (ii) of sub-clause (7) makes is really ancillary to sub-clause (4). I do not think it is contemplated that, when you have a Tribunal of three, two shall constitute a quorum. But it might be necessary to

arrange, owing to the death, serious illness or transfer of a member, to replace him by somebody else. The substantive provision governing this sort of case is sub-clause (4) of this clause; not the provision sought to be amended by the amendment.

THE HONOURABLE THE PRESIDENT : Amendment moved :

"That part (ii) of sub-clause (7) of clause 10 of the Bill be omitted."

Question put and amendment negatived.

THE HONOURABLE THE PRESIDENT : The Question is :

"That clause 10 stand part of the Bill".

The Motion was adopted.

Clause 10 was added to the Bill.

Clauses 11 and 12 were added to the Bill.

THE HONOURABLE MR. P. N. SAPRU : Sir, I move :

"That after part (b) of sub-clause (2) of clause 13 of the Bill the following be inserted, namely :

'(c) to a term of imprisonment or fine by a majority of the Special Tribunal'."

I confess, Sir, I look upon this amendment as a rather important one from our point of view. As the position stands it is like this. There is a right of appeal provided in cases of sentence of death. There is a right of appeal provided in cases of sentence of transportation. There is an appeal provided in cases of 10 years' imprisonment and over. Now, Sir, what about cases in which the sentence passed is less than 10 years? Frankly, Sir, I should have given a right of appeal in all cases but I am not asking Government to go as far as that. What I say is that it is possible that there may be a difference of opinion in the Tribunal itself. Two may be of the opinion that a particular accused is guilty. One may be of opinion that a particular accused is not guilty. And where there is such a difference of opinion it stands to reason that there is some reasonable doubt as to the guilt or innocence of the accused. If of three qualified persons, one thinks that a man is not guilty, well you cannot say that the guilt of the accused is beyond all doubt.

THE HONOURABLE SIR DAVID DEVADOSS : Reasonable doubt.

THE HONOURABLE MR. P. N. SAPRU : I suppose Sir David Devadoss has such implicit confidence in the executive that he would condemn everybody without trial. If they were given full authority to convict us all, he would have the completest confidence in them. Well, I have the greatest regard for the Honourable the Leader of the House and my distinguished friend the Honourable Sir Ramaswami Mudaliar, but I am not prepared to place my liberty at his disposal! I think that he is human and therefore he is liable to err. Well, Sir, it sometimes happens—I do not know whether Sir David Devadoss has had that experience—but it sometimes happens that even High Court judges have in cases gone wrong and had to be corrected by the

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Privy Council. I remember, Sir, a case in which the Privy Council came down rather severely upon a distinguished Judge of the Madras High Court—I think it was Sir Sankaran Nair—and they said that the Madras High Court had in that particular case disregarded the principles of natural justice. We cannot entirely eliminate the possibility of human error and where we are dealing with human life we ought to see that, as far as possible, we eliminate the possibility of human error. The whole law of evidence, the whole law of procedure, our whole system of criminal jurisprudence, is based upon this principle. Now, Sir, what is the procedure that you adopt in cases of difference of opinion in criminal cases in the High Court itself? It is laid down in section 429 of the Criminal Procedure Code. I would just invite the attention of the House of it :

“ When the judges composing a Court of Appeal are equally divided in opinion, the case, with their opinions, shall be laid before another judge of the same Court, and such judge, after such hearing (if any) as he thinks fit, shall deliver his opinion, and the judgment or order shall follow such opinion ”.

That is to say, where there is a difference between two judges, the opinion of the judge who agrees with the trial court does not prevail. The matter has got to be laid before a third judge. (*An Honourable Member* : “ But there is a third judge here ”.) Well, Sir, here a man may be sentenced to 9 years, 11 months and 29 days, even though one of the members of the Tribunal thinks that that man is not guilty and the High Court will have no appellate jurisdiction in this case. The High Court will have no revisionary jurisdiction in this case either. I do not think, Sir, it will be open to the High Court under this Act to inquire whether there has been any material irregularity vitiating the trial. I do not think, Sir, it would be open to the High Court to say whether the Tribunal has or has not exceeded the jurisdiction vested in it. Therefore, Sir, the position from the point of view of the accused is very unsatisfactory. And if we can get even one member of the Tribunal to say that his guilt is not beyond reasonable doubt, well he ought to be given a chance. That member may come to the conclusion that the man is absolutely innocent. It may be a very decisive opinion in that case. Very often it happens, Sir, that dissentient judgments prevail. Sometimes the High Court convicts a man and the Home Secretary reverses the judgment in the exercise of his prerogative of mercy. Why? Because it appears that the High Court has gone wrong. (*Honourable Members* : “ No no ”.) Certainly, the prerogative of mercy is exercised on certain judicial grounds. It is never said that there has been a miscarriage of justice. But, as I know the constitutional position in England, the Home Secretary when he wants to interfere with a judgment of the High Court consults the Judge of the High Court concerned. He always fortifies himself with legal opinion.

THE HONOURABLE SIR A. P. PATRO : Party considerations.

THE HONOURABLE MR. P. N. SAPRŪ : I don't know anything about the Justice Party of which Sir A. P. Patro was a very distinguished member, but I know this that party considerations do not prevail with the Home Secretary so far as the administration of justice in England is concerned. And I would like, Sir, in these matters the English convention to be followed. Sir,

I would therefore suggest in all seriousness, in all earnestness, that the amendment that I am proposing is not an unreasonable amendment. It does not provide for an appeal in all cases. I am only providing for finality so far as Tribunal verdicts are concerned in a number of cases. It is only where there is a dissentient judgment that I want a right of appeal to the High Court to be given. That, I submit, Sir, is not an unreasonable request, having regard to our experience as men and as lawyers.

Sir, I move.

THE HONOURABLE HAJI SYED MUHAMMAD HUSAIN (United Provinces West : Muhammadan) : Sir, this is a very important amendment and should be given effect to. My reason is, shortly, that in criminal cases we have to judge an accused keeping in view the principle that his guilt should be proved without reasonable doubt. I am quite certain that if one judge differs from the other two judges of a High Court, my Honourable friend himself will not say that that does not throw a reasonable doubt on the guilt of the accused. It does happen in the High Court that if a Bench hears an appeal in which two judges differ, it is referred to a third judge and the opinion of the third judge prevails. I have also seen cases in which the third judge merely says, “ By virtue of the difference between the two judges I think there is a reasonable doubt and I acquit the person ”. So, my submission is, that when two of the members of the Tribunal hold one view and the third holds another view, it is practically judgment by one judge and therefore, in such cases at least, the accused should have an opportunity of preferring an appeal.

THE HONOURABLE MR. A. DEC. WILLIAMS : Sir, one of the chief difficulties in adopting this amendment is that there is judicial authority for the proposition that, where there is legal provision that in the event of a difference of opinion amongst the members of a Special Tribunal the opinion of the majority should prevail, it is improper to record a dissentient judgment. In my own personal experience, the procedure has been adopted, in pursuance of this decision of a High Court, of not recording upon the order sheet the fact that there was a difference of opinion. In the face of a judicial decision of that kind from the High Court, the amendment of the Honourable Member might be completely stultified. But apart from that, Sir, I must now state categorically that I have gone as far as I can in the direction of giving undertakings, on behalf of Government in order to meet the views of Honourable Members opposite. There is no intention of making the procedure of Special Tribunals conform to the general principles of the ordinary law. Otherwise, why have them? Even the ordinary law draws the line somewhere as regards the right of appeal. Here we have drawn it somewhat higher than under the ordinary law in view of the fact that these Special Tribunals are constituted of three members. I am afraid that I must oppose the amendment.

THE HONOURABLE SIR DAVID DEVADOSS : Sir, my Honourable friend Mr. Saprū thinks that this is going to be on the Statute-book for all time. This is only a temporary measure, designed for the purpose of meeting an emergency which faces us, and therefore I do not think that his criticism of the constitution of the Tribunal is just. Moreover, when three persons are appointed, if two of them take one view and the third another view, why should

[Sir David Devadoss.]

it be said that the view of the minority is the correct one? It is said that because one member differs from the two others, there should be a right of appeal, as if that view is the correct one. I may mention that in the Madras High Court, in very important cases, both civil and criminal, instead of two judges trying them, three judges are made to try them in order to avoid the necessity of referring to a third judge in case of difference of opinion. That sets at rest once for all the matter in dispute. Here, following that principle we have got three members in the Tribunal. If two of them hold a view against the accused, then that must be taken for all purposes as the correct view. There may be cases where they go wrong. But what I objected to at the time when Mr. Sapru was speaking was to the use of the word "doubt". There can be a doubt in any case. You can doubt anything. You can doubt the rising of the sun tomorrow. But is it a reasonable doubt? The law says that if there is reasonable doubt, the benefit of the reasonable doubt should go to the accused, not any doubt. You may doubt anything. That is the reason why in this Bill it is said that the majority opinion should prevail. Of course, there is appeal provided in serious cases. As the Honourable Mr. Williams said, you must draw the line somewhere. Supposing this Bill had said four or five years' imprisonment. You will then ask, "Why can't you make it three years?" These cases are not likely to happen every day. This Bill when passed into an Act will be in force only during the time of the war and for six months thereafter. I therefore do not see any substance in the objection.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: My Honourable friend Sir David Devadoss must have been a source of great strength to his brother judges when he sat on the Bench of the Madras High Court.

THE HONOURABLE THE PRESIDENT: Ironical remarks and suggestions ought to be avoided. That is the Standing Order. The Standing Order says, "that no Member should speak ironically or in disparagement of any other Member".

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: I only appreciate the Honourable Member's capacity for persistently misunderstanding other Honourable Members. He attributed certain things to Mr. Sapru. He said he saw no reason why, when there were three judges, the view of the minority should prevail. He conveyed the suggestion that Mr. Sapru asked that in all cases the view of the dissentient judge should be held to be the correct one. This is not what Mr. Sapru said. All that he said was that considering the large powers that the Special Tribunals are going to be vested with, it was necessary to take special care to see that there was no miscarriage of justice. It was necessary, since the ordinary procedure had been departed from in a large number of cases that there should be a departure in another matter also. So far as the ordinary law functions, it may be correct to say that the judgment of the majority should prevail. But, in the exceptional circumstances created by this Bill, it is necessary to provide, in order that innocent men may not suffer, that where there is a reasonable doubt about the guilt of the accused, he should have an opportunity of appealing to a higher

authority. How my Honourable friend Mr. Sapru, in putting forward this view, pleaded for the acceptance of the view of the dissenting judge, I cannot understand.

Another argument put forward by Sir David Devadoss was that it was not necessary to scrutinize the measure very carefully, for although drastic, it was only temporary, and was not going to remain in force for ever. Is that any argument really in favour of either any law or executive order? The orders passed under section 144 are never of a permanent character. They are always temporary. Two meetings or processions are prohibited for a week or two or a month or two months. Yet, such orders may be regarded as an unnecessary hardship by the public at large and the complaint against them may be perfectly justified. Now, this Bill certainly affects the liberties of the people to a far greater extent than any order under section 144 of the Criminal Procedure Code can. We have every right, therefore, to scrutinize; in fact on us is cast the duty of scrutinizing carefully every provision of the Bill so as to see that the citizens of the country are not made to part with more than is necessary of the liberties that they are entitled to.

THE HONOURABLE THE PRESIDENT: Amendment moved:

"That after part (b) of sub-clause (2) of clause 13 of the Bill the following be inserted, namely:

'(c) to a term of imprisonment or fine by a majority of the Special Tribunal.'"

Question put and amendment negatived.

THE HONOURABLE THE PRESIDENT: The Question is:

"That clause 13 stand part of the Bill."

The Motion was adopted.

Clause 13 was added to the Bill.

Clauses 14 to 21 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. DE C. WILLIAMS: Sir, I move:

"That the Bill, as passed by the Legislative Assembly, be passed."

All that I have to say at this stage is that I am most grateful to Honourable Members on all sides of the House for the part they have taken in these discussions, which I trust—though no actual amendment has been made to the Bill in its passage through the Council—have not been wholly unprofitable.

THE HONOURABLE MR. P. N. SAPRU: Sir, the Bill came to us in this House after the Legislative Assembly had been adjourned. The procedure—if I may be allowed to dilate on it for a second—was not fair, for it deprived us of the opportunity of having our amendments considered on their merits. Sir, I cannot help feeling that the Council should have been more intimately and actively associated with the formulation of this measure and I regret that this has not been done. To a certain extent I am grateful to Mr. Williams for the assurance that he has given, but I am sure that if we had been associated more effectively with the formulation of this measure we should have been

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able to contribute something to it. I honestly feel that some of the amendments that I had the honour to move had reason behind them. I think the Honourable Mr. Williams, who is a very reasonable man, will perhaps agree in private that they had some reason behind them.

THE HONOURABLE MR. A. DE C. WILLIAMS: I will agree in public.

THE HONOURABLE MR. P. N. SAPRŪ: In public his mouth is shut, but I credit him with much greater humanity and sense than his supporters. I am sure that if Mr. Williams was a free man we could have persuaded him to accept some of our amendments. But he was not a free man. The Legislative Assembly had been adjourned; the Bill had been passed, and therefore it is unfortunate that there could be no real discussion of the amendments on their merits.

Sir, the Bill is admittedly one of extreme severity and only extreme necessity can justify the severity of its provisions. I should like once again to say that it is most essential that the powers with which the Legislature is vesting the executive should be used with great care, caution, wisdom, humanity and judgment. They should not be used to stifle legitimate, peaceful, constitutional, political agitation or *bona fide* trade union activity. I should like the trade unions to co-operate with the Government, but I should like also the employers and Government to co-operate with trade unions in what I believe is going to be a period of rising prices. Further, as the Act will be administered by Provincial Governments, I hope that care will be taken by Provincial Governments to see that its provisions are not used to strengthen their respective party organizations or to deal effectively with those who happen to be in constitutional opposition to them.

I should like also to express the hope that if and when the necessity arises for the appointment of Special Tribunals Mr. Williams' good advice will be remembered by the Provincial Governments and that great care will be taken in selecting those who are appointed to sit on these Special Tribunals. As I have said, I consider judicial experience essential for membership of these Tribunals. We have heard a great deal about district magistrates; I am not going to subject them to criticism again. So far as we are concerned we have always been opposed to the combination of functions and therefore our trust in district magistrates has never been pathetic. I hope that district magistrates will not be put on these Tribunals, and I make no distinction between district magistrates and chief presidency magistrates. The latter have no larger powers than district magistrates. As far as I know that is the position so far as the Criminal Procedure Code is concerned. Sir, separation of functions, as I have said, has not been effected in all the provinces. Some do not in fact want to effect the separation of functions. They are as much in love with this combination of functions as the old bureaucracy was. It is most undesirable that men who are executive officers should have seats on these Tribunals. I am quite sure that our good friend the Honourable Mr. Williams will convey our sentiments in regard to these matters to the Provincial Governments. The cases dealt with by the Tribunals will be of a serious nature, involving heavy punishment. There will be finality

attaching to the judgments of the Tribunal, and their judgments, as far as I have been able to understand the legal position, are even revisable by the High Courts on the ground of material irregularity or excess of jurisdiction. Therefore, I want once again to say that the constitution of these Special Tribunals is a matter of importance, and I am glad that Mr. Williams realized that it was a matter of importance and that he made the statement that he did on the floor of the House today.

Sir, I will come to another part of the Bill. Under section 2 the executive Government will have power to intern people. This is a vast power

to which we should, in ordinary times, have taken severe objection; we should in normal and ordinary times have been justified in offering strenuous opposition to this proposal, because it places an individual's liberty at the mercy of the executive, an executive which I regret to say has not in all cases exercised this power in the past with judgment and care. Sir, I would plead for an assurance that care will be taken in taking action under this sub-clause, that such judicial assistance as may be available will be taken by Government, before orders of internment are passed, that orders will be revisable at successive periods, at periods of six months or three months, and that in no case will such orders of internment be passed against politicians who may hold views which may appear to Government to be advanced, but who are not in association with the enemy. Ordinary pacifist propaganda, whatever you may think of it, should not come within the mischief of this clause. Sir, if Mr. Ramsay Macdonald and Mr. Philip Snowden could carry on a pacifist propaganda, during the last war, if Lord Lansdowne who was once the Viceroy in this country and was Foreign Secretary for a number of years under a Conservative Government, could advocate peace without victory, I see no reason why Indian politicians who hold similar views should be treated differently? If it is permissible for Sir Arthur Salter to write Security and discuss the war aims of Britain or if it is permissible for Mr. Ramsay Muir to tell his Liberal summer school colleagues that there should be a new orientation in regard to colonial policy, I see no reason why politicians who talk of war aims or who talk the language of advanced political thought should be treated differently in this country? I should like to have a satisfactory assurance on this point.

I will repeat again that I am most unhappy, despite all the arguments that I have heard from that most eminent Judge, Sir David Devadoss, who adorned the Bench of the Madras High Court for a number of years, I am most unhappy about the clause which denies appeal in cases where there is a difference of opinion among judges. I do not think that the majority is always right. I do not think that Sir David Devadoss would say with his experience in the Madras High Court that the majority is always right. He knows what the tyranny of the majority can be. I do not share his views in regard to the Madras Government entirely, but he knows that political majorities can go wrong, judicial majorities also can go wrong. As a Judge he must have come across cases where he was in a minority of one and he was upheld by the Privy Council and his majority colleagues were not upheld by the Privy Council. As my amendment has not been accepted by the Government, there is another course open to the Honourable Mr. Williams. I hope in cases where

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there is a conflict of opinion between the majority and the minority of the Tribunal care will be taken by the executive Government to see that justice is done; in the exercise of its right of prerogative it can review cases and I hope that where there is a difference of opinion in the Tribunal, the executive Government will go through the records carefully, seek the assistance of qualified and permanent High Court judges for this purpose and not deny justice to the accused, just because a majority of the Tribunal has come to a different conclusion. I hope Mr. Williams will be able to reassure us on this point.

Sir, it is inevitable, constituted as this House is and having regard to the peculiar constitutional position in India that we should view this legislation with hesitation, doubts and misgivings, but whatever be our hesitation in lending active support to this measure—and I confess that there is hesitation on our part in lending active support to this measure—let there be no mistake about our attitude towards the conflagration that is now in progress in large parts of Europe. We, Sir, value human freedom and we realize that if Nazism wins, all is lost. Our ideology—I am rather fond of that word ideology—our ideology determines our attitude and sympathies and we look upon this war as a war of human liberation. We do not look upon it as a war for the freedom of this country or that country, the rectification of this frontier or that frontier. We look upon this war as essentially one for the freedom of the human spirit. We desire that India should pull her full weight in this fight for human freedom, but as realists we apprehend that we will never be able to pull our full weight unless there is a visible change in the attitude of those who control the destinies of this country, who have the destinies of this country in their hand. It is, therefore, most essential to bring about an improvement in the relations between Europeans and Indians, between Hindus and Mussalmans, between the Congress and other political organizations if we are to prosecute this war successfully. I hold it to be essential for this purpose that the machinery of the Central Government should be so modified as to give to the representatives of the people a chance of controlling their destinies. Advisory Boards, Indianization of the Secretariat ranks, having Indians on committees, will not suffice to arouse that enthusiasm which we want to see in this country for this fight for human freedom. A provisional Government working a provisional constitution based on a wider basis than the present constitution is essential in my opinion if we are to achieve this big result. Sir, I would have all the communities, I would have Europeans and Indians, I would have Government and people, I would have Hindus and Mussalmans, look at this question from this broad point of view. Pirpur reports may be useful for purposes of party propaganda; while they may be useful for purposes of winning seats, they are not going to carry us far at this juncture. Can we show to the world—and that, I think, Sir, is the fundamental question before us—can we show to the world that we are capable of rising equal to the occasion? I do not despair, Sir. I have faith in the common sense of my people. I have faith in the sense of fairness of the British people. And I have faith in the destiny of my people. And I think, Sir, that united we can achieve miracles. I think, Sir, that our pursuit of democracy is not a mirage. I

think, Sir, that democracy, whatever we might think, is not a dead creed. Democracy, Sir, with us is a real living thing and for democracy we are prepared to make big sacrifices. It may be that India's interpretation of democracy will perhaps in some respects be different from the western interpretation of democracy but to democracy we pay our homage and democracy remains our ideal and our goal.

Sir, whatever you may think of the Provincial Governments, each and all of them—and I make no distinction between one Provincial Government and another—they all deserve our support and I hope it may never become necessary for the Government of India to step in under the provisions of the new Government of India Act. Sir, it is true that we have been critical of the Bill. It is true that we have not been able to lend our support to the Bill but our speeches must have shown that there is no difference so far as the main objective—namely, the freeing of the human spirit from the thralldom of Nazism is concerned—is concerned, and there, Sir, we all stand together. Sir, these are all the observations I have to make.

The Council then adjourned for Lunch till a Quarter to Three of the Clock.

The Council reassembled after Lunch at a Quarter to Three of the Clock, the Honourable the President in the Chair.

THE HONOURABLE THE PRESIDENT: I wish to point out to Honourable Members that both the Honourable Mr. Williams and the Honourable Mr. Tyson have to attend a very important and urgent meeting at a Quarter to Four of the Clock in connection with the war and that they would like to be relieved of their duties here, if possible, before that time. I do not desire to stifle the debate, but in the circumstances, as many Honourable Members have spoken at considerable length during the Consideration stage of the Bill, I would request them to be as brief as possible and touch only on very important matters, if any.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: Mr. President, although we have criticized several features of the Bill, we have approached its consideration with a full recognition of the gravity of the existing situation. Every one here has admitted that we find ourselves in special circumstances and that such special circumstances may require legislation of a special character. It is not unreasonable that in a situation like this, Government should ask to be invested with powers beyond those which are conferred on them by the ordinary law. We have, nevertheless, to ask ourselves whether the Bill takes away from the citizens only the minimum of their liberties or goes beyond the necessities of the case. The features of the Bill that require consideration in this respect are the offences that it creates, the new or enhanced penalties that it provides, the constitution of the Special Tribunals and the provisions regarding appeals against their judgments. Attention this morning has been concentrated on the two latter aspects of the Bill. I am glad that my Honourable friend Mr. Williams has given an assurance with regard to the composition of the Tribunal which is of an important character. In other respects, however, of the Bill remains as it was. In regard to the provisions which make the judgment of the Special Tribunal final, there has been no change in the Bill. Severe sentences may be inflicted, valuable property may be forfeited, and yet the

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accused will have no right to appeal to a higher authority. In this respect, the Bill remains as unsatisfactory as before, and this to me is its most disquieting feature. Everything will depend on the spirit in which the Government of India administer the law.

This brings me naturally to the speech delivered by my Honourable friend Sir Ramaswami Mudaliar the other day. His unexpected intervention in the debate was to me the most important event connected with the discussion of this Bill. The remarks that he made were, frankly speaking, of such a character that I forgot the Defence of India Bill and thought only of him and his views. He saw nothing wrong in the policy of or the spirit animating the Government of India. He assured us that during the four months that he had been a Member of the Viceroy's Executive Council, he had found nothing to object to in the policies of the Government of India. Dealing at length with some of the criticisms that I had urged, he referred to the constitution of the War Supply Board and said that although there were no Indians on it, it must be remembered that the Member-in-charge was an Indian, that it functioned under the Defence Council of four members, of whom two were Indians and that it worked in close touch with departments containing Indians. What my Honourable friend said is perfectly true. But if that defence was valid, we should be debarred from asking for the Indianization of any Service or for the inclusion of Indians in any important body—

THE HONOURABLE THE PRESIDENT: He did not go to that length. That is your inference.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: I believe I have quoted him aright.

THE HONOURABLE THE PRESIDENT: He did not go to the length of saying that you would be debarred from asking for further Indianization.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: If his view were accepted, if it were taken to its logical conclusion, this would be the inevitable result. We have three Indian Members. There are many Services connected with their departments. Should it be enough for us that these Services function under the supervision of those Indian Members, or are we entitled to ask that, no matter to which Department they belong, they should be Indianized? The Government of India is carried on in India. It must naturally come into contact with Indians, and all its work must in the last resort be carried on through Indians. To say therefore that the Supply Board is functioning under an Indian Member and that all its activities are carried on through Indian organizations is to offer no defence whatsoever of the policy pursued by the Government of India, whether in respect of the War Supply Board or the Defence Co-ordination Department.

Proceeding further, Sir, my Honourable friend dealt with the character of the Government of India and said it was an advantage to us that at this moment the Government of India was of an irresponsible character. And

irresponsible Government at the Centre—and I am now quoting his own words—

“in these times of anxiety, strife and struggle has..... particularly in India, to adjust itself to public opinion”.

After four months experience of the working of the Government, he could say that—

“it was this very irresponsibility that made it more attentive to public opinion”.

Sir, I was startled when these words fell from the lips of my Honourable friend. We are living in very difficult times. No one is more alive to the extraordinary character of the situation than His Excellency the Viceroy. We all understand that he is earnestly trying to find out some means of removing the tension that exists and creating an atmosphere in which the full co-operation of the country may be secured for the purpose of prosecuting the war to a successful issue. If His Excellency were to turn to Sir Ramaswami Mudaliar for advice, will he say to him, “Sir, it is a great advantage to India that the Centre is irresponsible in these times of anxiety, strife and struggle. Tell the people that it should be maintained so long as the war lasts”.

THE HONOURABLE SIR RAMASWAMI MUDALIAR: May I intervene just for a moment. Surely my Honourable friend is not doing justice to himself, apart from his doing justice to me, in his remarks. It was my Honourable friend who did not feel quite happy with responsible Governments in the provinces, and I think, my whole speech was a protest against that attitude of my Honourable friend. Incidentally I said in the present circumstances of strife, when you are accusing the Government of India of being irresponsible I could only say from my experience and knowledge that its very irresponsibility is casting an additional burden on that Government and on its members to see to it that they as far as possible tried to adjust themselves to public opinion. That was all that I said, and I was not entering a plea—my Honourable friend knows me well enough to be assured about it—for an irresponsible Government either in the Centre or anywhere else at the present time or at any other time.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: I will certainly accept the Honourable Member's explanation. It gives me special pleasure to do so because I could not understand any Indian, whatever his position, putting in a plea for the continuance of the present form of Government at the Centre. So far as the words however that he used are concerned, I would ask him to believe that I was doing him no injustice intentionally or unintentionally. If he has any suspicions on that score I would ask him to turn to the report of his speech which must have been sent to him. I am glad, however, to know that the Honourable Member did not exactly mean what his words unfortunately tended to convey. I have known my Honourable friend for many years and it is precisely because I have heard him, before he assumed his present exalted office, express entirely different views that I was startled by what I believed to be the character of his observations. Frankly speaking, it seemed to me the other day that he was only a larger aspect of that illusion of which my Honourable friend Mr. Williams is a lesser manifestation.

As regards responsible Provincial Governments undoubtedly dissatisfaction was expressed in this House with regard to the character of some of their

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measures. I do not know whether we can ever have a Government which will not give some cause for complaint. Take England itself, where Party Government prevails. Has the Government of the day ever been able to obtain the full support of members of the other Parties? My Honourable friend knows very well that during the last 25 years Parliament has passed far-reaching financial and social measures which during their passage through Parliament have aroused acute controversies. The voice of criticism is undoubtedly hushed at present, but that is due to the fact that Mr. Chamberlain is now taking into confidence the members of the Opposition. What is happening in India need not therefore alarm those who desire the early establishment of democratic Government in this country. We would certainly like to see greater concord among all sections of the population, but the mere fact that controversies exist need not disturb us unduly. That is my reply to the observations made by my Honourable friend Sir Ramaswami Mudaliar. The criticism of the Provincial Governments to which expression was given the other day ought not to be taken in a tragic spirit. I have no doubt whatsoever that when the enthusiasm of those in power has subsided and the need for the co-operation of persons holding views different from theirs is a little more fully recognized, the situation will alter and we shall find that harmony which we would all like to characterize the working of democratic government in this land.

Sir, it is a pleasure to me to pass on from these observations to what my Honourable friend Sir Ramaswami Mudaliar said with regard to his desire to protect the interests of labour. I have no doubt that he was absolutely sincere in what he said on this subject. I hope, however, that he will permit me to say that it is not enough that he should earnestly try to see that the rights of the workers are not unnecessarily taken away from them even in this emergency. It is necessary that some machinery should be devised which will concern itself with the special problems that may arise in connection with the Bill itself. If he can set up such a machinery to ensure contact with the representatives of labour in the various Legislatures or outside them, I am sure that

the apprehensions that exist in the minds of persons who are deeply concerned with the welfare of labour will be largely allayed. I have no doubt that my Honourable friend recognizes that this matter is one of the utmost importance and urgency and I trust that he will give it soon the attention that its importance demands.

3-5 P.M.

*THE HONOURABLE CHAUDHRI ATAULLAH KHAN TARAR (East and West Punjab : Muhammadan) : Mr. President, I rise to support the Bill presented by Government. In doing so, I have to point out that perhaps the only point for the House to consider is whether such Bills are presented in normal or abnormal times. I am inclined to think that there would hardly be two opinions about it. The only answer to the query would perhaps be that such Bills are and should be necessitated by abnormal times. Once having accepted this position, the matter becomes rather easier to decide, as the present time comes within the term "abnormal".

*The Honourable Member spoke in Urdu and submitted the translation here produced.

India, like all other countries in the world, admits that His Majesty's Government have been forced to participate in the present war. I can hardly be expected to dwell on the circumstances that have resulted in the commencement of the strife or to recapitulate the efforts of the representatives of this great Empire to maintain peace. But I must say that Great Britain has had to come in for the sake of maintaining peace. War has always two aspects—it is fought for aggression and for defence. The former aspect thereof is decidedly condemnable but the latter should, I maintain, be considered a bliss. The old adage, "If you want to live in peace, be prepared for war" is self-explanatory, and I can safely say that the House will support me if I say that the present war is being fought, in so far as we are concerned, to live in peace. Aggression on the part of the enemy and their attempts to trample the liberty of smaller nations has necessitated our going into the fight. Unless this was done, the liberty of all nations and the peace of the whole world would have been threatened. This being so, the times are abnormal and we are forced to take the protection of Bills similar to or even stronger than the present one. Unless this is done, we shall be failing in our duty to our King and Country as we shall be leaving agitators to do mischief and then to undergo the ordinary provisions of the law which doubtless take a very long course and do not fit in with the requirements of the present times.

You will admit, Sir, that India has promised unconditional support to those responsible for the prosecution of the war. You will also admit that this has been done without any difference of opinion, any considerations of caste or creed and without the least hesitation emanating from political party strife. Having offered such an unique support, I fail to understand how on earth we can refuse to lend our support to a Bill like the present one which is intended only to help in the prosecution of the war and the maintenance of peace in our own country.

I am convinced, Sir, that we should not take into consideration the fact that the present Bill is intended to give very wide powers to Provincial Governments. These Governments are responsible bodies and we can all rely on their sense of justice. We are sure that they would administer the Bill, when it takes the shape of a law, in the best interests of the State and the population. I need hardly remind my Honourable colleagues, Sir, that in the provinces the Government is always composed of a majority, i.e., the minority in the local Legislature is always in power. This being the case, it is obvious that the majority, having full support in the province and complete control in their hands, will be responsible for appointing the judges. They will certainly see that the ends of justice are adequately met and that the population of the country is not harassed without justifiable reasons.

I submit, Sir, that India's traditions of loyalty and her relations with the Empire demand that the Bill should receive our whole-hearted support and I accordingly stand to offer the same with all the force at my command. I must add, however, that it is my earnest appeal to all Government officials—Europeans and Indians, whoever they be—that they will do their best to administer the Bill in due course with all possible caution and honesty, so that the public at large may not suffer through the provisions of a law which it is proposed to enforce for their good. Should the officials responsible for its

[Chaudhri Ataullah Khan Tarar.]

administration fail to act in accordance with this my appeal, I will be most reluctantly compelled to say that they share the lot of the aggressors who are responsible for the present war.

With these words, Sir, I close.

THE HONOURABLE MR. V. V. KALIKAR (Central Provinces : General) : Sir, this Bill admittedly consists of many drastic provisions and whenever an emergency legislation comes before this House the representatives of the people have to scrutinize the provisions very carefully and see whether it goes beyond the necessity. Unfortunately, Sir, on account of circumstances beyond our power, we had not sufficient time in this session to discuss the Bill.

I now come to the remarks of my Honourable friend Sir Ramaswami Mudaliar regarding the provisions of the Bill in which powers have been delegated to Provincial Governments. Sir, certain remarks on this side of the House, I think, made him think that party government is not favourable to this side of the House. I submit, Sir, that we have full faith in democratic government. We want party government and responsible government not only in the provinces but we also want responsible government in the Centre. But what I submit is this, and what I said the other day was that, though these party governments are liable to make mistakes, there ought to be some check on those Governments and unfortunately this Bill takes away that check. Under the normal constitution, our High Courts have got the power of interpreting the Acts passed by the Provincial Legislatures as well as deciding whether the Acts passed by them are *ultra vires* or not. Also, Sir, under the normal procedure, if by any executive power the rights of any citizen are curtailed, that citizen has got the right of appealing to the High Court and getting his grievances redressed. I personally, Sir, do not like the provisions of this Bill about the establishment of a Special Tribunal. I also do not like that the Bill should have taken away the power of the High Court. I therefore submitted the other day that the check that exists under the normal constitution should not have been taken away. It is not that we do not desire party government but we desire that, if party governments misuse their power, there ought to be something to check them and the check that is provided by the High Court should not have been taken away. I do not think also, Sir, that my Honourable friend Sir A. P. Patro, who told us a long story that day, does not desire a party government in any province. But what I could infer from his speech was that he did not like the executive action of the party government that existed in his province. So, I should like my Honourable friend Sir Ramaswami Mudaliar to understand our position clearly.

Then, Sir, I know that the Bill is going to be passed in a very short time. We have had very bitter experience in the past of emergency legislation. Some officers of the Government in their over-enthusiasm misused the power delegated to them not only under the Defence of India Act, 1915, but under the other emergency legislations that were passed in 1931, 1932, and so on. I hope, Sir, that the assurance that has been given by my Honourable friend Mr. Williams this morning will be followed by the officials and also by the Provincial Governments in not abusing the power that has been entrusted to them.

under this Bill and I hope there will not be any complaint on behalf of the public that the powers that have been entrusted to the executive are misused.

An appeal was made on the 12th of this month, when we discussed the Resolution of the Honourable the Leader of the House about showing sympathy to Poland, that there ought to be co-operation between the official and non-official sides in these times of emergency. I am afraid I do not find any signs of co-operation between the official and non-official sides in this House. Some very important amendments were moved by my Honourable friend Mr. Sapru. But, Sir, my Honourable friend Mr. Williams did not find it convenient to accept those amendments. That shows, Sir, that there is a feeling on the other side of the House not to take this side of the House into its confidence. I certainly, Sir, regret that attitude and I hope that at least in these abnormal times attempts will be made on behalf of the Government in power to take the non-official side into its confidence.

THE HONOURABLE SAYED MOHAMED PADSHAH SAHIB BAHADUR (Madras : Mithamadan) : Sir, the House heaves a sigh of relief at the conclusion of the task on which it has been engaged these three days. I say advisedly, Sir, a sigh of relief because the task on which the House has been engaged was not only arduous and difficult but it was also necessitated by circumstances which were of a very unpleasant nature—unpleasant because the enactment of this measure has been necessitated by the outbreak of the war in Europe which has caught up in its cruel grip a large part of that Continent and which (God forbid) is likely, if it is not stopped soon, to develop into a world war which will prove of more disastrous and serious consequences than the war of 1914. It is, Sir, to prevent this general conflagration, if possible, and also to save democracy and all it stands for and to save the cherished rights and liberties of humanity that the Legislative Assembly and this House have by the adoption of this measure submitted to a temporary curtailment of those rights and liberties. Therefore, Sir, it is but just and fair that the non-official Members who have co-operated with the Government in enacting this measure should expect that the Government will see to it that in the administration of the Act there is nothing done to cause misgiving to the non-officials who co-operated with the Government that in the ready and willing co-operation, they have given they have not acted advisedly. Therefore, Sir, it is necessary that those officers who will be empowered with these large powers and will be asked to carry into effect the provisions of this Act should be given clear instructions to see to it that they do not do anything which in the least will go to justify the many doubts and suspicions that have been expressed on the floor of this House and of the other House and that those officers will act with due care, caution and circumspection and that they will not be led away by their anxiety to make this Act effective and deterrent, losing sight of the bigger considerations of humanity, sympathy and justice. I am glad, Sir, that assurances have been given to this effect, both in this House and in the other, and I am also glad of the way in which the Honourable Mr. Williams, who has piloted this measure in this House, has conducted himself, in spite of the fact that there was no possibility of any amendments being carried, he was prepared to go as far as he could. He was prepared to give us assurances that in cases where it is possible to meet the wishes of the House

[Saiyed Mohamed Padshah Sahib Bahadur.]

by administrative action and by instructions to Provincial Governments and other officers, Government would be prepared to do so. We hope, Sir, that the spirit of accommodation and reasonableness which characterized the Honourable Mr. Williams' conduct in this House will also characterize the conduct of the officers who will be entrusted with these powers.

Just one word more and I have finished. I should like, in conclusion, to endorse and echo the view which was expressed by my Honourable friend Mr. Sapru a short while ago. He is perfectly right in saying that India will be able to pull its full weight and play its part properly only if it feels that it is also one of those free countries just like the other self-governing countries of the British Empire. And for this to be achieved by the country, as my Honourable friend Mr. Sapru said, it is necessary that there should be some sort of unanimity and understanding between the various communities which are not now pulling together. I hope, Sir, that at least in the face of this grave danger, we would realize the necessity of coming to some understanding and try and do what we can to save our birthright, freedom for the country.

THE HONOURABLE MR. A. DEC. WILLIAMS : Sir, in finally commending this Bill to the approval of this Council, I only wish to say a few words by way of supplementing what has just fallen from my Honourable friend the Commerce and Labour Member. A certain amount of anxiety was displayed by Honourable Members on the other side of the House that, in so far as Government did see some advantage in the proposals put forward by them, and in so far as it was for certain reasons impossible or inconvenient to accept those proposals by way of amendment, the Central Government should proceed by way of instruction—or, perhaps, I should rather say, of advice—to Provincial Governments. Of course, it has always been open for the Central Government to tender advice to Provincial Governments. As it happens, owing to the recent war-time amendment of the Constitution, the Central Government is in a position to give instructions to Provincial Governments. It is in this regard that I wish to supplement what the Honourable Sir Ramaswami Mudaliar said as regards the position of an irresponsible Central Government. The last thing they wish to do, if it can be avoided, is to interfere in any way with the freedom and discretion of Provincial Governments. But, Sir, if what is desired can be effected by way of advice, the Central Government is perfectly prepared to tender that advice.

THE HONOURABLE THE PRESIDENT : The Question is :

“That the Bill, as passed by the Legislative Assembly, be passed.”

The Motion was adopted.

INDIAN AIR FORCE VOLUNTEER RESERVE (DISCIPLINE) BILL.

THE HONOURABLE MR. A. DEC. WILLIAMS : (Nominated Official) : Sir, I move :

“That the Bill to provide for the discipline of members of the Indian Air Force Volunteer Reserve raised in British India on behalf of His Majesty, as passed by the Legislative Assembly, be taken into consideration.”

This Bill, Sir, is simply designed to bring the newly constituted Indian Air Force Volunteer Reserve under Air Force discipline. A precisely similar Act was passed by the Legislature for the Royal Indian Naval Reserve. This Bill exactly follows the terms of that Act, and unless Honourable Members have any detailed questions to ask, I feel that no further explanation is called for.

Sir, I move.

The Motion was adopted.

Clauses 2 to 7 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. DEC. WILLIAMS : Sir, I move :

“That the Bill, as passed by the Legislative Assembly, be passed.”

The Motion was adopted.

INDIAN AIRCRAFT (AMENDMENT) BILL.

THE HONOURABLE MR. J. D. TYSON (Communications Secretary) : Sir, I move :

“That the Bill further to amend the Indian Aircraft Act, 1934, for a certain purpose, as passed by the Legislative Assembly, be taken into consideration.”

The main object of this short Bill is that dealt with in clause 4. I need hardly stress the danger that high buildings in the neighbourhood of aerodromes offer to aircraft landing and taking off for flight. With the increase of night flying this danger is greatly accentuated. For the greater safety of aircraft operating by night, it is proposed to confer on Government power—which they do not at present possess—to make rules providing for the installation and maintenance of lights on such buildings, both near aerodromes and near air routes. Honourable Members will observe that it is also contemplated that, where private persons are put to financial loss by such arrangements, they should receive compensation from Central Revenues. It is an important matter, and one of some urgency, that such powers should exist, and I would ask the Council to amend the Act accordingly.

Advantage is being taken of this legislative proposal to make two further small amendments in the same Act.

Clauses 2 and 5 enlarge somewhat the scope of the Act with a view to enabling us to fulfil certain international obligations. If these clauses are accepted, we shall be in a position to discharge these obligations in respect of all aircraft registered in British India and of persons thereon, wherever they may be.

The only other change proposed arises out of the present wording of section 3 of the Act which requires that exemptions, both from the provisions of the Act and from the provisions of Rules under the Act, shall be made by notification. So far as exemptions from the Rules go, this is an onerous and inconvenient requirement. Gazette notification is a quite unnecessary and cumbersome procedure for the minor, but sometimes urgent, exemptions from the

[Mr. J. D. Tyson.]

operation of the rules which generally arise. The amendment proposed will leave exemptions from the Act to be made by notification but exemptions from the Rules will be made by the Governor General in Council by general or special order in writing. I commend the Bill to the House.

Sir, I move.

The Motion was adopted.

Clauses 2 to 5 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. D. TYSON : Sir, I move :

"That the Bill, as passed by the Legislative Assembly, be passed."

The Motion was adopted.

PANTH PIPLODA COURTS (AMENDMENT) BILL.

THE HONOURABLE MR. E. CONRAN-SMITH (Home Secretary) : Sir, I move :

"That the Bill to amend the Panth Piploda Courts Regulation, 1931, for a certain purpose, as passed by the Legislative Assembly, be taken into consideration."

This Bill is designed to meet a contingency which has as a matter of fact not yet arisen but which might one day arise, namely, a difference of opinion occurring between the two members of the Chief Commissioner's Court in Panth Piploda in a case where in that event the law requires a reference to a third judge. The occasions on which the law requires such a reference are, when the Court is sitting as a High Court to consider the confirmation of a death sentence or to hear cases in revision or on appeal and a difference of opinion arises between the two members comprising the Court. Since the requirement of the law is as I have stated it and since there is at present no third member of the Chief Commissioner's Court to whom the necessary reference could be made, the Bill now before the House proposes to take power to the Central Government to make an *ad hoc* appointment of a third judge if the need arises. The Bill, Sir, is deemed to be advisable because, although, as I have stated, hitherto such a case has not yet arisen, nevertheless we cannot be sure that on some future occasion there will not be a difference of opinion between the two members comprising the Chief Commissioner's Court.

Sir, I move.

THE HONOURABLE MR. P. N. SAPRU (United Provinces Southern Non-Muhammadan) : Where is Panth Piploda ?

THE HONOURABLE MR. E. CONRAN-SMITH : I believe a large number of people share the Honourable Member's ignorance. Panth Piploda is a small area in Central India entirely surrounded by States ; in extent it comprises ten villages.

THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa : Muhammadan) : Is it proposed to appoint a permanent judge ?

THE HONOURABLE MR. E. CONRAN-SMITH : No, Sir, merely an *ad hoc* appointment is contemplated.

The Motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. E. CONRAN-SMITH : Sir, I move :

"That the Bill, as passed by the Legislative Assembly, be passed."

The Motion was adopted.

INDIAN OATHS (AMENDMENT) BILL.

THE HONOURABLE MR. E. CONRAN-SMITH (Home Secretary) : Sir, I move :

"That the Bill further to amend the Indian Oaths Act, 1939, for a certain purpose, as passed by the Legislative Assembly, be taken into consideration."

Sir, the intention of this Bill is to make admissible in civil and criminal cases the evidence of a child who, although in the opinion of the court competent to testify, that is to say, capable of understanding the meaning of questions put to him or her and of giving a rational answer, is nevertheless on account of his or her youth considered to be not competent to realize the obligation imposed by an oath or affirmation. At present, under the law as it stands, the evidence of a child is admissible, provided the requirement of section 118 of the Indian Evidence Act is satisfied, that is to say, provided the court considers the child competent to testify, only if he or she makes an oath or affirmation. If this Bill now before the House becomes law then a child who in the opinion of the court is possessed of sufficient intelligence to be a witness need not necessarily be required to make an oath or affirmation. This is the position at present under the English law and what we are now proposing to do is to bring the position in India approximately into line with that subsisting in England.

Honourable Members will observe that the age-limit fixed by the Bill is twelve years. I should perhaps explain that the age limit of twelve was adopted because a child over twelve years of age has no protection under section 83 of the Indian Penal Code, and it was held that if the law presumes sufficient maturity in a child over the age of twelve to make it liable for the consequences of the commission of an offence, then the law should also presume that a child over twelve will understand the nature of an oath or affirmation.

Sir, I move.

The Motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. E. CONRAN-SMITH : Sir, I move :

"That the Bill, as passed by the Legislative Assembly, be passed."

The Motion was adopted.

MOTOR VEHICLES (AMENDMENT) BILL.

THE HONOURABLE MR. J. D. TYSON (Communications Secretary) : Sir, I move :

"That the Bill to amend the Motor Vehicles Act, 1939, for certain purposes, as passed by the Legislative Assembly, be taken into consideration."

I must apologize for my temerity in asking Honourable Members so early to review their very recent handiwork, but the fact is, as was inevitable with so long and complicated a measure, that certain defects and difficulties have come to light now that the time has come to put the Act into operation. The first and most important of these concerns the change over from the old Act to the new. The new Act requires the making by Provincial Governments of some far-reaching sets of rules, and an attempt was made in sub-section (2) of section 134 of the new Act to maintain the old rules till the new rules could be got ready and adopted. That attempt, while it forestalled and obviated some difficulties, has unfortunately given rise to others unsuspected at the time. For example, the new Act renders it obligatory upon Provincial Governments to set up certain Transport Authorities forthwith—that is on the 1st of July. When the Act came into force—but until the new rules are adopted by Provincial Governments—the new rules under which these authorities are to function—the old rules which were designed to cover quite a different state of affairs have been maintained in force.

Clause 2 of the Bill aims at relieving the Provincial Governments of the necessity of setting up these Authorities till there are appropriate rules for them to administer. Again, fees in respect of driving licences are specified by statute under the new Act, but they were prescribed by rule under the old Act. Here we have an obvious clash. Two sets of fees are in operation at the same time. It is the aim of clause 3 (a) of the Bill to remedy this. A third difficulty arises out of the fact that the penal provisions under the old Act were contained in the Act itself. The old Act is expressly repealed by the new Act and it is doubtful therefore how far infringements of the old rules are punishable in any case which is not specifically provided for in the new Act. This difficulty will be remedied by clause 3 (b) of the Bill before the House. The amendments proposed in these two clauses (2 and 3) are purely transitory; they are urgently required for the removal of temporary difficulties but their force will be spent as soon as Provincial Governments adopt the new Rules, and in any case on the 1st April, 1940.

The opportunity has also been taken to include three very minor amendments in the Schedule.

Clauses 4 and 5 provide for a very simple test of the presence or absence of that degree of colour blindness which prevents a person from being able to distinguish red from green. This is on the analogy of the requirements for pilots under the Aircraft Rules, and, while it calls for no elaborate

apparatus or specialized training from the medical practitioner applying the test, it provides all that is required under the head of colour blindness for the purpose in view.

Clause 6 merely adds a registration mark for the Andaman and Nicobar Islands.

Clause 7 alters a traffic sign in the Ninth Schedule. The criticism has been made that the original sign, though intended to prohibit drivers from using their horns, might almost equally have been understood by them as an invitation to do so.

The more important of these matters were discussed with representatives of Provincial Governments at the meeting of the Transport Advisory Council in July. I commend the Bill to the House.

Sir, I move.

The Motion was adopted.

Clauses 2 to 7 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. D. TYSON : Sir, I move :

"That the Bill, as passed by the Legislative Assembly, be passed."

The Motion was adopted.

INSURANCE (SECOND AMENDMENT) BILL.

THE HONOURABLE MR. SHAVAX A. LAL (Nominated Official) : Sir, I move :

"That the Bill further to amend the Insurance Act, 1938, for a certain purpose, as passed by the Legislative Assembly, be taken into consideration."

This Bill merely seeks to correct an error in drafting and introduces no change of substance.

Sir, I move.

The Motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. SHAVAX A. LAL : Sir, I move :

"That the Bill, as passed by the Legislative Assembly, be passed."

The Motion was adopted.

WORKMEN'S COMPENSATION (SECOND AMENDMENT) BILL.

THE HONOURABLE MR. M. S. A. HYDARI (Labour Secretary) : Sir, I move :

"That the Bill further to amend the Workmen's Compensation Act, 1923, for a certain purpose, as passed by the Legislative Assembly, be taken into consideration."

[Mr. M. S. A. Hydari.]

Under section 15 of the Workmen's Compensation Act, a seaman can claim compensation for injuries received. All that this Bill proposes to do is that a seaman who obtains compensation under a scheme made under the Personal Injuries (Emergency Provisions) Act, 1939, cannot claim for the same injury compensation under section 15. It does not take away any right; it merely bars a man from claiming compensation twice over.

Sir, I move.

*THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa : Muhammadan) : There was some discussion on this measure in the other House and a strained feeling developed. The Government, while not opposing the Motion for reference to Select Committee, preferred to remain neutral and by a most unexpected circumstance this Bill could not be referred to a Select Committee. We would have been justified in asking for reference of this Bill to Select Committee if we felt that we would receive better treatment from the Government Benches in this House than the other place received. But, being hopeless, I did not dare to bring forward a Motion for the purpose.

I find there is nothing much to criticize in the provisions as they exist. The only doubtful feature is that you have used the word "could" in the new sub-clause (5) which is proposed to be added to section 15. If it had been restricted to cases where payment had been obtained, there would have been no objection, but by providing where it might be obtainable, you have introduced an element of doubt. The wording is like this :

"No compensation shall be payable under this Act in respect of any personal injury for which a payment could be obtained under any scheme made under the Personal Injuries (Emergency Provisions) Act, 1939".

Usually the language of a statute is more strict. I would not have intervened in this debate, but I merely wished that Government should clarify the situation. If a man does not apply under the impression that he is not eligible, he would be deprived of both the rights. The question put in the Assembly was that if a man receives compensation from one place he should not be entitled to recover from another place as well. That is a good proposition, but merely on the supposition that he would have been entitled to obtain compensation if he applied under the Workmen's Compensation Act. But if that is rejected and the time for the application under the other Act does not remain, what happens then? He is debarred from this. Because you hold that he could have applied under the British statute, while he might have been advised by his legal advisers that he could not. The result will be that he would be deprived of all his benefits. He could not get compensation either under the Workmen's Compensation Act or under the Personal Injuries (Emergency Provisions) Act. That point, Sir, should be elucidated by the Government, whether they are prepared to consider and provide some machinery for such an emergency.

Secondly, Sir, I would like the Government to give us an assurance that they will favourably consider the provisions of an Act on the same lines as

*Not corrected by the Honourable Member.

the British Act. Those ships which are registered in India, persons serving on them are not entitled to get compensation under the Personal Injuries (Emergency Provisions) Act.

THE HONOURABLE MR. SHAVAX A. LAL : They will get the compensation under the Workmen's Compensation Act.

THE HONOURABLE MR. HOSSAIN IMAM : But the Workmen's Compensation Act, Sir, is not as liberal as the British provision. Now, in times of war if there is a greater risk there should be a greater compensation. So I should like the Government to consider the possibility of introducing more liberal provisions for injuries received in vessels registered in British India if such case should arise.

THE HONOURABLE SIR RAMASWAMI, MUDALIAR (Commerce and Labour Member) : Sir, I will take the last point first. This Act applies to Indian seamen who are working in ships on the United Kingdom register. It does not apply to those who are working on ships on the Indian register. This Act is complementary to the legislation that has been passed by the House of Commons. Therefore, it applies only to those seamen who are on the United Kingdom register. The intention of the Government is to apply similar provisions to seamen who are on the Indian register also, provided they come under the same category—namely, war injury. For that purpose we are not certain that legislation is necessary at all. Probably by an amendment of the article of agreement which Indian seamen entered into, at the time when they registered on these ships, it may be possible to introduce similar provisions. Why it has not been so far done, why I am unable to say that it will be done immediately, is because we have yet to obtain the scheme which His Majesty's Government is drawing up with reference to Indian seamen on the United Kingdom register, and as far as I can see, it is our intention that the same terms will apply to those upon the Indian register. In that case my Honourable friend will realize that the compensation which they will get for such war injuries will be on a better scale than that provided in the Schedule of the Workmen's Compensation Act.

As regards the point that my Honourable friend has raised about payment which could be obtained as against payment which has been obtained, there are obviously two answers. The first is a rather technical answer. If a right is given to a person and if that right is not used, nobody can be blamed except the person himself. If under the Workmen's Compensation Act, the workman does not apply within the period of limitation, does not go to a court of law, nobody can help it. But in this case there is another answer also. When we speak of an application being made, I do not think we are contemplating any very technical and formidably formal form of application. The rules have to be framed by this Government. The scheme is going to be worked (at least that is the present intention) by the Government of India under powers delegated by His Majesty's Government. The Government of India have been asked to co-operate in the working of this scheme for the obvious reason that this Government have all the facts relating to Indian seamen and therefore it is the intention of the Government of India to work that scheme, the compensation under it, however, being given by His Majesty's Government

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[Sir Ramaswami Mudaliar.]

from the British Treasury. Therefore, in the rules that may be framed by the Government of India it is our intention to make it as easy as possible for the Indian seamen to get this remedy and I can assure this House that we are not contemplating any hard and fast rule whereby, either through the fault of his legal advisers or anybody else, any seaman injured could easily miss a chance of getting compensation under this scheme.

THE HONOURABLE THE PRESIDENT: Motion made:

"That the Bill further to amend the Workmen's Compensation Act, 1923, for a certain purpose, as passed by the Legislative Assembly, be taken into consideration."

Question put and Motion 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. M. S. A. HYDARI: Sir, I move:

"That the Bill, as passed by the Legislative Assembly, be passed."

The Motion was adopted.

RESOLUTION *RE* ROAD DEVELOPMENT.

THE HONOURABLE MR. J. D. TYSON (Communications Secretary): Sir, the Resolution which I wish to move runs as follows:

"That this Council recommends to the Governor General in Council that the Resolution on road development adopted by the Legislative Assembly on the 10th February and by the Council of State on the 5th March, 1937, be amended as follows:

"That for the words 'for purposes of civil' in sub-paragraph (1) of paragraph 2 and for the words 'for the purposes of civil' where they occur in two places in sub-paragraph (1) of paragraph 3, the word 'in' be substituted in each place."

Sir, Honourable Members who are fortunate enough to possess motor cars will have observed that, every time they buy a gallon of petrol, they are called upon to subscribe handsomely to general revenues by means of a customs or excise duty. It will also not have escaped the notice of Honourable Members that the same gallon of petrol bears an *extra* "duty of customs and excise", at present fixed at $2\frac{1}{2}$ annas, levied under the Resolution on Road Development. A similar extra duty of $2\frac{1}{2}$ annas is levied on motor spirit used "for purposes of civil aviation", and the proceeds of *this* duty levied on motor spirit used for the purposes of civil aviation are devoted to grants in aid of civil aviation. The objects to which such grants-in-aid can be devoted are prescribed in a Resolution of the year 1934 and I may add that the details of the actual expenditure are laid every year on the table of both Houses of the Legislature.

Now, Sir, the Defence Services have in the past enjoyed exemption from these duties, but from the 1st of April, 1938, that exemption has been withdrawn. The duty accruing, therefore, from petrol consumed by the Defence Services is automatically credited to the Road Fund. But Honourable Members will, I hope, agree that it would be appropriate that the proceeds arising

from petrol consumed by the Air Force *in the air* should be devoted to grants in aid of civil aviation rather than to roads and bridges. This would follow the analogy of the proceeds of motor spirit used in civil aviation. We are asking that the proceeds from military aviation should be devoted to civil aviation just as the proceeds of the duty on petrol consumed in civil aviation already are. As the Roads Resolution is worded at present, this happy result cannot be achieved without the slight amendment which I propose. The effect of the change proposed will also be that only petrol consumed *in the air* will contribute to civil aviation and not petrol consumed by Defence forces or even by civil aviation vehicles on the ground. Petrol consumed by Defence force vehicles on the roads will benefit the roads side of the Fund. This would also seem to be only fair.

Sir, I move.

The Motion was adopted.

THE HONOURABLE THE PRESIDENT: Honourable the Leader, I understand that this finishes our work for the session, both official and non-official?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Leader of the House): Yes, Sir. I regret to say that it does! (Laughter.)

THE HONOURABLE THE PRESIDENT: The Council is now adjourned *sine die*.

The Council then adjourned *sine die*.

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