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MINUTES
OF THE
CONFERENCE .

OF
PRESIDENTS AND DEPUTY PRESIDENTS
OF PROVINCIAL LEGISLATIVE COUNCILS

HELD UNDER THE CHAIRMANSHIP OF

THE HON'BLE SIR HENRY MONCRIEFF SMITH, Kt., C.I.E.,
President of the Council of State

IN

January 1925



DELHI
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1925.

**Minutes of the Conference of Presidents
and Deputy Presidents of Provincial
Legislative Councils under the Chair-
manship of the Hon'ble Sir Henry
Moncrieff Smith, Kt., C.I.E.**

*First day. 6th January, 1925, 11 A.M. to
1-30 P.M., and 2-30 P.M. to 5-20 P.M.*

PRESENT :

1. The Hon'ble Sir HENRY MONCRIEFF SMITH, Kt., C.I.E., President of the Council of State, *Chairman*.
2. The Hon'ble Sir IBRAHIM RAHIMTOOLA, Kt., President of the Bombay Legislative Council.
3. The Hon'ble Mr. M. KEANE, C.I.E., President of the United Provinces Legislative Council.
4. The Hon'ble Mr. H. A. CASSON, C.S.I., President of the Punjab Legislative Council.
5. The Hon'ble Khan Bahadur KHWAJA MUHAMMAD NUR, President of the Bihar and Orissa Legislative Council.
6. The Hon'ble Sir GANGADHAR MADHO CHITNAVIS, K.C.I.E., President of the Central Provinces Legislative Council.
7. The Hon'ble Diwan Bahadur L. D. SWAMIKANNU PILLAI, C.I.E., I.S.O., President of the Madras Legislative Council.
8. Mr. BHOJSING GURDINOMAL PAHALAJANI, Deputy President of the Bombay Legislative Council.
9. Chaudhri BHAGAWAT PRASAD SAMANTARAI, MAHAPATRA, Deputy President of the Bihar and Orissa Legislative Council.
10. Mr. GOPENDROLAL DAS CHAUDHURI, Deputy President of the Assam Legislative Council.

In opening the proceedings the Chairman voiced the deep regret of the Conference that indisposition had prevented Sir Frederick Whyte from presiding. He recalled the fact that Sir Frederick had been anxious that this Conference should be fully representative of all Councils and observed that all Councils, with the exception of Bengal and Burma, whose Presidents were unavoidably absent, had in



fact sent a representative. The Conference associated itself unanimously with the Chairman's expression of regret.

1. *Privilege.*—The Chairman mentioned that the question of privilege had been considered by the Reforms Inquiry Committee, but explained that he was not in a position to reveal the nature of that Committee's recommendations. He suggested, however, that the Conference might usefully communicate its views on the general question to the Government of India. Referring to the recent Bengal case he said that it seemed to him monstrous that a High Court, or indeed any Court, should be in a position to issue an injunction to the President directing him to take or refrain from taking any particular action in his Presidential capacity in the Chair. Mr. Pahalajani observed that a High Court would remain competent to take action of this nature unless and until section 45 of the Specific Relief Act were amended. The Chairman said that the form of the necessary legislation would require consideration, but that in all probability the legislation would have to be enacted by Parliament. It was, he thought, most improbable that Parliament's attitude to legislative proposals of this nature would be other than sympathetic. Mr. Keane suggested that the Conference need not concern itself with the question of form, but should place on record its opinion that the law should be so amended as to remove any power of interference with the discretion of the Chair which the Civil Courts might now possess. Mr. Casson agreed but inquired what were the views of the Conference regarding the power of the Courts to entertain suits arising out of action already taken. Sir Henry Moncrieff Smith thought that this question was distinguishable and might be considered after the Conference had recorded its opinion on the matter immediately before it. Mr. Pahalajani thought that, in the interests of the public, the Courts should continue to possess powers of the nature exercised by the Calcutta High Court in the Bengal case; the Courts should for instance be in a position to restrain the President from putting an illegal motion which was known to be in contemplation. Referring to the Bengal case he complained that the rule made as the result thereof had been made without reference to the Councils, and the Councils had thus been rendered impotent to take any objection to the placing before themselves of demands which they had already

rejected. Sir Henry Moncrieff Smith suggested that there was a certain confusion of thought in this contention. If the Council was not prepared to reconsider its previous decision, it was of course open to it to reject the demand anew. The desideratum in his view was that the President should be the sole judge whether a particular motion was a motion which could be made under the Rules and Standing Orders in force. He inquired whether Mr. Pahalajani thought that it should be open to a member whose resolution had been disallowed to ask the Court to overrule the President's order of disallowance. Mr. Pahalajani was understood to answer this question in the affirmative, and Sir Ibrahim Rahimtoola said that he would be disposed to take the same view in the case of an appointed President. It would, however, be within the competence of the Council, with the concurrence of the Governor, to remove an elected President from office, and he thought that, in view of the existence of this power it would be unnecessary that the right of resort to the Courts should continue to exist after the introduction of the new régime. Mr. Pahalajani, however, remarked that the mischief which resort to the Courts was designed to avert, would be done before the Council could pass a vote for the removal of the President, for the point was to prevent the taking of illegal action, not to punish the taking of such action after the event. He thought therefore that resort to the Courts should remain possible with an elected President. Incidentally he observed that even the power of dismissal was unexercisable save with the Governor's concurrence, but the Conference thought that this point was not practically important, since it was inconceivable that a President for whose removal the Council had voted would remain in office even if the Governor refused his concurrence in the vote. Khan Bahadur Khwaja Muhammad Nur agreed with the view taken by the Chairman, and thought that in the discharge of his functions the President should be answerable only to the House. The Presidents of the Madras and the Central Provinces Councils also agreed, the former remarking that it was impossible to draw any valid distinction from this point of view between the position which prevailed under the nominated and elected régimes. The Conference generally agreed, Mr. Pahalajani dissenting, that the law should be so amended as to remove the jurisdiction of the Courts to entertain suits for injunction requiring the President to take

or refrain from taking a specified course of action in his Presidential capacity. The Conference then considered whether acts done by the Council should be immune from challenge in the Courts, *e. g.*, if in the Bengal case the demand in question had been duly placed before the Council and carried, should it have been possible for a member of the public to go to the Courts thereafter for an injunction against the Treasury Officer concerned to refrain from paying out the amount of the grant on the ground that the action of the Council in voting the same had been *ultra vires*? The Conference had no difficulty in concluding that where the act done by the Council was the enactment of legislation, the Courts must always have jurisdiction to pronounce on its validity. Mr. Casson suggested that there was little, if any, distinction in principle between legislative and other acts. The Chairman agreed and the Conference unanimously concluded that no attempt should be made to deprive the Courts of power to adjudicate on the legality of any act already performed by the Council whatever its nature.

The Conference then proceeded to a consideration of other aspects of the question of privilege. Sir Ibrahim Rahimtoola observed that violent abuse of the President in the Press was by no means uncommon, and mentioned that the late Sir Narayan Chandravarkar had been of opinion that the President had the same powers to punish such contempts as were possessed by the Speaker of the House of Commons. He inquired whether, in the opinion of the Conference, this view was sustainable. The Chairman pointed out that the matter had been discussed and decided at last year's Conference, and said that in his opinion there was no doubt that the view then taken was correct, namely, that a Colonial Legislature created by an Act of Parliament possessed no powers other than those expressly conferred upon it by the Act, the result being that Indian Legislatures, not having been vested with powers in the nature of privilege, did not possess those powers. The Conference felt no doubt that this was a correct statement of the existing position and proceeded to consider whether the time had come to recommend that Parliament should be moved to confer powers of this nature. Mr. Keane mentioned a case in which a local journal had criticized his disallowance of a certain Resolution and had charged him with having disallowed it, not in accordance with his own conception of the merits, but under pressure from

Government. He said that the Council moved in the matter spontaneously and showed a strong desire to pass a motion amounting to a censure of the journal concerned. He had allowed the motion, which was carried unanimously, and the matter terminated with an unqualified apology from the journal. He pointed out, however, that, had the journal elected to return to the charge, it would have had the last word and the Council would have been in effect powerless. Diwan Bahadur L. D. S. Pillai mentioned a similar case in Madras in connection with which a motion censuring a newspaper for an attack on the Chair had been moved. During the course of the debate on the motion it transpired that certain parties in the House had not been apprised of the intention to move it, and, in accordance with his view that such motions should only be made with the previous knowledge and approval of all parties in the House, he had secured the withdrawal of the motion after the course of the debate had revealed that all sections in the House were unanimous in resenting the attack which had been made on the President. Sir Ibrahim Rahimtoola, reverting to the views which had been held by Sir Narayan Chandravarkar, mentioned that on one occasion during the latter's presidency a letter had appeared in the Press under the signature "a Member" in which reflections had been cast upon the Chair. Sir Narayan had referred to the matter in the Council and had called upon the Member responsible for the letter to rise in his place. There was no response to this invitation, but Sir Narayan had proceeded to remark that if he had been aware of the Member's identity, he would have taken disciplinary action. Sir Henry Moncrieff Smith thought that, as things were at present, it would be most unwise for a President of an Indian Legislature to attempt to exercise powers of punishment analogous to those possessed by the Speaker of the House of Commons. He pointed out that the matter would inevitably be taken to the Courts, with the result that the President's pretensions would be found incapable of substantiation. He agreed that this position could not be continued indefinitely, but thought that it was questionable whether the time was yet ripe to move for the wholesale conferment of powers in the nature of privilege. He thought however that there might be a case for asking for limited powers to deal with such matters as improper newspaper criticism. Before considering the case for conferment of powers of privilege

in the strict sense, the Conference considered whether immunities of the nature enjoyed by members of other Legislatures in the Empire should be conferred. The first important immunity, namely, that of free speech, had already been conferred by the Government of India Act, and Sir Henry suggested that, in considering whether further immunities should be enjoyed, the Conference might confine itself to the immunity of members from arrest and imprisonment for civil causes, and the immunity of members from the obligation to serve on juries, to which Indian conditions necessitated the addition of a corresponding immunity in the matter of service as an assessor. The Conference thought that the former immunity which it was within the competence of the Indian Legislature to enact should certainly be enjoyed, though the extension of the immunity to as much as 40 days after the prorogation and before the date of the next meeting was unnecessary in Indian conditions. Mr. Pahalajani suggested that the immunity should extend to members serving on Select Committees during the recess, and it was agreed that since a member arrested during a recess could not be replaced on the Committee on which he was serving until the Council re-assembled, the extension of the immunity to members serving on Select Committees while the Council was in recess should be included in the recommendation. The Conference unanimously agreed that members should enjoy immunity from the obligation to serve on juries or as assessors, Government being left to decide whether this immunity should be conferred by a substantive amendment of the Code of Criminal Procedure or by notification thereunder. Returning to the question of privilege in the proper sense, Sir Henry Moncrieff Smith observed that the first privileges for consideration were the power to order the attendance before the bar of the House of persons whose conduct had been brought before the House on a matter of privilege and the power to order the arrest and imprisonment of persons guilty of contempt and breach of privilege. Mr. Pahalajani thought that the second power, which was of a nature enjoyed by no Court inferior in status to a Chartered High Court, should certainly not be conferred on any Legislature in India at this stage, but Mr. Keane pointed out that the conferment of the first power without the second would be ineffective, in that it would leave the person called to the bar at liberty to

repeat his offence in the Council and go unscathed. Incidentally, he took exception to Mr. Pahalajani's implication that the Legislatures were less competent to exercise a power of this nature than the High Court. The Chairman put to the Conference the question whether, in the event of the first power being granted, the second was necessary for the effective implementing of the first, and the Conference agreed that there must at the least be power to commit in default of the tender of an apology by the person called to the bar. The Chairman then invited the Conference to record an opinion whether the two powers in question were required at this stage. Mr. Casson thought that the time was not ripe; he suggested that the Councils were steadily gaining in prestige and that the danger of insult and the like was diminishing. The Deputy President of the Bihar and Orissa Council agreed in this view, pointing out that even the Swaraj members, who had avowedly entered the Councils with a view to wrecking them, behaved with perfect propriety when in the House and that their presence there had had a restraining effect outside the Chamber. He thought that punitive powers should not be taken till they were plainly shewn to be required. Sir Ibrahim Rahimtoola thought that the power should be taken now, not because it would be necessary to use it frequently, if at all, but because the existence of the power would prove an effective restraint, which was urgently needed. Mr. Keane said that he would like to see powers of this nature conferred now, if only for the reason that their conferment would enormously enhance the prestige of the Councils in the eyes of the public by differentiating them from any other body in existence in India. Mr. Casson made it plain that he had no objection in principle to the grant of powers and had only been doubtful whether there was any emergent necessity for their immediate conferment. Sir Henry said that this had been very much his own point of view, but he had been impressed by Mr. Keane's argument and was disposed to agree that the Conference might suitably ask that the powers in question should be conferred forthwith. The Conference generally agreed in this conclusion.

Mr. Casson raised the question of the President's position under present conditions with reference to a member of the Council attacking the President or otherwise committing a breach of privilege outside the House. He pointed

out that the President had power to preserve order in the House, but could apparently do nothing to restrain misconduct by members outside the House. The Conference thought that in most cases practical difficulty was not likely to arise; the President would refer to the matter on the next occasion on which the offending member took his seat and any repetition of the offence inside the House, or indeed any failure to apologise for the offence committed outside the House, would be within the President's jurisdiction. Sir Henry Moncrieff Smith referred to cases in which Governments had published the report of a Select Committee before the report was presented to the Council. He thought that this was a distinct breach of privilege. Mr. Keane recalled the fact that this question had been discussed at a previous Conference and showed that the difficulty was caused by the fact that in several Councils the Standing Orders were so framed as at least to lend themselves to the interpretation that publication in the Gazette must precede presentation of the report. Sir Henry Moncrieff Smith thought that if any Standing Orders in fact gave colour to this view they should be amended, but he doubted whether the suggested effect really emerged from the United Provinces' order quoted by Mr. Keane. Sir Ibrahim Rahimtoola however pointed out that in cases where a Select Committee met when the Council was in recess and the Bill in question was to be dealt with as soon as the Council re-assembled for a session of very limited duration, the postponement of publication till the report had been presented would involve considerable inconvenience and delay, and other Presidents agreed that this would be the case. The Chairman conceded that local conditions might necessitate a certain amount of latitude and thought that as the Standing Orders in force in different Councils showed so much lack of uniformity, it would serve no purpose to pursue the question further. The Conference unanimously agreed that in any event the report of a Select Committee should be kept strictly confidential until authoritatively published in accordance with the Standing Orders of the Council concerned, and that a member who, prior to such publication, disclosed the conclusions of the Select Committee was guilty of a grave impropriety.

Mr. Pahalajani asked whether the Council was entitled to notice from Government of the arrest of a member of the House on criminal process. It was

agreed that such notice could not be claimed as of right, but might properly be asked for as a matter of courtesy, Mr. Casson mentioning that he had himself made a request of this nature to the Punjab Government.

2. *Election of second President.*—The Chairman explained that rules governing procedure at elections to the office of President had been forwarded for the sanction* of the Secretary of State in Council, and that, in the event of rules being made, any Standing Orders previously made by the Councils would cease to have effect. Referring to the text of the proposed rules Mr. Casson inquired whether sub-rule (3) of rule 5A required an outgoing President to preside at an election even in the event of his being himself a candidate for the Presidential office. It was agreed that the wording of the rules in this connection was somewhat unfortunate, but the Conference entertained no doubt that an outgoing President who was a candidate for election should in any case not preside at the election. Mr. Casson said he took it that the rules proceeded on the view that there was no question for determination by the Council for the purposes of section 72B (4) of the Government of India Act until the final ballot was reached. That being so, was it open to the outgoing President or other person in the Chair to record a vote at the preliminary ballots? The Conference thought that technically the point was a nice one, but there was unanimous agreement that if the right to vote existed it should not be exercised.

3. *Casting Vote.*—Mr. Casson said that he had desired this matter to be further discussed in connection with the question of the manner in which the President should give his casting vote on a demand for a grant. He said that on the occasion of a supplementary grant he had given his casting vote against the grant on the ground that the grant could be placed before the Council again and that the Council would therefore have an opportunity of reviewing its decision. He had noticed however that in the Assembly Sir Frederick Whyte had on one occasion given his casting vote for a grant without comment, and he had been anxious to elicit his reasons. Mr. Keane thought that on a demand for a grant for an ordinary recognised service the demand represented the *status quo* in favour of which the casting vote should be given,

* The receipt of the sanction in question was communicated to the Conference on the following day.

but that on a demand for some new service the rejection of the grant was the *status quo*. Sir Henry Moncrieff Smith thought that it was difficult to draw any valid distinction between demands in the original budget and supplementary demands for grants. Mr. Keane thought that a case might be made out for holding generally that in money matters the proposal of the Crown represented the *status quo*. Sir Ibrahim Rahimtoola said the general principle was that the party who wanted something done must get a majority in favour of his motion; thus Government must get an absolute majority to carry a demand, but a member moving a reduction to the demand must get an absolute majority for the reduction. Mr. Pahala-jani took a different view: he considered that the *status quo* was the amount of the demand for the previous year. Suppose therefore that the amount demanded in the previous year were 2 lakhs and the present demand were for 2.50 lakhs, 2 lakhs represented the *status quo*, and on a motion to reduce the grant by anything up to Rs. 50,000 the reduction represented the *status quo* and the President should give his casting vote in favour of the reduction. Sir Ibrahim Rahimtoola dissented; he thought it was entirely immaterial whether the demand was for the same or for a larger figure than the corresponding demand in the previous year. Government must always get an absolute majority on the demand, while a member desiring to reduce the demand, must get an absolute majority to carry his reduction. Mr. Krane pointed out the practical impossibility of adopting the principle indicated by Mr. Pahala-jani in view of the fact that there were no means by which the excess amount could be earmarked as arising in respect of any definite sub-head in the demand. He said that the suggested criterion could only be applied in cases where the whole demand was new. Sir Gangadhar Chitnavis thought that the only possible principle of general application was that the demand represented the *status quo*. Mr. Casson said that it was desirable, if possible, to arrive at a common conclusion regarding the proper criterion of the *status quo* in the case of grants. He agreed with Sir Gangadhar that the only possible criterion for universal application would be that the grant represented the *status quo*. The Chairman read passages from May's "Parliamentary Practice" indicating that a number of cases had occurred in the House of Commons in which the Speaker had found

the principles of the *locus poenitentiae* and the *status quo* to be inapplicable and had accordingly given his vote in accordance with his conception of the merits, explaining to the House the principles by which he had been guided. Mr. Casson suggested that, in view of the new rule permitting a rejected grant to be on all occasions resubmitted to the House, the *locus poenitentiae* principle might be held to justify the giving of a casting vote against all demands. The Conference generally thought that the circumstances attending demands for grants were so various that it was impossible to arrive at any formula of general application.

4. *Budget Procedure*.—(1) *Best manner of moving reductions*—Sir Henry Moncrieff Smith explained that during the course of the last budget discussion in the Assembly, Sir Frederick Whyte had formulated certain proposals which, in his opinion, would conduce to a more orderly and effective budget debate. His general idea was that the first reduction motion to be taken should be a motion for a nominal reduction of the grant as a whole, this motion being made the occasion for the ventilation of general grievances regarding the administration of the Service concerned. That motion being disposed of, any motion for a large reduction on grounds of economy should be taken up, and thereafter motions for nominal reductions designed to draw attention to specific heads of the administration. The Provincial representatives pointed out that the inclusion in Rule 30 of the various Provincial Legislative Council Rules of sub-rule (4), not appearing in the corresponding Indian legislative rule, which forbade the making of a motion for the reduction of a grant as a whole until motions for the omission or reduction of definite items had been discussed, rendered this programme impossible of adoption in the Provincial Councils. Sir Henry Moncrieff Smith explained that the present practice in the Assembly was to take motions for reduction in order of their size. Khan Bahadur Khwaja Muhammad Nur inquired whether, when this procedure was adopted, the carrying of a motion for a larger reduction involved the lapse of all motions for smaller reductions. He suggested that whereas one member might wish to reduce the Demand by ten lakhs, another by five, another by three and another by one, there was no member who wished to reduce it by more than ten lakhs, and he thought that logically

the carrying of a larger reduction should involve the lapse of all motions seeking to make smaller reductions. The Conference thought that no practical difficulty arose in this connection. Usually the carrying of a larger reduction was followed by the withdrawal of all motions for smaller reductions, but it did not appear that the lapse of motions for smaller reductions was automatically involved.

The Khan Bahadur also raised a point relating to the limitation on debate when a motion for reduction is moved; if, *e.g.*, the Member who moved a reduction based the motion on a complaint against one particular aspect of the administration, could other Members support the motion on an extraneous ground, *i.e.*, because they were dissatisfied with other aspects of the administration. Sir Henry Moncrieff Smith thought that it would be difficult to rule speeches on these lines out of order and explained that this was precisely the tendency which Sir Frederick Whyte's proposals had been designed to avert. The Conference agreed that it was impossible to rule Members out of order if they supported a motion for reduction on grounds extraneous to those taken by the mover. The Khan Bahadur also inquired whether the taking of a point in a Budget debate was a bar to the subsequent moving of a Resolution on the same point. It was agreed that the answer to this question was in the negative. Mr. Casson mentioned that the late Sir Narayan Chandravarkar had on one occasion refused to allow opposition to a grant demanded in pursuance of a Resolution previously carried by the Council, on the ground that it was not competent to the Council in effect to re-open its own decision. The Conference agreed that this ruling was wrong.

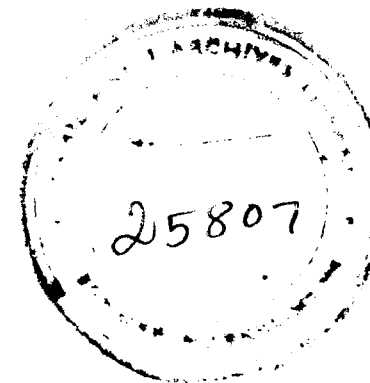
(2) *Refusal of grant for votable establishment of officer whose salary is not votable.*—Mr. Casson thought that the dictum embodied in the minutes of the last Conference to the effect that it was open to the Council to attack the provision proposed for the subordinate votable establishment of an officer whose own salary was non-votable on the ground that the officer's own appointment was superfluous went beyond what the Conference had in fact desired to affirm. The Conference had been considering only the question of relevance, and there was no doubt that so far as relevance was concerned, the line of attack suggested was in order. But Sir Narayan Chandravarkar's

ruling that refusal of supply for the subordinate establishment of an officer whose salary was non-votable was not within the Council's powers, on the ground that the Council could not do indirectly what it could not do directly was in no way affected. He said that he had himself allowed a motion to omit the grant for the votable establishment of a non-votable officer, but had subsequently reconsidered the question in the light of Sir Narayan Chandravarkar's ruling which appeared to him to be correct. Sir Ibrahim Rahimtoola referred to his own ruling on the question in which he had dissented from the view taken by Sir Narayan Chandravarkar and he explained that he had been authorised to make available for the confidential perusal of the Conference certain papers, in which the question had been exhaustively discussed. It was agreed that the papers should be printed for distribution to Members. Sir Henry Moncrieff Smith said that there were several clear lacunæ in the position emerging from sections 67A and 72D of the Act, which the proposed amendment of those sections was likely to remove. In the meantime he thought that the Council was within its rights in attacking the provision made for the entertainment of officers whose salary was non-votable by refusing supply for the votable ministerial establishments of such officers. He observed that this was in accordance with the practice which had consistently been followed save by Sir Narayan Chandravarkar whose view had now been overruled by Sir Ibrahim. The general sense of the Conference was that the established practice should stand pending amendment of the law.

5. *Admissibility of motions other than Resolutions—Interpretation of Standing Order 74, (Legislative Assembly).*—The Chairman said that the interpretation of the Standing Order in question depended on the meaning of the words "after motion made". Did those words operate to permit of the moving of any motion in the guise of a communication to the Governor or Governor General, or did they merely provide for the communication of a formal address conveying a motion otherwise admissible? He explained that attempts had been made in the Legislative Assembly to bring forward motions in the guise of an address to the Governor General on subjects which were not otherwise within the Council's purview, but that Sir Frederick Whyte and Sir Alexander Muddiman, with whom he himself was in complete agreement,

had always held that Standing Order 74 in no way authorised the moving of such motions. Sir Gangadhar Chitnavis mentioned that the Swaraj Party in the Central Provinces Council had attempted to base a case on the omission in the corresponding Central Provinces Standing Order of the word "and" between the words appearing as clauses (1) and (2) in the Assembly Standing Order. The Conference was clearly of opinion that the omission of this word did not affect the construction of the Order. Mr. Pillai said that the question had been reconsidered in Madras since the Minister's case to which reference was made at the last Conference and that he had now ruled that a motion of substance not being a Resolution could only obtain a place in the paper under the normal ballot procedure. Sir Henry Moncrieff Smith explained that on his view the operation of the Standing Order was confined to cases in which provision was elsewhere made for a communication from the Council to the Governor General, and he instanced the report to the Governor General to which reference is made in sub-rule (5) of rule 36 of the Indian Legislative Rules. Khan Bahadur Khwaja Muhammad Nur said that for obvious reasons there was no corresponding provision in the Provincial rules and that since the Standing Order must mean something and there were no motions otherwise provided for to which it could be supposed to refer, the conclusion appeared to be that the Standing Order did substantively create a right to move motions. Sir Henry Moncrieff Smith referred to the provisions of subsection (4) of section 72C of the Government of India Act and suggested that the vote of the Council for removal from office of a President or Deputy President would be taken on motion made, and that the Standing Order in question would regulate the communication of that motion for the Governor's concurrence. The Conference, however, was inclined to think that the Standing Order must be taken to refer to something of somewhat greater scope than this solitary provision, and Mr. Keane contended that the Standing Order in the particular form in which it was cast in the United Provinces must be held to pre-suppose a right in the Council to entertain motions regarding matters specifically relating to the personal functions of the Governor, *e.g.*, a motion regarding the insufficiency of the days allotted for non-official business. The Chairman, however, reiterated his

conviction that even in the form in which the Order appeared in the United Provinces it did not create a right, not otherwise possessed, to move motions. Mr. Keane agreed that it did not create a right, but said that it must pre-suppose the possibility of such motions and must pre-suppose something more definite than anything to which Sir Henry had been able to point. Khan Bahadur Khwaja Muhammad Nur thought that motions relating to matters within the province of the Governor as opposed to the Governor in Council should be allowed. Sir Henry Moncrieff Smith said that he was strongly of opinion that the distinct intention of the Act was that the executive powers given to the Governor and Governor General as opposed to the Provincial Governments and the Government of India should be entirely removed from the purview of the Legislature, and he pointed out that, if the Standing Order in question did admit of motions, it admitted of motions without any restriction whatever including motions relating to foreign relations and other matters with reference to which a resolution was explicitly prohibited. Mr. Keane said that in practice he had allowed motions to be moved only in the case of congratulatory addresses and the like. Khan Bahadur Khwaja Muhammad Nur thought that it would be advantageous to settle the precise position which the Presidents thought should prevail and thereafter to suggest that provision should be made by rule accordingly. The Chairman agreed that a recommendation in this matter to Government might serve a very useful purpose. Mr. Casson referred to the passage in the minutes of the last Conference in which Standing Order 31 of the Bengal Orders was referred to as explicitly conferring on the President a power to admit motions for which no provision was elsewhere made. He thought that this construction of the Standing Order in question, which, he mentioned, was also in force in the Punjab, was entirely unwarrantable. That Standing Order merely empowered the President to decide on the admissibility of a motion: his decision as to admissibility must obviously be governed by the relevant provisions of the Rules and Standing Orders and there were no grounds whatever for construing the Standing Order, in question as empowering a President to admit any motion at will without regard to the provisions of the Rules and Orders generally. The Chairman expressed complete agreement in this



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equally within the terms of the section. Dealing with allegations of the alleged practical impossibility of obtaining previous sanction to amendments, he pointed out that the inconvenience arising in this respect had been greatly exaggerated. Many cases were within his knowledge in which sanction to large numbers of amendments had been applied for and duly communicated before the date on which the Council desired to proceed with the Bill. Messrs. Casson and Keane were disposed to agree that in view of the fact that normally Bills required sanction, not as a whole, but only in respect of isolated provisions which the majority of amendments would not touch, there would in fact be no great practical difficulty in obtaining previous sanction; but on the question of interpretation they adhered to the view that Sir Narayan Chandravarkar had been correct. Other Presidents, however, had had more experience of Bills requiring sanction as a whole and took strong exception to any acquiescence in the position that amendments to such Bills must obtain previous sanction. Sir Ibrahim Rahimtoola thought that the requirement of sanction amounted to a threat to the Council to take or leave the Bill as it stood. Sir Henry Moncrieff Smith pointed out that no threat of any kind was involved; no one attempted to force the Council into passing or rejecting the Bill as it stood; the requirement was confined to the previous obtaining of sanction to any amendment which it was desired to move. It seemed to him that if there were any question of a threat, the threat would, under the procedure favoured by Sir Narayan, be on the part of the Council who presented the Governor General with a *fait accompli* in the shape of a Bill embodying amendments already carried and challenged him either to sanction the amendments or kill the whole Bill for want of sanction to a single point of detail. The majority of the Presidents remained unconvinced and expressed themselves of opinion that the view taken by Sir Narayan Chandravarkar was correct.

Second Day.—7th January 1925, 11 A.M. to 1-30 P.M. and 2-30 P.M. to 3-45 P.M.

Mr. Pakhalajani was absent. In other respects the attendance was the same as on the first day.

7. Power of President to disallow Resolutions under rules 23 read with Standing Order 60. (Legislative Assembly)—Sir Henry Moncrieff Smith

referred to the difference in form between sub-rule (2) of Rule 8 and sub-rule (2) of Rule 23, the former providing that if any doubt arises whether any question is or is not within the restrictions imposed by sub-rule (1) the Governor General shall decide the point, while the latter provides simply, without reference to a doubt arising, that the decision of the Governor General shall be final. He did not think that sub-rule (2) of Rule 8 gave rise to any difficulty save perhaps with reference to the question whether a member who was dissatisfied with the disallowance of a question by the President under Rule 8 could require such reference to be made. He said that in the Indian Legislature it had always been held that the doubt referred to in sub-rule (2) was a doubt in the mind of the President, and that if the President, feeling no doubt that a question was within the restrictions, disallowed the same of his own motion there was no power in the member who had given notice of the question to require a reference to the Governor General. The view that the doubt must be a doubt in the mind of the President was however subject to the reservation that it was competent to the Governor General to intervene with a decision of his own motion. Mr. Pillai said that the practice in Madras was different. It was held there that if the member who desired to put the question thought that it was not within the restrictions though the President was of opinion beyond doubt that it was, there was a doubt within the meaning of the Rule which must be referred for the Governor's decision. Sir Ibrahim Rahimtoola said that in Bombay it was held without any reservation whatever that the doubt must be in the mind of the President and that the Governor was incompetent to intervene unless and until a doubt in the President's mind arose. He thought that this interpretation was preferable in that it avoided the possibility of anything in the nature of a conflict between the President and the Governor or of an appeal from the one to the other. He also stressed the fact that in the event of the President admitting a question which Government considered to be within the restrictions it was always open to Government to decline to reply. Sir Henry Moncrieff Smith however thought that Government was rightly reluctant to have resort to this line of action since it tended to give the impression to the House that in Government's view the question should not have been admitted. Mr. Keane agreed and mentioned a case in the United

view of the effect of the Standing Order referred to, and inquired whether the Conference agreed that provision should be made to define explicitly the kind of motions which may be moved and the restrictions subject to which they may be moved. He pointed out that at present, on the view taken in the Central Legislature, there was in fact no power, save on the theory of inherent right, to allow even purely formal motions to be moved and the definite regulation of the matter appeared on all grounds to be desirable. Sir Ibrahim Rahimtoola mentioned that in the Bombay Council Standing Orders definitely providing for congratulatory and condolatory Resolutions were in force. Sir Gangadhar Chitnavis read an extract from the report of a Select Committee of the Central Provinces Council on a proposed amendment of the Standing Orders in which some of the matters requiring consideration in any attempt to regularise the position were indicated. The Conference agreed that it was certainly desirable that more definite provision should be made in the matter of motions than at present existed. The Chairman thought that the drafting of suitable rules or orders on the subject might present considerable difficulty, but the Conference did not go into this aspect of the case, Mr. Keane suggesting that the importation *mutatis mutandis* of the rules relating to Resolutions would cover a good deal of the necessary ground.

6. *Laws requiring previous sanction under Section 80A of the Government of India Act. Is previous sanction required to amendments?* Sir Henry Moncrieff Smith pointed to certain practical difficulties which appeared to him to be inherent in the view taken by Sir Narayan Chandravarkar. On that view amendments would be moved and carried without sanction, and the motion that the Bill be passed would then be postponed till sanction was obtained. Assuming sanction to any particular amendment to be refused, how was the clause which stood part of the Bill with the amendment embodied therein to be got back into the form in which the Governor General had sanctioned it? Mr. Pahalajani said that if sanction were refused to any amendment, the Bill would necessarily be dropped. Sir Henry pointed out the futility of letting the whole Bill go for the sake of, it might be, one perfectly minor point. It seemed to him to be absurd to

say that a Council was not taking a law into consideration in carrying an amendment, and if it did so without sanction, it was acting in direct contravention of section 80A (3) of the Government of India Act. Sir Ibrahim Rahimtoola thought that the Standing Order confining amendments to amendments which are within the scope of the Bill supplied a complete answer to all objections to Sir Narayan Chandravarkar's view, but Sir Henry pointed out that the question whether an amendment was within the scope of the Bill from the point of view of its admissibility was entirely different from the question whether sanction to the original Bill covered sanction to the amendment. The Governor General might have sanctioned a clause in the following form :—'Any Municipal Committee may impose a tax in the form of a surcharge on income-tax at a rate not exceeding one anna for every rupee of income-tax paid.' An amendment substituting "one rupee" for "one anna" would obviously be within the scope of the clause: but equally obviously the taking into consideration of the amendment would not be within the sanction granted to the taking into consideration of the clause in its original form. He pointed out incidentally that it was a mistake to suppose that because a Bill had received sanction, all amendments to it would require sanction. This would only be the case in regard to Bills requiring sanction as a whole, and Bills of this nature were not Bills which would normally be introduced in Provincial Legislatures, while, if so introduced, they were necessarily and properly subject throughout to the law of previous sanction.

Mr. Keane said that he conceived Sir Narayan Chandravarkar's ruling to mean that in section 80-A. (3) the word "law" in its relation to taking into consideration, meant a Bill, and in its relation to passing meant an Act. In taking an amendment into consideration the Council was, on Sir Narayan's view taking into consideration the Bill, and therefore the law, which had received sanction. This the Council was, on Sir Narayan's view, competent to do without further sanction, the necessity for further sanction only arising at the stage when the Bill as amended was to be passed. Sir Henry Moncrieff Smith observed that for obvious reasons, the word "law" in section 80-A. (3) could not be given its ordinary sense of a legislative enactment, nor did it mean a Bill. It meant simply a measure, and the original Bill and an amendment thereto were

Provinces Council in which a Government Member in replying to a question had said as much in terms. Mr. Keane suggested that any doubt as to the Governor's competence to intervene of his own motion might be removed by amending sub-rule (2) to read: "The Governor may at any time declare". Sir Henry Moncrieff Smith thought that this would be open to objection on the lines indicated by Sir Ibrahim, namely, that it would put the Governor very much in the position of an overriding authority, and Khan Bahadur Khwaja Muhammad Nur thought that if any amendment was made it should be in the other direction, the Rule being expanded to read "if any doubt arises in the mind of the President". Sir Henry thought that this was open to objection in the other direction in that it rendered the Governor entirely impotent to intervene in the event of a President holding—in good faith of course—that no doubt arose in a case which was in fact on the border line. Mr. Casson referred to the case which he had mentioned at a previous Conference in which a question was admitted by the Deputy President during his absence and Government had thereafter asked for reconsideration of the order of admission on the ground that in the Governor's opinion the question was within the restrictions. The Deputy President had refused reconsideration on the ground that his own mind remained free from doubt. Sir Henry Moncrieff Smith asked Sir Ibrahim what he would have done in a case of this nature and Sir Ibrahim rejoined that no such case had arisen or was likely to arise in practice. It was pointed out, however, that a case had actually occurred in the Punjab and might occur elsewhere. Mr. Keane suggested that the framers of the rule had in fact meant a doubt in the mind of the President but had never contemplated a President so confident of his infallibility as to remain convinced beyond doubt that a question was not within the restrictions when assured that in the Governor's opinion it was. The Conference as a whole agreed that this was a very fair statement of the position, and that generally speaking no practical difficulty was likely to arise. Turning to the question in the agenda Sir Henry entertained no doubt that the President did have jurisdiction to disallow of his own motion on the ground of contravention of sub-rule (1) of Rule 23. He pointed out however that the different phraseology employed in sub-rule (2) of this rule—a difference which he took to be due to inadvertence—left no

room for doubt that in the case of a Resolution it was competent to the Governor to intervene whether on motion by the President or otherwise and whether the President entertained a doubt or not. The Conference agreed that the answer to the question in the agenda was in the affirmative. Mr. Casson, while accepting this conclusion, mentioned that he had been led to raise the point on noticing an *obiter dictum* by Sir Frederick Whyte in the Legislative Assembly to the effect that the President admitted questions and the Governor admitted Resolutions. The Conference agreed that this must be taken to have been a colloquial expression, Sir Henry explaining that no doubt had ever been entertained in the Indian Legislature that the President admitted Resolutions and that the Governor General's only power in the matter was one of subsequent disallowance, the President's order of admission being in fact expressed as subject to the Governor General's power of disallowance. Sir Gangadhar Chitnavis said that in his Council the practice differed, all Resolutions being passed from the President to the Governor and expressly admitted by the latter. Sir Henry Moncrieff Smith thought that this procedure was entirely opposed to the rules and the Conference generally agreed. Reverting to the actual terms of the agenda the Conference agreed that if the President was clearly of opinion that a Resolution was within the restrictions imposed by sub-rule (1) of Rule 23 he not only could but must disallow the Resolution under that Rule read with Standing Order 60.

8. *Motions for Adjournment.*—(1) *Power of Governor to disallow motion on receiving informal notice of intention to move same.*—Mr. Pillai explained the circumstances which had led him to raise this question. A member of the Madras Council gave an informal intimation to a member of the Government of his intention to make a motion for adjournment, and communicated the terms of the proposed motion. This informal notice was placed before the Governor who passed orders disallowing the motion. On the following day the member rose to ask for leave to make his motion and read it in terms differing in their wording, though not in their general effect, from the terms of the motion which had been placed before the Governor. A Government member rose in his place and informed the President that the Governor, who had in the meantime left the station and was in an inaccessible part of the Presidency,

had disallowed the motion. The mover contended that the Governor's power of disallowance under rule 22 did not come into being until leave to make the motion had been asked, that the order of disallowance passed on the informal intimation was therefore of no effect, and in any case that the changed form of the motion rendered the order of disallowance inoperative. The President had been somewhat impressed by these considerations, but had finally asked the Government member whether he was prepared to take the responsibility of stating in Council that the Governor had disallowed the motion. The member of Government made a statement to this effect and the President had refused leave to be asked. He was, however, doubtful about the correct decision on the points at issue. It appeared to him that on a strict construction of the Rules and Orders it was incompetent to the Governor to disallow until leave was actually asked. Sir Henry Moncrieff Smith pointed to the wide terms of sub-rule (2) of rule 22 and said that it was clearly competent to the Governor to disallow at any time after the written statement referred to in Standing Order 22 of the Legislative Assembly had been left with the Secretary. It transpired, however, that this Standing Order was not in force in Madras. Sir Henry thought that the omission of this Standing Order, which was obviously in the interests of convenience, was exceedingly unfortunate; but he had no doubt that on the facts as stated the President's refusal to allow leave to be asked had been correct.

Khan Bahadur Khwaja Muhammad Nur referred to rule 11 and said that he took it that the consent of the President to which reference was there made must be given or refused in accordance with his opinion that the matter proposed to be discussed was in order and that the necessary consent was in fact given when the President read the statement to the Assembly in accordance with Standing Order 33. Sir Henry was of a different opinion. He thought the effect of rule 11 was to vest the President with a purely arbitrary power of granting or withholding consent and that this consent was antecedent to and independent of his opinion as to whether the matter proposed to be discussed was in order for the purposes of Standing Order 23. The Khan Bahadur also thought that the Governor's power of disallowance under sub-rule (2) of rule 22 was not exercisable after the motion had once been moved, for that

power was to disallow a motion, and a motion having been once moved could not be disallowed. It was pointed out, however, that the rule concluded with a provision that if the Governor disallowed, no further discussion of the motion should take place, and the majority of the Conference was of opinion that the Governor was clearly competent to disallow at any time whether before or after the making of the motion and that if he disallowed after the motion had been moved, the debates thereon must terminate forthwith. Mr. Pillai, however, took a contrary view.

(a). *Interpretation of rule 12 (v).*—Mr. Pillai explained that in raising this question he had had in mind a case in which a Member of the Madras Legislative Council had desired to move a motion for adjournment on a matter in regard to which a Resolution would, in his opinion, have been inadmissible. He had therefore disallowed the motion. The Conference thought that no question of interpretation arose with reference to rule 12 (v), the plain effect of the rule being that a motion for adjournment could not be moved with reference to a matter on which a Resolution for whatever reason could not be moved; but the rules regarding the form of Resolutions had no application to such motions.

Sir Ibrahim Rahimtoola inquired whether in the opinion of the Conference any special principles should guide the President in his acceptance of, or refusal to accept, a closure motion during the debate on an adjournment motion. The Conference thought that the question was one to be decided in conformity with the principles laid down in Standing Order 34(1) (Legislative Assembly) on the merits of the particular case and that there was no distinction from this point of view between motions for the closure during the debate on a motion for adjournment and on other occasions.

Mr. Casson inquired whether it was open to the Council to resume the ordinary business of the day after a motion for adjournment had been disposed of. The Conference agreed that the answer to this question was in the affirmative. Sir Ibrahim, however, mentioned that the Bombay practice was to adjourn the Council if a motion for adjournment were carried but otherwise to proceed with the ordinary business of the day and Mr. Keane thought that this was the only correct procedure, since the carrying of a motion for adjournment, from whatever motive, must necessarily be followed by

adjournment. The Conference as a whole however thought that the Bombay procedure was illogical, a motion that this House do adjourn representing merely a conventional formula of recognised significance and having nothing whatever to do with the adjournment of the Council.

9. *Return of Bill in part under section 81A(1) with amendments recommended by Governor. Can Council entertain amendments to amendments so recommended?* Sir Henry Moncrieff Smith observed that it was open to the Governor to return the Bill to the Council for reconsideration either in whole or in part. If he returned the Bill in whole it was obvious that the whole Bill was open to amendment and it was hard to resist the conclusion that if he returned the Bill in part with amendments recommended to that part it was open to the Council to move amendments not only to the Governor's amendments but at large to the part returned. Mr. Keane dissented. He quoted a Standing Order in force in the United Provinces which seemed to him to limit the powers of the Council with reference to a Bill returned under section 81A to the acceptance or rejection of the amendments recommended by the Governor. Sir Henry Moncrieff Smith doubted whether this was in fact the effect of the Standing Order in question, and observed that if this was the effect thereof the Standing Order was *ultra vires* of the Government of India Act, which, on the view which he had suggested, did not empower the Governor to impose any limits on the Council's right to deal with the part of the Bill returned to it for reconsideration. He also pointed out that the Governor's power to recommend amendments was an adjunct to his power to return for reconsideration. He could return for reconsideration without recommending amendments but he could not recommend amendments without returning the Bill either in whole or in part for reconsideration, and return for reconsideration necessarily involved the existence in the Council of power to entertain amendments to the part returned for its reconsideration. He suggested that on the view taken by Mr. Keane the Governor's action amounted to nothing more or less than the levelling of a pistol at the Council inasmuch as the Council was required either to accept or reject the Governor's recommendation with a clear knowledge that rejection thereof would mean the loss of the whole Bill. Mr. Keane

thought that this was in accordance with the intention of the section, the extraordinary procedure provided thereby being in itself in the nature of a threat. Sir Henry pointed out that section 81 A might in many cases be most usefully employed without any possible suggestion of a threat as in the case which Mr. Keane himself had mentioned when a Bill was returned by the Governor with a view to the incorporation therein of a consequential amendment which was admittedly required and the necessity for which had escaped the Council's notice. The Conference as a whole thought that the view taken by Sir Henry Moncrieff Smith was correct. Mr. Keane said that he did not like the position which would emerge from the acceptance of this view as it appeared to him to reduce the procedure to something in the nature of bargaining between the Governor and the Council. Sir Henry thought that it was not objectionable, but on the contrary highly advantageous that there should be an opportunity for give and take between the Council and the Governor. The Conference agreed that it was important that the Governor's message returning a Bill for reconsideration in part should show beyond any possibility of doubt the extent of the part which was returned for reconsideration. Should the message admit of any ambiguity in this respect the Council would, it was thought, be within its rights in moving the Governor to elucidate the point. Some discussion took place as to the extent to which it was possible for the Governor, on the view taken by Sir Henry Moncrieff Smith, to narrow down the extent of the matter thrown open to the Council. It was concluded that the part returned could be confined to a single clause or, if need be, to a single word. Were a single word returned for reconsideration with a recommendation that for that word another word be substituted it would in Sir Henry's view, which the Conference accepted, be open to the Council either to reaffirm the original word, to accept the Governor's word, or to substitute any alternative word or words.

10. *Resolutions adjourned by vote of Council. Position as regards ballot and priority.*—Sir Henry Moncrieff Smith pointed out that there must be a power in the President to refuse at his discretion to put a motion to adjourn a discussion, for otherwise it would be within the power of an obstructive majority to reduce all business to a farce. He pointed out

that in some cases the intention of a motion for postponement of discussion was to postpone *sine die*, and in such cases the effect of the carrying of the motion was that the matter postponed was completely removed from the cognizance of the Council unless and until revived by an entirely fresh notice. A motion to postpone discussion to a named date was open to the objection that the date named might be a day on which the matter postponed could not come before the Council, while assuming that the date named was a day on which the postponed business could be taken, difficulty arose under the existing rules and orders regarding the position of the postponed resolution *vis-à-vis* resolutions ballotted for the day in question. He mentioned a case in the Legislative Assembly where the President had allowed a postponed resolution to be ballotted for by any member, whether he was the member who originally gave notice or not. The intention was to increase the chances of the resolution obtaining an early place in the ballot. This, however, was a mere expedient, and it was now proposed to frame Standing Orders definitely governing the moving of motions for the postponement of discussion and providing a procedure for the renewal of resolutions so postponed. It had, he mentioned, been suggested that the Standing Order requiring business not disposed of to be put down first on the next following day was applicable, but the Conference agreed that this view was plainly untenable. He suggested that the Conference should ask the Government of India to circulate the draft Standing Orders prepared in this connection to Local Governments, with a view to the consideration of the questions involved by the various Provincial Councils whose experience might not improbably suggest improvements in the nature of the proposed provisions. The Conference concurred in this suggestion, and agreed that in the meantime no purpose would be served by continuing the discussion.

The business on the agenda having been disposed of, the Chairman inquired whether any member had any further points which he would like to raise. Sir Gangadhar Chitnavis asked what the Conference thought should be the attitude of the President towards a resolution recommending the placing in the Council Chamber of portraits of prominent political leaders of the day. Sir Henry thought that a resolution of this nature should be disallowed in that the matter to which it

related was purely one for the President and had nothing whatever to do with the Government. Messrs. Keane and Casson, agreeing, pointed out that while Government was responsible for the maintenance of the Council Chamber, its internal regulation was solely in the President's discretion. Sir Ibrahim Rahimtoola said that this position did not prevail in Bombay where the Council met in the Town Hall, which was a public building over which the Council had no exclusive rights. Sir Henry expressed the opinion that this was a position in which the continued acquiescence of the Council would be impossible.

Mr. Keane inquired what was the practice of other Presidents with reference to questions asking whether Government would be pleased to take a specified line of action. Sir Henry Moncrieff Smith said that he would disallow any such question as not being a request for information; and Sir Ibrahim Rahimtoola mentioned that in the Bombay Council a standing order explicitly forbidding suggestions for action was in force. The Conference thought that this was a very useful provision, the general adoption of which might suitably be considered, Mr. Casson adding that a draft amendment to add an order in this sense was under consideration in the Punjab. Mr. Keane mentioned that he based his disallowance of questions of this nature on the United Provinces order—not in force in the Assembly—that a question must be so framed as to be *merely* a request for information, but said that he would be glad to be fortified with an express order in the terms in force in Bombay. Sir Henry Moncrieff Smith remarked that the substitution of "Is it the intention of Government" for "Will Government be pleased" was mere verbal camouflage and in no way improved the question from the point of view of admissibility. Mr. Pillai said that he was in the habit of allowing plain brief questions asking whether it was the intention of Government to do some one definite and specific thing but disallowed any questions of this nature which entered into any kind of elaboration. The Conference thought that this line of treatment was legitimate.

Sir Henry Moncrieff Smith mentioned that the imposition of a limit on the number of questions to be put by a single Member had been considered in the Assembly but the conclusion had been reached that no really useful purpose would be served thereby. The Bengal Council, it appeared, had standing orders

limiting the number of questions and Resolutions allowed to any individual member per session, while in Madras an order made by the President had limited the number of starred questions to 8 per member per day. Mr. Keane suggested in this connection that the standing order requiring questions to be put in such manner as the President should determine, would, even in the absence of more express provision, permit of the President directing all or any questions marked as starred to be answered as though they were unstarred. Sir Henry thought that the question of limiting numbers was one for consideration by each Council in accordance with its own experience.

Mr. Pillai inquired whether it was permissible for members to put questions regarding the line of action taken in any particular matter by say the ministers or by an individual Member of the Government. Sir Henry Moncrieff Smith thought that any such question could, and should, be disallowed as an abuse of the right of questioning inasmuch as the information which it was sought to elicit was not information for which the Member was entitled to ask.

Mr. Keane said that he had been puzzled to know the precise position which prevailed when proposed amendments of the standing orders having been referred to Select Committee, the Select Committee reported in favour of the complete elimination of one or more of the amendments originally proposed. Had the Council jurisdiction to reopen the Select Committee's decision to eliminate a particular amendment and, if so, in what manner could the question of the restoration of the amendment be put before the Council? Sir Henry Moncrieff Smith thought that the Council undoubtedly had jurisdiction to come to its own decision regarding the making or otherwise of an amendment which had originally been placed before it and which the Select Committee had proposed to omit. Mr. Casson suggested that recommendation to the Select Committee of this particular aspect of their recommendation would meet the case. The Conference admitted that this was a possible course but felt that it was on all grounds desirable that the President should endeavour to give the House an opportunity for arriving forthwith at a decision and no insuperable difficulty would, it was thought, arise in devising a means to enable this to be done.

The proceedings then terminated with a vote of thanks to the Chair.

APPENDIX.

Extract from report of Select Committee of Central Provinces Council; see page 16.

10. *Amendment No. 9.*—The Committee has endeavoured to lay down the broad lines of procedure which should be followed in these communications. It has adopted Dr. Moonje's amendment with certain small modifications of drafting, but has added thereto a proviso providing for the case of non-controversial communications on which the House is unanimous. In the opinion of the Committee, communications relating to controversial matters should be subject to the discretion of the President to admit them or to reject them, and the Select Committee considers that the following principles should be applied:—

- (a) The address should be in a form which is capable of being made the subject of a debate, i.e., it should be clearly expressed in concise language and raise definite issues concerning a single subject.
- (b) It should concern a matter on which an ordinary resolution could not be moved.
- (c) It should concern in the first place matters in which the Council is directly interested as a Council, and its relations with the Governor.
- (d) But such a communication may also relate to a matter in which the interests of the Province are directly concerned.

These matters, however, the Committee prefers to leave for the present to the discretion of the President and does not attempt to draft Standing Orders to cover them. It considers that a final solution can only be arrived at by building up a body of precedents.

Order 73, as proposed to be amended by the Committee, will now run—

- "(1) Communications from the Council to the Governor shall be made by a formal address, through the President, after motion made and carried in the Council;
- (2) The President shall read the communication to the Council and ask whether the member making the motion has the leave of the Council. If objection is taken, the President shall request those

members who support the motion to rise in their places and if fifteen or more members rise accordingly, the President shall intimate that the member has the leave of the Council and the motion shall be set down for such day as the President may direct;

Provided that if the address is non-controversial and the Council is unanimously in favour of its presentation, the President may, with the permission of the Council, forward it at once."

V2, 31 1/2, N25



GOVERNOR OF THE PRESIDENCY OF FORT ST. GEORGE AND ITS DEPENDENCIES.

HIS EXCELLENCY THE RIGHT HONORABLE LORD CONNEMARA, G.C.I.E.
Took his seat 8th December, 1886.

Personal Staff of His Excellency the Governor.

Rank.	NAMES.	Corps.	Date of Appointment	REMARKS.
.....	REEES, J. D., Esq., C.I.E.	Civil Service.....	12 Aug. 90	Acting Private Secretary.
Major	CHISHOLM, J. J. S.	5th Lancers.....	10 Aug. 88	Military Secretary.
Captain	FOWLE, J.	21st Hussars.....	6 Nov. 89	Aide-de-Camp.
Captain	STAMER, L.	16th Lancers.....	6 Mar. 90	Aide-de-Camp.
Major	LEONARD, T. T.	Bangalore Rif. Vols.	19 July 89	Honorary A. D. C.
Surg. Major	MAITLAND, J. M.B.	I. M. S.	11 March 89	Surgeon.
Sub. Major	*OOSSEMON KHAN, "SIRDAR BAHADUR"	Body Guard	8 Dec. 86	Native Aide-de-Camp.

Rank.	Names.	Corps.	Date of Appointment.	Completes tenure of Appt.	Remarks.
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Government Secretariat, Military Department.

Brig.-Genl. Kenney-Herbert, Arthur Cavy. Genl. List 10 Dec. 1885 10 Dec. 1890 Secy. to Govt.
R.

Medical Department.

Surgeon deFabeck, W. F., M.D. ... Indian Medical 29 May 90 18 May 94 With the Govt. of
Genl. Service. Madras.

Superintendent of Family Payments and Pensions.

Colonel Leigh Hunt, S. Staff Corps 4 Sep. 86 4 Sep. 91

The Governor's Body Guard.

Captain Kerrich, L. W. C. 4th L. C. 1 Jan. 90 1 Jan. 95 Commandant.
Adjt.
Surg.-Maj. Hunt, Samuel Bradshaw... Ind. Medl. Serv... 19 Dec. 78 In Medl. charge.—
Eur. (M. C.)

COMMANDER-IN-CHIEF, MADRAS ARMY.

HIS EXCELLENCY LIEUTENANT GENERAL Sir C. G. ARBUTHNOT, K.C.B., R.A.,

Assumed Command—9th December, 1886.

Personal Staff.

1st Commn.	Rank, Name, and Corps.	Date of Appointment.	Remarks.
Military Secretary.			
25 Apl. 68	Bt. Lt.-Col. Hemming, F. W., (2-7-12-17) H.S., H.S. in P., 5th Dn. Gds.	9 Dec. 1886	
Aides-de-Camp.			
10 Sep. 76	Captain Preston, R. W., 9 Bo. I.	9 Dec. 86	Interpreter.
30 July 79	Captain Forde, L. R.A.	30 Aug. 89	
Native Aide-de-Camp.			
11 Aug. 80	Sub-Major Venket Row, <i>Sirdar Bahadur</i> 2nd M. L.	20 July 88	

STAFF AND DEPARTMENTS.

Adjutant General's Department.

1st Commission.	Rank, Name, and Corps.	1st Appt. to Dept.	Present Appointment.	Completes tenure of Appointment	Remarks.
Adjutant General.					
28 Feb. 56	Br.-Gl. Pearson, Hugh Pearce, C.B., <i>h.p.</i>	7 June 90	7 June 90	7 June 95	Army Hd. Qrs.
Deputy Adjutant General.					
4 Nov. 60	Colonel Hope, Hugh Richard, Genl. List., Cav.	29 Mar. 88	29 Mar. 88	29 Mar. 93	Army Hd. Qrs.
Assistant Adjutant General.					
4 Mar. 61	Lt.-Col. Wratislaw, M. H., (15th M. I.)	7 Sep. 86	31 Mar 88	7 Sep. 91	Army Hd. Qrs.
Assistant Adjutant General, Royal Artillery.					
12 June 58	Colonel Lockhart, William Elliott, Roy. Arty.	31 Oct. 89	31 Oct. 89	31 Oct. 94	Army Hd. Qrs.
Assistant Adjutant General (for Musketry).					
12 Feb. 58	Colonel Austin, E., s.c.	8 June 89	8 June 89	11 July 92	1st Dist.—Bangalore, Madras & Southern Districts.
Deputy Assistant Adjutants General (for Musketry).					
30 Dec. 71	Captain Riddell, W. H., Bedf. Regt.	30 Sep. 87	30 Sep. 87	30 Sep. 92	2nd District—Secunderabad and Belgaum District.
28 Oct. 76	Capt. Andrews, R.C. (19th M.I.)	16 May 89	16 May 89	16 May 94	3rd District.—Burma District.

Quarter Master General's Department.

Quarter Master General.

4 Jan. 58	Br. Gl. Protheroe, Montague, C.B., C.S.I., Staff Corps.	26 Mar. 88	26 Mar. 88	26 Mar. 93	Army Hd. Qrs. Offg. in Comd. Hyd. Contgt. Offg.
4 Mar. 58	Colonel Eyre, E. H., (1st Pres.)	1 April 90			

Deputy Quarter Master General.

20 Feb. 59	Colonel Hutchins, A. G., (17th M. I.)	28 Nov. 88	28 Nov. 88	28 Nov. 93	Army Hd. Quarters.
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A Corps of Guides consisting of 1 Head Guide, 3 Second Guides and 6 Guides, is attached to the Quarter Master General's Department (G. O. G. No. 1 of 1890).

Judge Advocate General's Department in India.

1st Commission.	Rank, Name, and Corps	Yr. Dept.	Present Ap- pointment.	Stations and Circles.	
	<i>Judge Advocate General in India.</i>				
20 Dec. 56	Col. Sanderson, H. B., B.S.C.	27 Sep.	78 11 June	90 Army Head-Qrs.	
19 Dec. 60	<i>Dy. Judge Advocates Genl. (4)</i> Lt.-Col. Hughes Hallett, W., M. S. C.	8 Feb.	78 1 Apr.	88 1st Circle, Army Head-quarters, Ootacamund--Bangalore, Madras and Southern Districts.	
2 Oct. 60	Colonel Tytler, R. F. C. A., B. G. L. I.	21 Aug.	80 1 Apr.	88 2nd Circle, Army Head-Quarters, Poona--Poona & Bombay Dists.	
20 Mar. 55	Col. Matthews, C. B., B.S.C.	17 Feb.	81 1 Apr.	88 5th Circle, Meerut--Meerut, Rohil- kand and Bundelkand Dists.	
4 Jan. 60	Colonel Swinton-Skinner, E., M. S. C.	27 May	81 11 June	90 8th Circle, Secunderabad--Secun- derabad, & Belgaum Dists. and Hyderabad Contgt.-- <i>Eur. (P.A.)</i> 2 years, from 18th Sep. 1889.	
• 27 Mar. 61	<i>Asst. Judge Advocates Genl. (6)</i> Lt.-Col. Prideaux, R. A., Bo. G. L. I.	14 June	81 1 Apr.	88 7th Circle, Poona--Mhow, Deesa, Sind, Nagpur and Aden Dists.-- --Offg. D. J. A. G., 8th Circle.	
12 Nov. 60	Lt.-Col. Chaplin, A., M.G.L.I.	7 Jan.	82 1 Apr.	88 9th Circle, Rangoon, Burma Dist.	
28 Oct. 71	Captain Macmullen, W. H. F., B.S.C.	1 July	84 1 Apr.	88 3rd Circle, Rawal Pindi--Rawal Pindi and Peshawar Dists. and Punjab Frontier Force.	
30 June 69	Major Balfe, E., Bo. S.C. <i>p.s.c.</i>	10 Sep.	84 1 Apr.	88 Army Head-Qrs., Simla.	
12 Dec. 57	Col. Shaw, E. M. S. C.	31 Jan.	86 1 Apr.	88 4th Circle, Meean Meer--Sirhind, Lahore and Quetta Dists.	
1 Mar. 62	Lt.-Col. Sheppard, C. H., M. I.	13th 11 June	90 11 June	90 7th Circle, Poona.	
12 Nov. 78	Captain Lambert, W. 3rd P.C.		13 Jan.	90 Offg. 6th Circle, Allahabad--Alla- habad, Oudh, Presdy., Nerbudda and Assam Dts.	
1st Com- mission.	Rank, Name, and Corps.	1st Appt. to Dept.	Present Ap- pointment.	Completes tenure of Appointment	Remarks.

Principal Medical Officer, Her Majesty's Forces, in Madras.

30 Sep. 53 | Hanbury, Surg. Genl., *Sir*, 10 Mar. 88 | 10 Mar. 88 | 13 Jan. 92
J. A., M.B., F.R.C.S.E. & L.,
K.C.B., Medl. Staff.

Inspecting Veterinary Surgeon.

6 Feb. '57 | Shaw, F. G., I. V. Dept. ... | 1 Mar. 86 | 1 Mar. 91 | Ootacamund.

Examiner in Hindustani.

20 Nov. 58 | Col. Butler, J. W. S., 26th M.I. | 5 Sep. 89 | 20 Aug. 90 | Madras.

Inspector of Gymnasias, Madras and Bombay.

11 July 68 | Major James, W. W., Durh. 23 Aug. 87 | 23 Aug. 87 | 23 Aug. 92 | Poona.
L. I.

Inspector of Army Signalling, Madras and Bombay.

8 Jan. 68 | Major Penton, H. E., 7th Bom. Infy. | 11 March 90 | 11 March 90 | 11 Mar. 95 | Poona.

Army Education Department.

INSPECTOR AND SUPERINTENDENT.

Bangalore.

SUB-INSPECTORS.

Hony. rank—Lieutenant.

12 July 82 | Kenny, Richard Thomas | 12 July 82 | 12 July 82 | England (M.C.) 162
days.

Warrant Officers.

Schoolmasters who elected the regulations contained in W. O. Circular No. 821, dated 25th May 1863,
Army Schools.
Sherwood, Arthur Caton ... | 1 July 81 | St. Thomas' Mount.

1st Commission.	Rank Name, and Corps.	1st Appt. to Staff.	Present appointment.	Completes tenure of Appointment.	Remarks.
District Staff.—1st Class Districts—2					
General Officers Commanding—2nd Class Districts—7.					
18 Aug. 54	Major-Genl. East, C. J., c.B., p.s.c.	23 April 89	23 April 89	89	Burma Dist.—Rangoon. Secunderabad Dist.—Secunderabad.
22 Mar. 55	Brig.-Genl. Bengough, H. M., c.B., p.s.c., h.p.	8 Nov. 86	9 Jan. 89	89	Bangalore District—Bangalore.
18 Sep. 57	Brig.-Genl. Wolseley, G. B., c.B., A.D.C. h.p.	20 May 87	1 Apl. 89	89	Mandalay District—Offg. in Comd. Burma Dt. Rangoon.
18 June 51	Brig.-Genl. Smart, G. J., R.A.	24 Dec. 87	24 Dec. 87	87	Madras Dist.—Fort St. George.
10 Dec. 52	Brig.-Genl. Cox, A. T., c.B. S.C.	8 April 88	8 April 88	88	Belgaum District—Belgaum.
20 Dec. 54	Brig.-Genl. Faunce, E., c.B., S.C.	7 Feb. 89	7 Feb. 89	89	Southern District—Wellington.
9 June 54	Brig.-Genl. Rowlandson, G., S.C.	11 July 89	11 July 89	89	Rangoon District—Rangoon.
12 June 58	Brig.-Genl. Graham, T., c.B., R.A.	21 June 90	21 June 90	90	Myingyan District—Myingyan.
18 Feb. 62	Brig.-Genl. Gatacre, W. F., D.S.O., p.s.c., h.p.	6 June 90	6 June 90	90	Offg. Mandalay Dt.—Mandalay.
Aides-de-Camp to General Officers Commanding.					
30 Jan. 86	Lieut. East, C. C., R. War. R.	31 Jan. 90	31 Jan. 90	90	To Major-Genl. C. J. East, c.B.
9 May 85	Lieut. Smith, F. deH., 1st C. I. Horse.	7 June 90	7 June 90	90	To Brig.-Genl. Wolseley, c.B. A.D.C.
Assistant Adjutants General—9.					
18 Dec. 63	Major Harris, T., Midk. Regt.	21 Dec. 85	1 Oct. 88	21 Dec. 90	Bangalore District—Bangalore.
20 May 59	Col. Smalley, F. (10th M.I.)	27 June 87	do	27 June 92	Madras Dist.—Eur. (P. A.) 1 year, from 6th July 90.
27 Nov. 61	Colonel Simpson, G., (11th M.I.)	30 July 87	do	30 July 92	Secunderabad Dist.—Secunderabad.
15 Dec. 71	Major M. W. Saunders, R.A.	25 Jan. 88	do	25 Jan. 93	Belgaum District—Belgaum.
9 Aug. 73	Major Gall, C. D. M. (R. Fus.)	16 June 87	1 Apl. 89	10 June 92	Southern District—Wellington.
6 Apr. 55	Col. Morgan, A. B., c.B., p.s.c.	do	do	do	Burma District.
13 June 74	Bt. Lt.-Col. Ternan, A. G. B., (44th B.I.)	6 Sep. 86	27 May 89	6 Sep. 91	Myingyan District—Myingyan.
20 Sep. 58	Col. Atkinson, S. E., (23rd L.I.)	10 Mar. 90	10 Mar. 90	10 Mar. 95	Mandalay District—Mandalay.
4 Apr. 59	Col. Begbie, E. W., Genl. List.	do	do	do	Rangoon District—Rangoon.
22 Sep. 65	Major Porteous, J. E., (4th P.s.)	5 July 90	5 July 90	90	Offg. Madras District—Fort St. George.
Dy. Assistant Adjutants General—9.					
9 Aug. 75	Capt. Prichard, G. P. M., (31st L.I.)	10 June 87	1 Oct. 88	10 June 92	Belgaum District.—Russia for a course of study.
31 May 76	Capt. Sharpe, E. J., p.s.c. (Middx. R.)	14 June 87	do	14 June 92	Secunderabad Dist.—Secunderabad.
22 Sep. 65	Major Porteous, J. E. (4th P.s.)	30 Sep. 87	do	30 Sep. 92	Madras Dist.—Offg. A. A. G.
10 Sep. 75	Captain Poynder, C. E., p.s.c. (5th M.I.)	15 April 87	1 Apl. 89	15 April 92	Mandalay District.—Eur. (P. A.) 1 year, from 1st June 90.
10 Mar. 75	Capt. Burn, A. G. (14th M.I.)	7 Feb. 89	do	7 Feb. 94	Southern District—Wellington.
28 Jan. 75	Captain Western, C. M. T., R.A.	1 April 89	do	1 Apl. 94	Rangoon District—Rangoon.
11 Sep. 77	Capt. Burton, C. W. W., (8th M.I.) [Norf. R.]	3 Oct. 89	3 Oct. 89	3 Oct. 94	Myingyan District.—Eur. (M. C.), 1 year from 3rd July 90.
8 May 72	Capt. Sewell, J. H., p.s.c.	19 June 90	19 June 90	19 June 95	Burma Dist.—Rangoon.
1 Apl. 78	Capt. Shaw, G. J., (6th M.I.)	30 June 90	30 June 90	90	Burma Dist., Rangoon—(Additional).
3 June 74	Capt. Evans, G. A. P., 7th Hrs.	3 Dec. 89	3 Dec. 89	89	Belgaum Dist.—Belgaum.—(Offg.)
30 Dec. 71	Major Curtis, J. G. C., (Oxf. L.I.)	27 June 90	27 June 90	90	Mandalay District.—Mandalay—(Offg.)
12 Aug. 75	Capt. Clothier, R. F., (27th M.I.)	16 July 90	16 July 90	90	Madras Dist., Fort St. George—(Offg.)
9 Aug. 73	Capt Campbell, J. A. (Bedf. R.)	20 Aug. 90	20 Aug. 90	90	Myingyan District—Myingyan (Offg.)
Dy. Asst. Adj. Genl. for Instruction.					
10 Sep. 75	Capt. Bethune, E. C., p.s.c., L.S. 6th Drag. Gds.	20 Oct. 87	20 Oct. 87	20 Oct. 92	Bangalore.