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THE

# COUNCIL OF STATE DEBATES

## (Official Report)

## VOLUME II

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## FIFTH SESSION

OF THE

## SECOND COUNCIL OF STATE,

## 1928

SIMLA
GOVERNMENT OF INDIA PRESS
1928

# COUNCIL OF STATE.

*Tuesday, 11th September, 1928.*

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

## MEMBERS SWORN :

The Honourable Mr. Rama Prosad Mukherji (West Bengal : Non-Muhammadan) :

The Honourable Mr. Kenneth Brand Harper (Burma Chamber of Commerce) :

The Honourable Mr. Andrew Gourlay Clow, C.I.E. (Industries and Labour Secretary) :

The Honourable Mr. Bertrand James Glancy, C.S.I., C.I.E. (Political Secretary) :

The Honourable Sir John Perronet Thompson, K.C.I.E., C.S.I. (Delhi : Nominated Official) :

The Honourable Mr. Archibald Morven Macmillan, C.I.E. (Bombay : Nominated Official) :

The Honourable Khan Bahadur Sheikh Maqbul Husain, C.I.E. (United Provinces : Nominated Official) :

The Honourable Nawab Malik Muhammad Hayat Khan (Punjab : Nominated Official) :

## MESSAGE FROM HIS EXCELLENCY THE GOVERNOR GENERAL.

### PANEL OF CHAIRMEN.

THE HONOURABLE THE PRESIDENT : I have a Message from His Excellency the Governor General. The Message is in the form of the following Order :

" *In pursuance of the provisions of sub-section (2) of section 63 A of the Government of India Act, I, Frederick Edward Lindley, Baron Irwin, hereby appoint the following Members of the Council of State to be on the panel of Chairmen of the Council of State :*

*In the first place, the Honourable Sir Phiroze Sethna, in the second place, the Honourable Khan Bahadur Maulvi Abdul Karim, in the third place, Rai Bahadur Lala Ram Saran Das, and, lastly, the Honourable Sir George Godfrey.*"

(*Sd.*) *IRWIN,*

*Viceroy and Governor General.*"

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

## COMMITTEE ON PETITIONS.

THE HONOURABLE THE PRESIDENT : Under Order 76 of the Council of State Standing Orders I am required at the commencement of the Session to constitute a Committee on petitions consisting of a Chairman and four Members. The following Honourable Members have at my request kindly consented to preside over and serve on the Committee. I hereby accordingly have much pleasure in nominating as Chairman of the Committee the Honourable Rai Bahadur Lala Ram Saran Das, and as Members, the Honourable Raja Sir Rampal Singh, the Honourable Sir Ebrahim Jaffer, the Honourable Mr. P. C. Desika Chari and the Honourable Sir Manmohandas Ramji.

## QUESTIONS AND ANSWERS.

### NAMES AND QUALIFICATIONS OF PERSONS WHO CONSTITUTE THE BOARD OF EXAMINERS UNDER THE INDIAN MINES ACT, ETC.

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

(*a*) the names and respective qualifications of the persons who constitute the Board of Examiners for the examination of Managers for Mines under the Indian Mines Act ?

(*b*) the names and respective qualifications of the examiners selected by the Board of Examiners for holding the aforesaid examination for the last 5 years ?

(*c*) whether any of the teaching staff of the Dhanbad School of Mines or of the mining lecturers at evening classes for mining students are appointed as such examiners ; if not, why not ?

(*d*) the number of students who appeared and the number who passed in the examination for 1st and 2nd class Mine Managers' certificate during the last six years, and the number of unsuccessful attempts made by the students who finally passed ?

(*e*) whether more and more persons holding University degrees have been sitting for these examinations during the last five years, and how many of these persons have passed ?

(*f*) whether the aforesaid examinations are held to test the fitness of students for mine managership or whether students are tested on a competitive basis so that only a definite number of students are passed in different years ?

(*g*) whether the aforesaid examinations are held only once a year ?

(*h*) whether the time tables for holding the aforesaid examinations in different subjects are published beforehand ; if not, why ?

(*i*) whether alternative questions are set at the said examinations ?

(*j*) whether the answer papers of the examinees are preserved for some time after the results are published ; if so, how long ; if not, why not ?

(*k*) whether students are allowed to know the marks secured by them in different subjects ?

(*l*) whether notices to students to appear for the *viva voce* examination used previously to be sent by registered post, but are not so sent now ? If so, why has that change been made ?

THE HONOURABLE MR. A. G. CLOW : (*a*) The President of the Board of Examiners is Mr. R. R. Simpson, M.Sc., the Chief Inspector of Mines in India, and the members are Messrs. J. B. Wardlaw, J. Mackie and N. N. Sarkar. Messrs. Wardlaw and Mackie have over twenty years' mining experience in the Raniganj and Jharia coalfields, hold both British and Indian first class Certificates of Competency to manage a coal mine and have previously acted as Examiners. Mr. Sarkar has considerable experience of the management and superintendence of coal mines, and holds an Indian first class Certificate of Competency to manage a coal mine.

(*b*) As the list is a somewhat lengthy one, I propose to forward a copy to the Honourable Member.

(*c*) No, because it is desirable that those who may be preparing students for the examination should not themselves conduct it.

(*d*) The information will be supplied to the Honourable Member.

(*e*) The number of graduates appearing for the examination during the last five years has varied between one and three, but has not shown any tendency to increase. No graduate has succeeded in passing the examination during the years in question.

(*f*) The object of the examination is to test the competency of candidates to manage a mine.

(*g*) Yes.

(*h*) Detailed time tables have hitherto been supplied on the first day of the examination, but they will be supplied to candidates beforehand in future.

(*i*) No.

(*j*) Yes, for at least six months.

(*k*) Not as a general rule.

(*l*) Yes. The change was made on the score of economy, but it is now proposed to restore the previous practice.

NUMBER OF EUROPEANS AND INDIANS EMPLOYED AS MANAGERS IN THE COAL MINES OWNED AND MANAGED BY THE STATE RAILWAYS, ETC.

2. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : Will the Government be pleased to state the number of Europeans and Indians respectively, employed as managers in the coal mines owned and managed by the State Railways in India and the salaries and other amenities given to them, and their respective qualifications ?

THE HONOURABLE SIR GEOFFREY CORBETT : There are six such managers, all of whom are Europeans. They are on a graded scale of pay

ranging from Rs. 800 to Rs. 1,250 and draw overseas pay of £25 to £30 each. Three of them draw conveyance allowance of Rs. 45, 50 and 75 per mensem, respectively, and two others are given rent free quarters. All of them possess first class English colliery manager's certificates.

NUMBER OF EUROPEANS AND INDIANS EMPLOYED AS MEDICAL OFFICERS ON THE STATE RAILWAYS.

3. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: Will the Government be pleased to state the number of Europeans and Indians respectively employed as medical officers on the State Railways in India and the salaries and other amenities given to them and their respective qualifications ?

THE HONOURABLE SIR GEOFFREY CORBETT: The information desired by the Honourable Member is being collected and will be communicated to him in due course. I presume that among amenities he includes the right to private practice, and this information will be included in the reply.

ERADICATION OF THE WATER HYACINTH FROM BENGAL, ASSAM AND BIHAR AND ORISSA.

4. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: Does the Government contemplate taking any steps for the eradication of the water hyacinth from the three provinces of Bengal, Assam and Bihar and Orissa ? If so, what ?

THE HONOURABLE KHAN BAHADUR SIR MUHAMMAD HABIBULLAH: It is primarily for the Local Governments concerned to take such action as they deem necessary.

POLITICAL DETENUS.

5. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: Will the Government be pleased to state the number and names of persons still under detention under Bengal Regulation III of 1818 and the Bengal Criminal Law Amendment Act 1925, their state of health, the conditions of their detention and the places where they are detained ?

THE HONOURABLE MR. H. G. HAIG: I understand the Honourable Member refers to persons detained in connection with the Bengal revolutionary conspiracy. No such persons are at present detained under Regulation III, and only four are under restraint under the Bengal Criminal Law Amendment Act. Of these, three are in village domicile and one in home domicile. The health of all these four is reported to be generally satisfactory. Their names are: Panna Lal Mukharji, Jatindra Nath Das, Pratul Ganguli and Ramesh Chandra Acharji.

CERTIFICATION BY THE GOVERNOR GENERAL OF THE EXPENDITURE ON THE SIMON COMMISSION.

6. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: Will the Government be pleased to state what is the responsibility for the

discharge of which the expenses of the Simon Commission have been certified by the Governor General in Council ?

THE HONOURABLE MR. E. BURDON : The responsibilities in question are those which follow from the provisions of section 84-A of the Government of India Act.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : Is the Government aware that by the Preamble to the Government of India Act, 1919, the responsibility for determining the future form of the Government of India rests entirely with the British Parliament ?

THE HONOURABLE THE PRESIDENT : The Honourable Member asked a question about finances and not about a constitution for India. The supplementary question that the Honourable Member has just now put hardly arises out of the original question.

REPORT OF THE TARIFF BOARD ON THE OIL INDUSTRY.

7. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : Will the Government be pleased to state whether the report of the Tariff Board on petroleum has been submitted to Government ? If so, what steps do the Government propose to take in the matter ?

THE HONOURABLE SIR GEOFFREY CORBETT : The Report and the Resolution of the Government of India thereon will be published to-morrow.

IMPORTATION OF ARTIFICIAL TEA.

8. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : Has the attention of the Government been drawn to the alleged importation of large quantities of artificial tea into India ? If so, what is the nature of this stuff, where is it imported from and what steps, if any, do the Government propose to take to prevent its importation ?

THE HONOURABLE KHAN BAHADUR SIR MUHAMMAD HABIBULLAH : The Government of India understand that imitation tea is manufactured at Virudhunagar in the Ramnad District of the Madras Presidency from the leaves of certain trees, and that this stuff is imported coastwise from Tuticorin to Bombay, etc., probably under other descriptions such as " Soap Nut Powder." It is also reported that there is some traffic in artificially coloured teas in Amritsar, but no information is available as to whether these are imported from outside and, if so, whence. With regard to the question of prevention of the importation of such teas, I may state that action has already been taken or is being taken by Local Governments to prescribe under their Food Adulteration Acts a standard quality of tea for sale for human consumption. In view of this the Government of India do not propose to take any further action in the matter.

THE RESERVE BANK BILL.

9. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : Will the Government be pleased to state whether they propose to bring the Reserve Bank Bill before the Legislature in the near future ? If so, when and in what form ?

THE HONOURABLE MR. E. BURDON : Government have no present intention of bringing up the Bill in the immediate future.

BILL BEFORE PARLIAMENT REGARDING THE AMENDMENT OF THE CONSTITUTION OF THE HIGH COURTS.

10. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: Will the Government be pleased to state whether they were consulted and, if so, what opinion they submitted on the Bill now before the British Parliament about the amendment of the constitution of the High Courts ?

THE HONOURABLE MR. H. G. HAIG : The Bill was the result of consultation between the Government of India and the Secretary of State. The Government of India were in agreement with the amendments included in the Bill.

CONSTRUCTION OF WAITING ROOMS FOR FEMALE PASSENGERS AND SHEDS FOR OTHER PASSENGERS AT FARIDPUR STATION.

11. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: Will the Government be pleased to state whether my previous question about the construction of waiting rooms for female passengers and sheds for other passengers at Faridpur railway station on the Eastern Bengal Railway has been forwarded to the Agent and what steps he has taken thereon ?

THE HONOURABLE SIR GEOFFREY CORBETT : The question was of course forwarded to the Agent of the Eastern Bengal Railway in accordance with the undertaking given to the Honourable Member. Government understand that the Agent is considering the reconstruction of the station as a whole, in which case he will no doubt consider to what extent the facilities mentioned by the Honourable Member should be p ovided in the new station.

THE ISSURDI-PABNA-SADHUGUNJ RAILWAY PROJECT.

12. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: Will the Government be pleased to state whether any investigation has been recently held into the Issurdi-Pabna-Sadhugunj railway project ? If so, what has been the result thereof and what steps do the Government propose to take thereon ?

THE HONOURABLE SIR GEOFFREY CORBETT: Investigation has recently been made into this project, and the Railway Board are awaiting the Agent's report on it.

CONSTRUCTION OF THE ARICHA DACCA RAILWAY.

13. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: Will the Government be pleased to state whether any advance has been made with regard to the construction of the Aricha Dacca Railway during the year 1928 ; if so, what is the nature thereof and at what stage is the construction of the said line now ?

THE HONOURABLE SIR GEOFFREY CORBETT: The construction has not yet been begun and the Government of India are in correspondence with the Secretary of State on this subject.

FATE OF BILLS PASSED BY THE LEGISLATIVE ASSEMBLY IN THE COUNCIL OF STATE.

14. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: Will the Government be pleased to furnish a tabular statement showing on how many occasions and in what cases Bills passed by the Legislative Assembly have been :—

(*a*) thrown out by the Council of State, or

(*b*) passed by the Council of State in a modified form, or

(*c*) passed by the Council of State without any modification, and

(*d*) in how many of the above cases have the Council of State acted in conjunction with and in how many cases against the views of the Government Members ?

THE HONOURABLE MR. S. R. DAS: (*a*) to (*c*). A statement is laid on the table.

(*d*) I must leave the Honourable Member to form his own conclusions from the Council of State Debates.

*Statement showing Bills passed by the Legislative Assembly and (a) thrown out by the Council of State, (b) passed by the Council of State in a modified form, and (c) passed by the Council of State without modification.*

| Number of Bills. | | Title of Bills. | Date of meeting of Council of State. |
|---|---|---|---|
| (*a*) | 1. | The Code of Criminal Procedure (Amendment) Bill. (Use of firearms). | 15th September 1925. |
| | 2. | The Indian Criminal Law Amendment (Repealing) Bill .. .. .. | 23rd February 1925. |
| | 3. | The Indian Railways (Amendment) Bill .. | 26th February 1925. |
| | 4. | The Special Laws Repeal Bill .. .. | 3rd September 1925. |
| | 5. | The Criminal Law Repealing and Amending Bill .. .. .. .. .. | 7th September 1927. |
| (*b*) 19 | 1. | The Indian Finance Bill .. .. .. | 23rd March 1921. |
| | 2. | The Indian Income-Tax Bill .. .. | 23rd February 1922. |
| | 3. | The Indian Official Secrets Bill .. .. | 8th March 1923. |
| | 4. | The Cantonments (House Accommodation) Amendment Bill .. .. .. | 14th February 1923. |
| | 5. | The Workmen's Compensation Bill .. | 22nd February 1923. |
| | 6. | The Indian Penal Code (Amendment) Bill .. | 15th March 1923. |
| | 7. | The Criminal Law Amendment Bill. (Racial Distinctions) .. .. .. | 1st March 1923. |
| | 8. | The Indian Coinage (Amendment) Bill .. | 6th March 1924. |
| | 9. | The Indian Trade Unions Bill .. .. | 25th February 1926. |
| | 10. | The Prisons (Amendment) Bill .. .. | 4th March 1925. |
| | 11. | The Indian Finance Bill .. .. .. | 20th March 1925. |
| | 12. | The Indian Penal Code (Amendment) Bill. (Sections 375 and 376) .. .. .. | 10th September 1925. |

| Number of Bills. | Title of Bills. | Date of meeting of Council of State. |
|---|---|---|
| (*b*) 19—*contd.* | 13. The Coal Grading Board Bill .. .. | 14th September 1925. |
| | 14. The Legal Practitioners (Amendment) Bill .. | 25th February 1926. |
| | 15. The Indian Bar Councils Bill .. .. | 31st August 1926. |
| | 16. The Madras Civil Courts (Amendment) Bill .. .. .. .. .. | 23rd February 1926. |
| | 17. The Indian Limitation (Amendment) Bill. (Article 182) .. .. .. .. | 10th March 1927. |
| | 18. The Societies Registration (Amendment) Bill | 22nd February 1927. |
| | 19. The Indian Finance Bill .. .. .. | 26th March 1927. |
| (*c*) 152 | 1. The Legislative Assembly (Deputy President's Salary) Bill .. .. .. | 23rd February 1921. |
| | 2. The Indian Tea Cess (Amendment) Bill .. | 28th February 1921. |
| | 3. The Indian Penal Code (Amendment) Bill .. | 27th September 1921. |
| | 4. The Indian Limitation (Amendment) Bill .. | 1st March 1922. |
| | 5. The Indigo Cess (Amendment) Bill .. | 21st March 1921. |
| | 6. The Import and Export of Goods (Amendment) Bill .. .. .. .. | 21st March 1921. |
| | 7. The Calcutta University Bill .. .. | 26th March 1921. |
| | 8. The Indian Electricity (Amendment) Bill .. | 23rd January 1922. |
| | 9. The Hindu Transfers and Bequests (City of Madras) Bill .. .. .. .. | 26th March 1921. |
| | 10. The Indian Factories (Amendment) Bill .. | 23rd January 1922. |
| | 11. The Indian Emigration Bill .. .. | 28th February 1922. |
| | 12. The Civil Marriage (Amendment) Bill .. | 17th July 1923. |
| | 13. The Negotiable Instruments (Amendment) Bill .. .. .. .. .. | 27th September 1921. |
| | 14. The Carriers (Amendment) Bill .. .. | 27th September 1921. |
| | 15. The Indian Post Office (Amendment) Bill .. .. .. .. .. | 27th September 1921. |
| | 16. The Indian Marine (Amendment) Bill .. | 26th September 1921. |
| | 17. The Indian Works of Defence (Amendment) Bill .. .. .. .. .. | 26th September 1921. |
| | 18. The Indian Lac Cess Bill .. .. | 27th September 1921. |
| | 19. The Press Law Repeal and Amendment) Bill .. .. .. .. .. | 28th March 1922. |
| | 20. The Musalman Waqf Registration Bill .. | 27th July 1923. |
| | 21. The Code of Civil Procedure (Amendment Bill .. .. .. .. .. | 19th July 1923. |
| | 22. The Delhi University Bill .. .. | 28th February 1922. |
| | 23. The Civil Procedure (Amendment) Bill. (Fraudulent Suits) .. .. .. | 1st March 1922. |
| | 24. The Police (Incitement to Disaffection) Bill.. | 25th September 1922. |
| | 25. The Code of Criminal Procedure (Amendment) Bill. (Amendment of Section 4.) .. | 24th July 1923. |
| | 26. The Indian Lunacy (Amendment) Bill .. | 23rd February 1922. |
| | 27. The Indian Ports (Amendment) Bill .. | 28th March 1922. |
| | 28. The Married Women's Property Bill .. | 5th March 1923. |
| | 29. The Indian Finance Bill .. .. .. | 24th March 1922. |
| | 30. The Cotton Transport Bill .. .. | 14th February 1923. |
| | 31. The Criminal Tribes (Amendment) Bill .. | 29th January 1923. |

| Number of Bills. | Title of Bills. | Date of meeting of Council of State. |
|---|---|---|
| (c) 152—*contd.* | 32. The Charitable and Religious Trusts (Amendment) Bill | 29th July 1923. |
| | 33. The Court fees (Amendment) Bill | 23rd September 1922. |
| | 34. The Parsi Marriage and Divorce (Amendment) Bill | 23rd September 1922. |
| | 35. The Negotiable Instruments (Amendment) Bill | 23rd September 1922. |
| | 36. The Indian Boilers Bill | 15th February 1923. |
| | 37. The Official Trustees and Administrator General's Acts (Amendment) Bill | 23rd September 1922. |
| | 38. The Indian Transfer of Ships Restriction (Repealing) Bill | 26th September 1922. |
| | 39. The Indian Mines Bill | 15th February 1923. |
| | 40. The Indian Naval Armament Bill | 20th February 1923. |
| | 41. The Indian Cotton Cess Bill | 8th March 1923. |
| | 42. The Indian Factories (Amendment) Bill | 22nd February 1923. |
| | 43. The Malabar (Completion of Trials) Supplementing Bill | 15th February 1923. |
| | 44. The Indian Stamp (Amendment) Bill | 24th July 1923. |
| | 45. The Indian Paper Currency Bill | 27th February 1923. |
| | 46. The Repealing and Amending Bill | 27th February 1923. |
| | 47. The Government Savings Banks (Amendment) Bill | 8th March 1923. |
| | 48. The Indian Income-Tax (Amendment) Bill | 8th March 1923. |
| | 49. The Legal Practitioners (Women) Bill | 26th March 1923. |
| | 50. The Cantonments Bill | 14th February 1924. |
| | 51. The Moorshedabad (Amendment) Bill | 19th July 1923. |
| | 52. The Code of Civil Procedure (Amendment) Bill | 19th July 1923. |
| | 53. The Code of Criminal Procedure (Second Amendment) Bill | 24th July 1923. |
| | 54. The Indian Territorial and Auxiliary Forces (Amendment) Bill | 24th July 1923. |
| | 55. The Indian Army (Amendment) Bill | 24th July 1923. |
| | 56. The Indian Income-Tax (Further Amendment) Bill | 19th July 1923. |
| | 57. The Indigo Cess (Repealing) Bill | 19th July 1923. |
| | 58. The Indian Paper Currency (Amendment) Bill | 19th July 1923. |
| | 59. The Indian Lunacy (Amendment) Bill | 24th July 1923. |
| | 60. The Cutchi Memons (Amendment) Bill | 24th July 1923. |
| | 61. The Land Acquisition (Amendment) Bill | 27th July 1923. |
| | 62. The Indian Electricity (Amendment) Bill | 27th July 1923. |
| | 63. The Indian Ports (Amendment) Bill | 27th July 1923. |
| | 64. The Immigration into India Bill | 13th February 1924. |
| | 65. The Indian Penal Code (Amendment) Bill | 6th March 1924. |
| | 66. The Indian Income-Tax (Amendment) Bill | 25th March 1924. |
| | 67. The Indian Cotton Cess (Amendment) Bill | 12th February 1924. |
| | 68. The Indian Tariff (Amendment) Bill | 13th March 1924. |
| | 69. The Indian Merchant Shipping (Amendment) Bill | 12th March 1925. |
| | 70. The Central Board of Revenue Bill | 6th March 1924. |

| Number of Bills. | Title of Bills. | Date of meeting of Council of State. |
|---|---|---|
| (c) 152—*contd.* | 71. The Indian Criminal Law (Amendment) Bill | 19th September 1924. |
| | 72. The Sea Customs (Amendment) Bill .. | 13th March 1924. |
| | 73. The Repealing and Amending Bill.. .. | 11th March 1924. |
| | 74. The Indian Registration (Amendment) Bill | 3rd March 1926. |
| | 75. The Imperial Bank of India (Amendment) Bill .. .. .. .. .. | 19th September 1924. |
| | 76. The Steel Industry (Protection) Bill .. | 9th June 1924. |
| | 77. The Land Customs Bill .. .. .. | 23rd September 1924. |
| | 78. The Cotton Ginning and Pressing Factories Bill .. .. .. .. .. | 12th March 1925. |
| | 79. The Indian Post Office (Amendment) Bill.. | 19th September 1924. |
| | 80. The Workmen's Breach of Contract (Repealing) Bill .. .. .. .. | 5th February 1925. |
| | 81. The Indian Merchant Shipping (Amendment) Bill .. .. .. .. .. | 3rd February 1925. |
| | 82. The Indian Paper Currency (Amendment) Bill .. .. .. .. .. | 5th February 1925. |
| | 83. The Legislative Assembly (President's Salary) Bill .. .. .. .. | 26th February 1925. |
| | 84. The Indian Income-Tax (Amendment) Bill.. | 20th February 1925. |
| | 85. The Transfer of Property (Amendment) Bill.. | 22nd March 1926. |
| | 86. The Indian Carriage of Goods by Sea Bill.. | 14th September 1925. |
| | 87. The Contempt of Courts Bill .. .. | 2nd March 1926. |
| | 88. The Indian Tariff (Amendment) Bill .. | 23rd March 1925. |
| | 89. The Cantonments (Amendment) Bill .. | 3rd March 1925. |
| | 90. The Cantonments (House Accommodation) (Amendment) Bill .. .. .. | 12th March 1925. |
| | 91. The Indian Income-Tax (Second Amendment) Bill. (Section 18) .. .. .. | 23rd March 1925. |
| | 92. The Indian Stamp (Amendment) Bill .. | 23rd March 1925. |
| | 93. The Indian Cotton Cess (Amendment) Bill .. | 24th March 1925. |
| | 94. The Salt Law Amendment Bill .. .. | 7th September 1925. |
| | 95. The Code of Civil Procedure (Amendment) Bill. (Section 60) .. .. .. | 7th September 1925. |
| | 96. The Indian Naturalization Bill .. .. | 23rd February 1926. |
| | 97. The Insolvency (Amendment) Bill .. | 23rd February 1926. |
| | 98. The Code of Civil Procedure (Amendment) Bill. (Sections 102 and 103) .. .. | 23rd February 1926. |
| | 99. The Legislative Members Exemption Bill .. | 7th September 1925. |
| | 100. The Indian Limitation (Amendment) Bill .. | 16th September 1925. |
| | 101. The Religious Endowments (Amendment) Bill .. .. .. .. .. | 7th September 1925. |
| | 102. The Code of Criminal Procedure (Amendment) Bill. (Sections 170, 200, 203, 476) .. | 16th February 1926. |
| | 103. The Sikh Gurdwaras (Supplementary) Bill .. | 7th September 1925. |
| | 104. The Provident Funds (Amendment) Bill .. | 14th September 1925. |
| | 105. The Opium (Amendment) Bill .. .. | 14th September 1925. |
| | 106. The Bamboo Paper Industry (Protection) Bill | 16th September 1925. |
| | 107. The Government Trading Taxation Bill .. | 16th February 1926. |
| | 108. The Indian Factories (Amendment) Bill .. | 22nd March 1926. |
| | 109. The Guardians and Wards (Amendment) Bill | 16th February 1926. |

| Number of Bills. | Title of Bills. | Date of meeting of Council of State. |
|---|---|---|
| (c) 152—*contd.* | 110. The Small Cause Courts (Attachment of Immoveable Property) (Amendment) Bill .. | 16th February 1926. |
| | 111. The Indian Lunacy (Amendment) Bill .. | 16th February 1926. |
| | 112. The Code of Civil Procedure (Second Amendment) Bill .. .. .. .. | 22nd March 1926. |
| | 113. The Legal Practitioners (Fees) Bill .. .. | 22nd March 1926. |
| | 114. The Code of Criminal Procedure (Second Amendment) Bill. [Section 123 (6)] .. | 23rd February 1926. |
| | 115. The Indian Tariff (Amendment) Bill .. | 19th March 1926. |
| | 116. The Indian Income-Tax (Amendment) Bill | 22nd March 1926. |
| | 117. The Promissory Notes (Stamp) Bill .. | 25th February 1926. |
| | 118. The Steel Industry (Amendment) Bill .. | 23rd February 1926. |
| | 119. The Delhi Joint Water Board Bill .. | 22nd March 1926. |
| | 120. The Madras Civil Courts (Second Amendment) Bill .. .. .. .. | 19th March 1926. |
| | 121. The Indian Finance Bill .. .. .. | 22nd March 1926. |
| | 122. The Cotton Industry (Statistics) Bill .. | 22nd March 1926. |
| | 123. The Indian Divorce (Amendment) Bill .. | 22nd March 1926. |
| | 124. The Workmen's Compensation (Amendment) Bill .. .. .. .. | 28th August 1926. |
| | 125. The Usurious Loans (Amendment) Bill .. | 28th August 1926. |
| | 126. The Negotiable Instruments (Interest) Bill | 28th August 1926. |
| | 127. The Provincial Insolvency (Amendment) Bill | 31st August 1926. |
| | 128. Indian Succession (Amendment) Bill .. | 31st August 1926. |
| | 129. The Code of Criminal Procedure ( Third Amendment) Bill .. .. .. | 31st August 1926. |
| | 130. The Indian Merchant Shipping (Amendment) Bill .. .. .. .. .. | 6th September 1927. |
| | 131. The Indian Income-Tax (Amendment) Bill | 7th March 1928. |
| | 132. The Currency Bill .. .. .. | 25th March 1927. |
| | 133. The Steel Industry (Protection) Bill .. | 1st March 1927. |
| | 134. The Indian Securities (Amendment ) Bill .. | 15th September 1927. |
| | 135. The Indian Limitation (Amendment) Bill. (Sections 20 and 21) .. .. .. | 11th February 1927. |
| | 136. The Indian Registration (Amendment) Bill | 11th February 1927. |
| | 137. The Insolvency (Amendment) Bill .. | 30th August 1927. |
| | 138. The Indian Divorce (Amendment) Bill .. | 6th September 1927. |
| | 139. The Indian Bar Councils (Amendment) Bill.. | 6th September 1927. |
| | 140. The Repealing Bill .. .. .. | 2nd September 1927. |
| | 141. The Indian Tariff (Amendment) Bill .. | 17th September 1927. |
| | 142. The Indian Tariff (Cotton Yarn Amendment) Bill .. .. .. .. .. | 17th September 1927. |
| | 143. The Bamboo Paper Industry (Protection) Bill .. .. .. .. .. | 15th September 1927. |
| | 144. The Criminal Law Amendment Bill .. | 21st September 1927. |
| | 145. The Indian Income-Tax (Amendment) Bill. (Section 59) .. .. .. .. | 19th September 1927. |
| | 146. The Cantonments (Amendment) Bill .. | 19th September 1927. |
| | 147. The Indian Emigration (Amendment) Bill .. | 19th September 1927. |
| | 148. The Inland Bonded Warehouses (Amendment) Bill .. .. .. .. .. | 12th March 1928. |

| Number of Bills. | Title of Bills. | Date of meeting of Council of State. |
|---|---|---|
| (c) 152—*concld.* | 149. The Indian Merchant Shipping (Amendment) Bill .. .. .. .. | 22nd March 1928. |
| | 150. The Indian Tariff (Amendment) Bill .. | 22nd March 1928. |
| | 151. The Indian Finance Bill .. .. | 22nd March 1928. |
| | 152. The Steel Industry (Protection) Bill .. | 22nd March 1928. |

RELIEF FOR THE FAMINE-STRICKEN PEOPLE OF BENGAL.

15. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: Will the Government be pleased to state whether the Central Government or the Provincial Governments are in charge and control of the Famine Insurance Fund and whether the Bengal Government has asked for any help from the Central Government either by way of a loan or otherwise for purposes of giving relief to the famine-stricken people of Bengal? If so, what has the Central Government done or what does it propose to do in the matter and upon what terms and conditions?

THE HONOURABLE MR. E. BURDON: Under Rule 29 of the Devolution Rules, the Famine Insurance Fund, which is essentially the means through which finance for the relief of famine is secured to the Provincial Governments, is controlled and administered by the Provincial Governments concerned, in accordance with the provisions of Schedule IV to those Rules. The Government of India have received no application from the Government of Bengal for any help by way of loan or otherwise for purposes of giving relief to the famine-stricken people of Bengal.

RECENT STRIKE AT LILLOOAH AND HOWRAH.

16. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: Will the Government be pleased to state the cause, nature and result of the recent strike of the railway workers at Lillooah and Howrah and what negotiations took place, if any, to bring about a settlement?

THE HONOURABLE SIR GEOFFREY CORBETT: The alleged cause of the strike, according to a statement made at the time by the General Secretary of the East Indian Railway Union, Khagaul, was the discharge of four workmen from the workshops. But actually the men had, on the 1st of March, threatened to take direct action unless their wages were increased within a week, and communicated this threat to the Agent through the General Secretary of the Union; and it was, Government presume, because their demands were not being acceded to in full that the men downed tools on mid-day of the 5th of March. As they continued to refuse to work the Agent announced on the 7th March that the workshops would be closed until further notice. Subsequently on the 12th of March the Agent gave an interview to the President and the General Secretary of the Union and a representative of the workmen at which the deputation made certain demands including those previously made on the 1st of March to none of which was the Agent able to agree.

Between this date and the 10th July there were no direct negotiations between the Agent and the Union. On the 10th July the strike collapsed and the men resumed work *en masse*.

On the 30th July, as a result of the circulation of an unfounded statement that the Agent had promised to redress alleged grievances within 15 days, there was a recurrence of the trouble at Lillooah accompanied by disorderly behaviour in the shops, and the Agent found it necessary to warn the men that unless they worked properly the shops would again be closed. The men thereupon decided to adopt passive resistance, and the Agent closed the shops again on the evening of the 30th July. On the 6th of August the Agent issued a notification to the workshop staff enumerating various requests which had been made to him by the workmen in a letter of the 31st of July, which were almost entirely a repetition of their previous demands. He repeated the assurance already given to them that there would be no victimization and that certain men who had been dismissed at Ondal and Asansol would be re-engaged as vacancies occurred, but rejected the rest of their demands. At the same time he announced that as a result of an investigation into the pay of certain classes of the lowest paid staff in the Lillooah and Calcutta workshops, which he had previously undertaken to make, he proposed to grant certain increases from the 1st of August, and also to institute an enquiry into the housing conditions of the workshop staff at Lillooah. He further told the men that the shops would be re-opened on August 8th and warned them that anyone returning to work and subsequently found creating a disturbance or inciting others to stop work would be immediately dismissed, and that in the event of a general disturbance he would close the shops for at least a month. He gave the men until the 15th of August to return to work, failing which they would be treated as having resigned and would be settled up on application. After this announcement there was a full attendance when the shops were re-opened, and there has since been no trouble or disturbance of any kind.

PREVENTION OF GOVERNMENT SERVANTS FROM JOINING OR CONTINUING TO BE MEMBERS OF ASSOCIATIONS, SEEKING REGISTRATION UNDER THE INDIAN TRADE UNIONS ACT.

17. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: Have the Central Government or the Government of Madras at their instance directed Government servants not to join or continue to be members of any associations which are seeking registration as Trade Unions under the Indian Trade Union Act? If so, why and for how long, and are such restrictions going to be removed or not?

THE HONOURABLE MR. H. G. HAIG: No such orders have been issued. The Government of India have under consideration the question of the registration of associations of Government servants under the Trade Unions Act, and they have informed Local Governments that, pending a decision on the revision of the rules governing the formation and conduct of such associations, they think it inadvisable that the associations should apply for registration.

REPORT OF THE INDIAN TRADE MISSION.

18. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: Will the Government be pleased to state what report, if any, have the Indian

Trade Mission submitted to Government and what effect are the Government giving to that report, and whether the report is going to be published, if so, when ?

THE HONOURABLE SIR GEOFFREY CORBETT: The Report of the Indian Trade Mission is now in the Press.

TRAINING OF INDIANS IN BANKING.

19. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: Will the Government be pleased to state whether the Indian Institute of Bankers has organised the training of Indians in banking ? If so, what is the curriculum laid down by the Institute for the purpose and what rules and regulations have been prescribed by the Institute for such training, and do the Government retain any control over the Institute in respect of this matter ?

THE HONOURABLE MR. E. BURDON: The Indian Institute of Bankers is not a Government institution and is not under Government control. Among its objects are the following :—

1. To encourage the study of the theory of Banking, and for that purpose to institute a scheme of examinations.
2. To promote information on Banking and kindred subjects by lectures, discussions, books, etc.
3. To collect and circulate statistics and other information relating to the business of Banking in India.

It is understood that a Committee appointed by the Institute has drawn up a syllabus of examinations, which is under consideration, and that it has been decided to hold the first examination in the spring of next year. I would suggest that the Honourable Member should obtain any further information, which he may desire, direct from the Institute itself.

SUPPLY OF ADVANCE COPIES OF ALL GOVERNMENT PUBLICATIONS TO *New India*.

20. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: Will the Government be pleased to state whether the privilege of receiving advance copies of all Government publications free of cost was asked for by the newspaper *New India* of Madras and was refused by the Government of India ? If so, why was it refused ?

THE HONOURABLE KHAN BAHADUR SIR MUHAMMAD HABIBULLAH: The statement is correct. Government have been compelled as a measure of economy to restrict the free supply of their publications to a minimum.

DIVERSION BY THE ARMY DEPARTMENT OF SUMS SANCTIONED IN THE ARMY BUDGET FROM ONE BRANCH OF EXPENDITURE TO ANOTHER.

21. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: Is it a fact that the Government of India have granted latitude to the Army Department to divert sums sanctioned in the Army Budget from one branch of expenditure to another ?

THE HONOURABLE MR. E. BURDON: The attention of the Honourable Member is drawn to paragraph 26 of the Report of the Public Accounts Committee on the Accounts of 1925-26 and the Memorandum on reappropriations

in the Army Department published as Appendix XXII thereto. The Memorandum contains a full statement of the powers of reappropriation within the Army Budget. No change has been made in the rules since the publication of that Memorandum.

OUT-STATION ALLOWANCES FOR RAILWAY MAIL SERVICE OFFICERS.

22. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: Do the Government contemplate enhancing the scale of out-station allowances for Railway Mail Service officers? If so, when and in what way?

THE HONOURABLE MR. A. G. CLOW: The answer is in the negative.

BOAT HIRE GRANTED TO POSTAL RUNNERS DURING THE RAINY SEASON.

23. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: Is it a fact that boat and rower hire granted to postal runners during the rainy season is lower than that given to similar peons by the Local Government in Bengal? If so, do the Government contemplate increasing the scale and in what manner?

THE HONOURABLE MR. A. G. CLOW: The question is being examined.

EXAMINATION FOR THE PROMOTION OF POSTAL OFFICIALS.

24. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: Has the attention of the Government been drawn to the introduction of an examination for the promotion of postal officers from one grade to another? If so, do the Government contemplate reverting to the previous system of basing promotion on meritorious past services?

THE HONOURABLE MR. A. G. CLOW: The Honourable Member perhaps refers to the examination for promotion to the lowest selection grade of the Post Office and the Railway Mail Service which was introduced at the instance of Government. Reversion to the previous system is not contemplated.

REDUCTION OF RAILWAY FREIGHT ON COAL FOR INTERNAL CONSUMPTION.

25. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: Does the Government contemplate taking any steps for the reduction of freight on Indian railways on coal for internal consumption? If so, what steps and when will they be taken?

THE HONOURABLE SIR GEOFFREY CORBETT: It is too early in the year to say at present whether it will be possible for Government to contemplate further reductions in the freight of any commodities including coal. But should the position permit the consideration of reductions, the claims of coal for further relief compared with those of other commodities will certainly be considered.

TOTAL VALUE OF EXPORTS DURING THE LAST FIVE YEARS FROM THE DIFFERENT PORTS OF BENGAL AND ASSAM, ETC.

26. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: Will the Government be pleased to state:—

(*a*) the total value of the exports during the last five years from the different ports of Bengal and Assam?

(*b*) how much of the above exports have been carried to the different ports of export by the different railway systems existing in Bengal and how much by the different steam navigation companies and how much by country boats and steam lorries respectively ?

(*c*) how much of the internal goods traffic of Bengal and Assam respectively during the last five years has been carried through—

(*i*) by the different railway systems and how much by each system ?

(*ii*) by the different steam navigation companies and how much by each company ?

(*iii*) by country boats and motor lorries ?

THE HONOURABLE SIR GEOFFREY CORBETT : (*a*) A statement showing the total value of exports from the ports of Bengal during each of the five years ending 1926-27 is laid on the table. There are no ports in Assam.

(*b*) & (*c*) The information is not available.

*Statement showing the total value of exports of private merchandise and treasure from the ports of Bengal during each of the five years ending 1926-27.*

[In lakhs of rupees.]

| | 1922-23. | 1923-24. | 1924-25. | 1925-26. | 1926-27. |
|---|---|---|---|---|---|
| *Foreign Trade*— | | | | | |
| Chief Port, Calcutta .. | 1,13,47 | 1,24,16 | 1,41,65 | 1,46,03 | 1,26,90 |
| Subordinate Ports .. | 5,64 | 7,97 | 9,50 | 7,32 | 7,75 |
| Total .. | 1,19,11 | 1,32,13 | 1,51,15 | 1,53,35 | 1,34,65 |
| *Coasting Trade*— | | | | | |
| Chief Port, Calcutta ... | 13,97 | 14,69 | 15,94 | 14,66 | 15,00 |
| Subordinate Ports .. | 2,30 | 2,00 | 1,88 | 2,24 | 2,55 |
| Total .. | 16,27 | 16,69 | 17,82 | 16,90 | 17,55 |
| Grand Total .. | 1,35,38 | 1,48,82 | 1,68,97 | 1,70,25 | 1,52,20 |

DOUBLING OF THE RAILWAY LINE FROM MADRAS BEACH TO THAMBARAM ON THE SOUTH INDIAN RAILWAY.

27. THE HONOURABLE RAO SAHIB DR. U. RAMA RAU : Will the Government of India be pleased to state :—

(*a*) when the doubling of the railway line from Madras Beach to Thambaram on the South Indian Railway was sanctioned and what the estimated cost of the scheme is ?

(*b*) the date of commencement of the work,

(*c*) the period within which the work was ordered to be completed,

(*d*) the percentage of work done up to 30th June, 1928 and the cause of delay, if any, in the prompt execution of the work,

(*e*) the amount of expenditure incurred up to 30th June, 1928 on (1) materials, (2) labour and out of the amount spent on materials, how much was spent on imported and how much on indigenous materials,

(*f*) the names of contractors and the cost of the work assigned to each; how many of them are European contractors and how many Indians?

(*g*) the outturn of work done by each contractor up to 30th June, 1928 and the cause of delay, if any, on the part of the contractors, and

(*h*) the steps taken by the Government to have the work completed within the stipulated time.

THE HONOURABLE SIR GEOFFREY CORBETT: (*a*) The doubling was sanctioned in December 1925, the estimated cost being approximately Rs. 1,24,00,000.

(*b*) December, 1925.

(*c*) The work was expected to take 4½ years.

(*d*), (*e*), (*f*), (*g*) and (*h*). The Railway Board are obtaining from the Agent of the South Indian Railway such information as can be collected without an undue expenditure of time and labour in answer to these questions. This will be communicated to the Honourable Member when received.

TEMPORARY INDIAN OFFICERS OF THE INDIAN MEDICAL SERVICE.

28. THE HONOURABLE RAO SAHIB DR. U. RAMA RAU: Will the Government of India be pleased to state:—

(1) What is the total number of temporary Indian officers appointed in the I. M. S. since 1914?

(2) Out of these how many have since been confirmed?

(3) Is it true that the Selection Committee have confirmed only foreign diploma holders rejecting first class graduates of Indian Universities?

(4) Is it true that the Government have ordered no Indian to be confirmed unless he is qualified in England?

(5) If the reply to (3) is in the affirmative and the reply to (4) is in the negative, will the Government be pleased to state why such a distinction has been made?

(6) Is it true that a permanent I. M. S. man gets Rs. 800 per month (exclusive of overseas allowance) after 6 years' service while a temporary man gets only Rs. 650?

(7) What is the total number of temporary Indian I. M. S. men who have been discharged after 9 years' service ?

(8) Were they found competent to hold their posts during the 9 years they were in service ? Why they were discharged ?

(9) Is it true that these I. M. S. Officers who were discharged after 9 years' service did not receive anything by way of gratuity or pension ?

(10) Is it true that a European after five years of temporary service gets £1,200 ?

(11) Do Government contemplate giving gratuities to temporary Indian I. M. S. officers after discharge ?

(12) Are permanent and temporary Indian I. M. S. officers entitled to study-leave and if so, how many have been granted study-leave during the past ten years ? What is the corresponding number of British I. M. S. officers who were granted study-leave during the same period ?

(13) Is it a fact that members of the Selection Committee are in the habit of asking questions about the wives of candidates while interviewing them at the time of selection ?

(14) Is it true that such questions as "does your wife know dancing ? does she use spoons and forks ? " are asked by the Committee ?

(15) Is it true that senior members of the I. M. D. are given Honorary King's Commissions ?

(16) How many members of the I. M. D. are now holding the King's Commission ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : With your permission, Sir, I lay on the table a statement giving the information desired.

*Statement referred to in reply to question No. 28.*

The Honourable Member is referred generally to the replies given by the Army Secretary in the Legislative Assembly to questions Nos. 738 and 759 on 1st September 1927 and to questions Nos. 798 to 808 on September 2nd, 1927. The following are the answers to the separate parts of the question.

(1) 1,104.

(2) There is no question of confirming those officers who received temporary commissions in the I. M. S. Recruitment for temporary service is quite different from recruitment for permanent service, the former confers no claim to the latter : and the standard necessary for a permanent commission is higher than that necessary for a temporary commission. Temporary officers are selected and appointed by the Director General, Indian Medical Service and serve on a definite agreement for one year renewable for not more than a year at a time up to a specified maximum period. Permanent officers must be recommended by the Selection Board, and are appointed by the Secretary of State. Temporary officers are however at liberty to apply for permanent commissions, and 113 Indians have succeeded in obtaining such commissions while still serving on temporary agreements. Ten more are on an approved waiting list.

(3) No, Sir. Out of the 113 officers who have been granted permanent commissions in the I. M. S., 57 possessed only Indian medical qualifications at the time of their appointment. The rest held British qualifications.

(4) No, Sir. The Selection Board selects those candidates whom it considers the best qualified in every respect for permanent commissions, and an English qualification is not essential as is shown by the figures I have just given.

(5) Does not arise.

(6) After six years' service, a permanent officer of the I. M. S. draws the pay of a Captain with more than three and less than six years' service in that rank, namely, a basic pay of Rs. 750 a month, and not Rs. 800 a month as supposed by the Hon'ble Member. A temporary officer of the I. M. S. draws Rs. 650 a month after completing three years' satisfactory service.

(7) About 35.

(8) As temporary officers, their services were satisfactory. They were discharged because it was not considered desirable either from their own point of view or from that of the service to retain them indefinitely when they had no prospect of obtaining permanent commissions. The Government have recently decided that the annual agreements of temporary officers who have entered the service since 23rd October 1927 or who may enter in future will not be renewed after 5 years' total temporary service unless in the meantime they have been selected for permanent commissions in the I. M. S. and vacancies are not immediately available.

(9) Yes, in accordance with the terms of their agreement.

(10) No, Sir, there are no gratuities for temporary service. Both European and Indian officers who are granted permanent commissions under the present rules are given the option of retiring on a gratuity of £1,000 after six years service or £2,500 after twelve years' service, instead of serving on for pension.

(11) The reply is in the negative.

(12) All permanent officers of the I. M. S., both European and Indian, are entitled to study-leave. About 280 officers have been granted study-leave during the past 10 years, of whom about 90 were Indians. Temporary officers, whether European or Indian, are not eligible for study-leave.

(13) & (14) The reply is in the negative.

(15) No, Sir, but selected members of the Sub-Assistant Surgeon's Branch of the Indian Medical Department holding the rank of Subedar-Major or Subadar are granted honorary King's Commissions on the basis of one per cent. of the total strength of the Branch.

(16) About 132 members of the Assistant Surgeon Branch of the Indian Medical Department at present hold the King's commission. Nine members of the Sub-Assistant Surgeon Branch hold honorary King's commissions.

## SETTLEMENT OF THE CHARGES INCURRED BY THE GOVERNMENT OF INDIA ON BEHALF OF THE WAR OFFICE DURING THE GREAT WAR.

29. THE HONOURABLE RAO SAHIB DR. U. RAMA RAU: 1. With reference to the remarks by Sir Basil Blackett on the Budget Debate in the Council of State on 5th March, 1927 and my interpellation No. 4, dated 30th August, 1927, and Government reply thereto, will the Government of India be pleased to state if any settlement has been reached with the British War Office in regard to charges incurred by the Government on their behalf during the world war? If not, what causes the delay.

2. Will the Government make a complete statement of the whole transaction and lay all the papers on the table of this House at an early date.

THE HONOURABLE MR. E. BURDON: The matter has not yet been finally settled. The delay is due to the difficulty of arriving at a solution which is

completely satisfactory to all parties of a very important and very difficult question.

2. Full information regarding the claims has already been made available to this Council. The Government of India are not prepared to lay the papers on the table.

RECOVERY FROM THE WAR OFFICE OF THE CHARGES INCURRED IN RESPECT OF THE OPERATIONS IN CHINA.

30. THE HONOURABLE RAO SAHIB DR. U. RAMA RAU: Will the Government of India be pleased to state whether the charges incurred in respect of the Chinese operation have been fully recovered from the British War Office? If so, what is the amount so recovered? If not, what is the cause of delay? and what steps are Government taking to recover the amount?

THE HONOURABLE MR. E. BURDON: The charges of the Indian Contingent of the Shanghai Defence Force while in China have been met entirely by the War Office. The extra expenditure incurred in India in connection with the despatch of the Contingent is also being recovered from the War Office as the accounts are completed. This expenditure to the end of June 1928, the latest month for which accounts are available, amounts to £615,102, of which £535,655 have been recovered so far. There is therefore no delay in effecting the recovery.

DEPRECIATION WRITTEN OFF THE PURCHASE PRICE OF THE PENINSULAR LOCOMOTIVE WORKS AT JAMSHEDPUR.

31. THE HONOURABLE SIR GEORGE GODFREY: (*a*) Will Government be pleased to state how much, if any, depreciation has been written off the Peninsular Locomotive Works at Jamshedpur since the purchase of the Works from the Company and to what head of the railway accounts the depreciation has been charged?

(*b*) If any depreciation has been written off the purchase price of the Peninsular Locomotive Works at Jamshedpur will that sum be taken into account in arriving at the cost of manufacturing any coaching stock underframes which may be produced at these Works hereafter?

THE HONOURABLE SIR GEOFFREY CORBETT: (*a*) Approximately 5¼ lakhs have been written off to Revenue—working expenses. I should explain that after a detailed examination of the plant and machinery taken over, Government were satisfied that this amount was certainly not less than the difference between the purchase price of 20 lakhs paid for the Peninsular Locomotive Works and the value of the property at the time it was purchased.

(*b*) Yes. If the Works were burdened with a sum, which in effect represents compensation to the Peninsular Locomotive Company, it would be impossible to show the real cost to Government of manufacturing underframes at them.

MANUFACTURE OF UNDERFRAMES AT THE PENINSULAR LOCOMOTIVE WORKS AT JAMSHEDPUR.

32. THE HONOURABLE SIR GEORGE GODFREY: (*a*) Have Government considered the advisability of postponing, for a period of at least two years, the commencement of the manufacture of underframes, and, if so, what is their decision?

(*b*) If Government intend to proceed at once with the manufacture of coaching underframes at these Works, have they considered the sources from which skilled labour will be obtained, or do they contemplate engaging men who have been trained, and usually work at the commercial engineering workshops at which wagon building is carried out?

THE HONOURABLE SIR GEOFFREY CORBETT: (*a*) No. 162 underframes are being manufactured at these Works this year.

(*b*) The labour has already been collected, and if the staff of skilled men requires to be augmented, it is expected that transfers from the East Indian Railway Carriage and Wagon shops at Lillooah can be made. There is no intention of attempting to attract trained men for these works from the engineering workshops at which wagon building is carried out. This does not of course mean that if a man from these workshops applies for a job which is vacant the fact that he has been trained and employed there should be a bar to his engagement.

PROVISION OF AN INTERMEDIATE CLASS LADIES' WAITING ROOM AT KHARAGPUR.

33. THE HONOURABLE MR. MAHMOOD SUHRAWARDY: (*i*) Has the attention of Government been called to the inconvenience experienced by intermediate class lady passengers at Kharagpur on the Bengal Nagpur Railway for want of an intermediate class ladies' waiting room?

(*ii*) Will the Honourable Member in charge be pleased to state what action is being taken to provide such a waiting room at Kharagpur?

THE HONOURABLE SIR GEOFFREY CORBETT: (*i*) Government have received no complaint to this effect.

(*ii*) It is the practice of Government to leave small matters of this kind relating to the accommodation provided at particular stations to the discretion of the local railway authorities to whose notice any defects can suitably be brought through their local Advisory Committees.

PROVISION OF AN INTERMEDIATE CLASS LADIES' WAITING ROOM AT ADRA.

34. THE HONOURABLE MR. MAHMOOD SUHRAWARDY: Will the Honourable Member in charge be pleased to state what steps have been taken to provide an intermediate class ladies' waiting room at Adra on the Bengal Nagpur Railway?

THE HONOURABLE SIR GEOFFREY CORBETT: I would refer the Honourable Member to the answer which I have just given to his previous question. Government are not aware of the exact arrangements at this station either, or whether any additional waiting accommodation is contemplated there.

REPORT OF THE OFFICER APPOINTED TO INVESTIGATE THE QUESTION OF MAKING INDIA SELF-SUPPORTING IN THE MATTER OF SALT SUPPLY.

35. THE HONOURABLE MR. MAHMOOD SUHRAWARDY: (*i*) Will the Honourable Member in charge be pleased to state whether the Government has considered the report submitted by the officer placed on special duty under the Central Board of Revenue to investigate the question of making India self-supporting in the matter of salt supply as referred to in his answer to my question No. 34 published at page 45, Volume I, No. 4, of Council of State Debates dated 8th February 1928 ?

(*ii*) Will the Honourable Member be pleased to state when the Government decision may be expected ?

THE HONOURABLE MR. E. BURDON: (*i*) The Government of India have considered the report and have published their conclusions upon it. These will be found in the Resolution of the Finance Department (Central Revenues) No. 20, dated the 12th May 1928, appearing in the Gazette of India of that date.

(*ii*) Does not arise.

CONSTRUCTION OF A RAILWAY BETWEEN CONTAI AND CONTAI ROAD STATION.

36. THE HONOURABLE MR. MAHMOOD SUHRAWARDY: (*i*) Will the Honourable Member in charge of the Railway Department be pleased to state when the actual construction of the railway line between Contai in the Midnapore District (Bengal) and Contai Road station on the Bengal Nagpur Railway is expected to be commenced ?

(*ii*) Will the Honourable Member in charge be pleased to state whether land will be acquired for the same during the current year ?

THE HONOURABLE SIR GEOFFREY CORBETT: (*i*) The construction of this line was sanctioned on the 19th June 1928, and Rs. 5 lakhs have been provided for it in the current year's Budget. It is likely, therefore, to be commenced in the current year.

(*ii*) Arrangements are now being made for the acquisition of land, but as the land is entirely under paddy it is very doubtful whether any payment on this account will be made this year.

PREVENTION OF THE RECURRENCE OF HINDU-MOSLEM RIOTS AT KHARAGPUR.

37. THE HONOURABLE MR. MAHMOOD SUHRAWARDY: (*i*) Will the Government be pleased to state what steps have been taken to prevent the recurrence of Hindu-Moslem riots at Kharagpur and to give protection to the Moslems at Kharagpur during such riots ?

(*ii*) Will the Government be pleased to state what action has been by the Bengal Nagpur Railway Company on the representation of Kharagpur Musalmans to provide separate quarters for them within the railway ment ?

(*iii*) Has the Agent of Bengal Nagpur Railway received a copy of the resolution from the Mussalman employees to provide separate quarters for them so as to enable them to live in peace and protection in the railway area ?

THE HONOURABLE MR. H. G. HAIG : (*i*) Since the Honourable Member's question was framed there has been as he is aware, a further deplorable outbreak in Kharagpur. Reports received from the Bengal Government before this outbreak showed that the district authorities were making all possible efforts to allay communal ill-feeling. But they cannot by themselves create a spirit of tolerance and good-will which alone would stop the recurrence of such events.

(*ii*) No action has been taken, the reason being that the establishment of a Muhammadan settlement, even if desirable, would not be consistent with the accepted system of allotting quarters according to seniority. But opportunities are now being given to the staff to take up sites on Government land in the neighbourhood of Kharagpur, and if the Muslim staff avail themselves of these opportunities, it should not be difficult for them to arrange to settle in compact groups. The Railway Board propose to discuss the question with the Agent when he comes to Simla at the beginning of October.

(*iii*) The Agent, Bengal Nagpur Railway, has not received a copy of the resolution in question.

PAY OF HIGH COURT JUDGES.

38. THE HONOURABLE MR. MAHMOOD SUHRAWARDY : Will the Government be pleased to state what action has been taken to raise the pay of the High Court Judges to the level of that of Members of the Executive Council ?

THE HONOURABLE MR. H. G. HAIG : No steps have been taken in the direction suggested.

THE HONOURABLE SIR ARTHUR FROOM : Will Government be pleased to state how long the pay of the High Court Judges has been on its present basis ?

THE HONOURABLE MR. H. G. HAIG : I am afraid I am not in a position to give an answer to that offhand. If the Honourable Member will put down a question I will be glad to answer it.

ESTABLISHMENT OF A SUPREME COURT IN INDIA.

39. THE HONOURABLE MR. MAHMOOD SUHRAWARDY : Will the Government be pleased to state whether they contemplate establishing a Supreme Court in India as the highest tribunal of appeal in the land ?

THE HONOURABLE MR. H. G. HAIG : The answer is in the negative.

COMPULSORY RETIREMENT OF HIGH COURT JUDGES AT 60.

40. THE HONOURABLE MR. MAHMOOD SUHRAWARDY : Will the Honourable Member in charge be pleased to state what steps have been taken to do away with the compulsory retirement of permanent Judges of Indian High Courts at the age of 60.

THE HONOURABLE MR. H. G. HAIG : No steps have been taken.

SEPARATION OF JUDICIAL AND EXECUTIVE FUNCTIONS.

41. THE HONOURABLE MR. MAHMOOD SUHRAWARDY: (*i*) Will the Government be pleased to state what action has been taken for the separation of judicial and executive functions?

(*ii*) Will the Government be pleased to state when such separation may be expected?

THE HONOURABLE MR. H. G. HAIG: As the Honourable Member is aware, the question of the separation of judicial and executive functions has been under the consideration of Government for some time, and it is desirable that I should explain the position fully with reference to recent events. On the 9th March 1921 the Honourable Mr. G. M. Bhurgri moved in this House a Resolution recommending to the Governor General in Council to make a definite declaration that the time had arrived for the complete severance of judicial from executive functions, and that early steps would be taken to accomplish the severance almost immediately. The Resolution was withdrawn on an undertaking being given on behalf of Government that if any Local Government decided to take up this question which related to a provincial subject the Government of India would raise no objection, and would proceed to make such legislative changes as might be necessary to give effect to the proposals of the Local Government. In pursuance of this policy which was announced in the Resolution of the Government of India in the Home Department No. F. 196-Judicial, dated the 7th December 1921, and in response to local public opinion, certain Provincial Governments proceeded to prepare schemes of separation, which were submitted to the Government of India. On a consideration of these schemes the Government of India came to the conclusion that as the present system of judicial administration is a uniform system, so any alterations should be planned on uniform lines with a view to maintaining uniformity of system in essential principles. They are no longer able to hold that the problem is one for each province to settle on lines of its own choice, or that the responsibility of the Central Government could be restricted to facilitating such legislation as might be required to give effect to provincial decisions. They have, therefore, decided with the concurrence of the Secretary of State, that though minor variations in the provinces might conceivably be accepted, the problem must be dealt with on lines substantially uniform. At the present time however in view of the inquiry by the Statutory Commission and possible changes in conditions which may result therefrom, it has been decided that it is not possible to reach conclusions on the main question, and a decision must therefore be postponed until the factors that will condition the problem in the future have become more plain.

OPENING OF A POST OFFICE IN AJOYA, THANA KHEJRI, IN THE MIDNAPORE DISTRICT.

42. THE HONOURABLE MR. MAHMOOD SUHRAWARDY: (*i*) Will the Government be pleased to state what action has been taken on the representation of the people of Ajoya in Thana Khejri in the Midnapore District (Bengal) for a post office there?

(*ii*) Is it a fact that an offer has been made by a local gentleman of position to provide a house for a post office and its incidental expenses for six months ? If so, why was the offer not accepted ?

THE HONOURABLE MR. A. G. CLOW : (*i*) An office will probably be opened on the 1st of October next.

(*ii*) The reply to the first part of the question is in the affirmative. The offer could not be accepted in the absence of agreement on the part of interested parties regarding the location of the office.

NUMBER OF CERTAIN APPEALS IN THE HIGH COURT, CALCUTTA.

43. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : Will the Government be pleased to furnish a statement showing :—

(1) for the last ten years before the amendment of the Letters Patent of the Calcutta High Court in January, 1928—

(*a*) the number of second appeals filed,

(*b*) the number of second appeals allowed,

(*c*) the number of second appeals filed which were below Rs. 1,000 in value,

(*d*) the number of second appeals heard and decided by Judges sitting alone,

(*e*) the number of appeals filed against the decisions of single Judges of the High Court,

(*f*) the number of appeals filed against the decisions of single Judges of the High Court that have been allowed by the appellate Bench ?

(2) For the period since the amendment of the Letters Patent—

(*a*) the number of appeals decided by single Judges of the said High Court,

(*b*) the number of appeals in which leave to appeal under the Letters Patent as amended was asked for, and

(*c*) the number of appeals in which leave to appeal under the amended Letters Patent was refused by the single Judges ?

THE HONOURABLE MR. H. G. HAIG : The information has been called for and will be supplied to the Honourable Member on receipt.

FIRING ON STRIKERS AT BAMANGACHI.

44. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY : Will the Government be pleased to state whether the papers of the Bamangachi shooting affair have been submitted to the Secretary of State ? If so, what orders have been passed thereon by the Secretary of State ?

THE HONOURABLE MR. H. G. HAIG : The circumstances connected with this case have been investigated by the Government of Bengal. But no conclusions can be published until the completion of the trial in which one of the strike leaders is being charged with perjury and bringing a false case against Mr. Mould. The Secretary of State is, therefore, not in a position at present to make any statement on the case.

PROTECTION TO THE WIRE NAIL INDUSTRY.

45. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: Will the Government be pleased to state whether any representation has been made to Government or the Tariff Board for giving protection or other help to the wire nail industry in India ? If so, what steps do the Government propose to take in the matter ?

THE HONOURABLE SIR GEOFFREY CORBETT: The Government have replied to the representations that they are unable to take action in the direction desired.

NUMBER OF POST OFFICES, IN AN INSPECTOR'S SUBDIVISION IN THE CENTRAL CIRCLE.

46. THE HONOURABLE MR. G. S. KHAPARDE: With reference to the answer given to my question No. 9, on the 6th February, 1928, will the Government be pleased to state:—

(*a*) Whether the number of post offices in an Inspector's Sub-Division in the Central Circle varies from 50 to 70 post offices,

(*b*) If so, do the Government propose to increase the number of the Inspectors and to provide for the increase in the ensuing Budget ?

THE HONOURABLE MR. A. G. CLOW: (*a*) No; the limits are somewhat wider than the Honourable Member suggests.

(*b*) An appointment of an additional Inspector in one Division was sanctioned from the 1st January 1928, Government do not consider it necessary to make any further appointment at present.

## THE LATE SIR ALEXANDER MUDDIMAN.

THE HONOURABLE KHAN BAHADUR SIR MUHAMMAD HABIBULLAH (Leader of the House): Sir, I wish to pay, on behalf of Government, and on my own behalf, a tribute to the memory of the late Sir Alexander Muddiman. Sir Alexander's career was as varied and rich in distinction as his personality was marked by a lively geniality and unfailing charm. He held high offices under the Crown; first, as President of this Honourable Council; then, as Home Member of the Council of His Excellency the Governor General; and, finally, as Governor of the United Provinces. Each step in the ladder of advancement he took with a rare modesty which, in the eyes of the discriminating, only presaged assured success and steady progress. It is usual, Sir, to confine high administrative offices to those members of the Indian Civil Service who have had administrative experience in the narrower but more practical field of Government which district administration provides. Sir Alexander did not serve a long apprenticeship in that sphere; but his alert and receptive mind was ever alive to the value of the study of human nature, and his gift of *bon homie* furnished him with an open sesame into the hearts of men. He found scope for the full play of these fine qualities when he became Home Member. The use that he made of them led to his elevation to the most important Governorship in India open to his Service. It must be a source of lasting regret to his friends that a tragic fate prematurely cut short

this crowning phase in his career. The loss, Sir, is not a loss only to his friends, but to the people of the Province over whose destinies he last presided, and to the Empire of which he was a loyal and distinguished servant.

Before I close, Sir, I should like to express my sense of personal loss at his death. It was my privilege to be his Colleague in the Government of India for 2½ years. During that period, I, like all who fell under the spell of his personality, learned to entertain for him feelings of warm and loyal friendship. But I also learnt to admire his breadth of view and quick sympathy which are essential to statesmanship.

We hope, Sir, that you will convey, on behalf of us all, to his grieved mother, expressions of our profound grief at her bereavement. We all wish, Sir, that it may be to her, as it is to us, a consolation that among the people whom he served he has left a memory of kindliness, good fellowship and charm which will long endure.

THE HONOURABLE MR. V. RAMADAS PANTULU (Madras: Non-Muhammadan): Sir, it is my melancholy privilege to associate myself with the eloquent but just tribute which the Leader of this House has paid to the memory of the late Sir Alexander Muddiman. I can sum up my tribute by stating that he was believed, and rightly believed, to have been a well-meaning and sympathetic administrator. In his capacity as Home Member and as the custodian of British interests he was a friend of India to the extent that the limitations of his office and position permitted. We Congressmen have always received very handsome treatment at his hands in this Council. As an opponent on the Treasury Benches we found in him an absolutely fair gentleman, dealing with us most frankly. Of course we differed from him on several occasions but that did not prevent our being fair and just to each other. As a colleague, in the lobby, we reposed much confidence in him and discussed many matters relating to party questions with an absolute belief that we would not be betrayed. As a genial friend in society he was unmatched either in Delhi or Simla. Therefore, on behalf of the Congress Members of this Council—and I hope I have the leave of my other non-official colleagues also—I desire to associate myself with the handsome tribute which the Honourable the Leader of the House has paid to Sir Alexander Muddiman. We all regard with regret his death at this juncture when his breadth of vision might have been helpful in the framing of the future constitution of India. It is not given to many men to die at their posts of duty, and though it is a matter of regret that his career was cut off as soon as he was made Governor of the United Provinces, it is a matter of melancholy satisfaction to his friends that he died at the post of duty.

With these words I join in the request made by the Leader of the House in asking you to convey the condolences of this House to his bereaved mother.

THE HONOURABLE SIR ARTHUR FROOM (Bombay: Chamber of Commerce): Sir, on behalf of the non-official Europeans of this House I wish to associate myself with the words which have fallen from the lips of the Leader of this House mourning the sudden and untimely death of Sir Alexander Muddiman. Not only has the Government of India lost one of its most distinguished and brilliant officers, but India herself is missing one of her best

[Sir Arthur Froom.]

friends and a sincere supporter of her true progress and advancement. Further, Sir, there are many of us in this House who feel we are bereft of a true and valued friend, a friend whose loss we shall mourn not only to-day or to-morrow but always.

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces: Nominated Non-Official): Sir, as one who was for many years closely associated with our late lamented friend, Sir Alexander Muddiman, both in the late Imperial Council and in this Council of State, I feel I cannot allow this occasion to pass without making a few observations.

Sir Alaxander Muddiman spent the best part of his service in the Legislative Department, and in his capacity both as Deputy Secretary and Secretary of the Legislative Department, this Council came in close contact with him. It was at first as Deputy Secretary that he distinguished himself by showing conspicuous ability in drafting, which is well known to many Members here, the Indian Companies Act on which he spent a great deal of industry and intelligence. In his capacity as Secretary of the Legislative Department we found him most useful in the deliberations of the Select Committees. We found in his advice and in the exposition of law points a great deal of elucidation and easy settlement of the most difficult questions. We found in him a most capable, terse, accurate legal draftsman, and we also found that he was in a position to conquer most difficult legal problems by his easy and sensible elucidation of cases which immediately attracted our attention. When he left us for the Assembly he made himself extremely popular there, and won over the hearts of the Opposition Benches by the frank and candid manner in which he played the role of Home Member and laid all his cards on the table, showing great sympathy with the arguments and opinions of those whom he opposed. We all regret his loss at this time, and this Council has lost in him a great and trusted friend, especially at this juncture when the vital question of new reforms is to be considered by the Simon Commission. If he had lived his valuable advice both to Government and to the Members of the Legislature and to his friends would have been of incalculable value. We cannot forget the splendid work he did on the Reforms Enquiry Committee.

I have nothing further to add after all that has been already said by previous speakers but to join with deep and profound sorrow in the will deserved expressions of tribute paid to the deceased gentleman.

THE HONOURABLE KHAN BAHADUR SIR EBRAHIM JAFFER (Bombay Presidency: Muhammadan): Sir, in associating myself with the sentiments just expressed, I cannot help but think of the great help which our departed friend was to the Muslim Members of this House and to me personally.

I was first connected with Sir Alexander Muddiman in the pre-reform days, when we worked in the old Imperial Council, and even now there comes to my mind his great sympathy, tactfulness and liberality of thought on all questions.

As the Secretary of the Legislative Department he was of the utmost help to me in connection with the business of the House, and to this day I feel I owe him a great debt of gratitude for the way in which he assisted me in drafting and passing the Cutchi Memons Act.

Then, Sir, when he became President of this House, he showed the greatest consideration to every Member and the quietest back-bencher could also depend upon " catching his eye " and on being given the opportunity to speak, if he so desired. The broadmindedness and sympathy which were manifested so early in his political career came to full fruition during this period, and there is not a single Member who sat under his wise chairmanship who can say that he was unfairly treated by Sir Alexander Muddiman. Of his still later honours it is not for me to dilate, as they are so well known to all the Members of this House and so well expressed by the previous speakers. Suffice it to say, Sir, that I personally deeply mourn the loss of this great statesman and greater friend, a leader who did a great deal for India during his period of office and who was destined, had he been spared, to have done a great deal more.

THE HONOURABLE SARDAR CHARANJIT SINGH (Punjab : Nominated Non-Official) : Sir, I beg to associate myself with the tribute which has been paid to the memory of the late Sir Alexander Muddiman. We heard a few days before his death that Sir Alexander was not keeping quite well, but we had no idea that his end was so near and the news of his sad and sudden death came as a great shock to us all. I have had the privilege of knowing Sir Alexander ever since he came up to Simla nearly 18 years ago. During all these years he endeared himself to us all by his unfailing charm of manner, good fellowship and sympathy. Sir Alexander Muddiman was the first President of the first Council of State and I can from my own personal knowledge bear witness to the regard in which he was held by all the Members, both officials and non-officials, and who does not remember the great part he played as Leader of the Assembly and as Home Member ? Every one who heard him will agree with me that Sir Alexander Muddiman possessed in a remarkable degree the art of urging his opinions with as much engaging suavity as lucidity and force underlying which there was always a true ring of sincerity and a genuine regard for the country of his adoption. By his death India has lost a true and sincere friend.

THE HONOURABLE MUNSHI NARAYAN PRASAD ASHTHANA (United Provinces Northern : Non-Muhammadan) : Sir, as an elected Member from the United Provinces, I beg to associate myself with everything that has fallen from the lips of the Honourable the Leader of the House and the previous speakers. The loss of Sir Alexander Muddiman to the United Provinces is a very heavy one. During the short time that he was the ruler of the province, he had made himself so popular and he had ingratiated himself so much in the popular opinion that his sudden and tragic death cast a gloom over the whole of the United Provinces. His affection for this Council was so great that when I I saw him shortly after he had had taken up his office, he commissioned me to take a message of greeting to this Council and I informed you, Sir, on the very first day of the last Delhi Session about it. As a statesman of wide sympathy and imagination, as a lawyer and as a popular ruler in the United Provinces he will be remembered for ever and as a man of wide sympathies and of charming manners he will always be remembered by his friends and by those who came in contact with him.

THE HONOURABLE SIR JOHN THOMPSON (Delhi : Nominated Official): As perhaps the senior Member in this House of the Service to which Sir Alexander Muddiman belonged, and as one who was for many years associated

[Sir John Thompson.]

with him, directly or indirectly, in carrying on the work of His Majesty's Govment in India, I should like to say a few words in support of what has fallen from the Honourable Sir Muhammad Habibullah. I think Sir Alexander Muddiman's outstanding characteristics were a quick, clear and well balanced mind, a fine courage, a buoyant confidence, and above all a genial and kindly personality. It was these qualities which enabled him to lay so well and truly the foundations of traditions of the great office which you, Sir, now adorn. It was these qualities which gained for him the amazing success which he achieved in the office to which he was afterwards promoted. It was these qualities which won for him, even in the short period of five months, a measure of success out of proportion to that short time in the last and greatest office that he held. He has left us perhaps with the greatest testimonial that a public man can ever obtain, with the gratitude and admiration of those with whom he worked and of those for whom his life's work was done.

THE HONOURABLE THE PRESIDENT: I wish to pay my tribute also to the memory of Sir Alexander Muddiman. I knew him perhaps longer than most Honourable Members in this Council, for from September 1915, just thirteen years ago when I joined the Government of India in the Legislative Department, I was in close and daily association with him in his work for several years until he was appointed President of this Council. It would perhaps be superfluous for me, inasmuch as there are so many Honourable Members here who sat under his Presidency from the inception of the Council, to refer to the great qualities that he displayed from the Chair, to his geniality and unfailing good temper, to his fairness and strict impartiality and withal to his firmness. But no one better than Sir Alexander Muddiman realised that the duties of a President do not begin and end in the Chair and I, perhaps, am in a better position than most to refer to his achievements as a President outside the Chair, for from the day that he became the first President of this Council, I became its first Secretary, and I was in very close association with him in those days. He was very jealous of the reputation and the dignity of the Council and of all its Members. The Honourable Sir John Thompson has referred to the traditions that he built up; and I can assure the House that from the very outset Sir Alexander Muddiman's chief anxiety and the object of his strenuous endeavour was to ensure that those foundations should be laid on sound lines and that they should continue to grow upon sound lines. The measure of the success which he achieved will be perhaps for posterity to judge; but I think we may claim that this House itself at the present moment affords abundant evidence that his efforts met with great success. He ensured that the decisions of this Council should be arrived at after careful and calm deliberation and should be such as to command respect from all quarters. He created and maintained in this House an atmosphere which I hope will ever remain with us. Those are no mean achievements. They are achievements of which any man might be proud and they are achievements for which all of us here, and particularly myself for whom he made my task so easy, owe him a debt of deep gratitude. It was a great joy to me when he was appointed Governor of the Province from which I come, and a great sorrow to learn that the Province had been bereft of his guiding hand so early in his term of office. The fact that after so short a time

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a whole Province was plunged into mourning was an eloquent manifestation of the esteem in which he was held. It is not the practice in this House to pass formal motions of condolence, but I shall willingly comply with the request made from all sides of the House to convey to his mother an expression of our deep sympathy and sorrow at the loss which she and we have sustained.

I have to refer also to the fact that the hand of death has removed from our midst one of our colleagues since we last met. The Honourable Rai Bahadur Nalini Nath Sett was a quiet unassuming gentleman who never attempted to thrust himself forward into any prominent place in this Council. He spoke very rarely and yet those of us here who heard those rare speeches of his regret that he did not perhaps more often give us the benefit of his views on the important questions coming before this Council, I take it that it is the unanimous desire of the Council that I should convey to his bereaved relatives an expression of our sympathy and regret.

## MESSAGE FROM THE LEGISLATIVE ASSEMBLY.

SECRETARY OF THE COUNCIL: Sir, a message has been received from the Legislative Assembly. The message runs as follows:

"I am directed to inform you that the Legislative Assembly have, at their meeting of the 27th March, 1928, agreed without any amendments, to the Bill further to amend the Chittagong Port Act, 1914, for certain purposes, which was passed by the Council of State on the 2nd March, 1928."

## 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:

The Burma Salt (Amendment) Act, 1928.

The Indian Securities (Amendment) Act, 1928.

The Indian Income-tax (Amendment) Act, 1928.

The Inland Bonded Warehouses (Amendment) Act, 1928.

The Indian Finance Act, 1928.

The Indian Merchant Shipping (Amendment) Act, 1928.

The Indian Tariff (Amendment), Act, 1928.

The Steel Industry (Protection) Act, 1928.

The Indian Territorial Force (Amendment) Act, 1928.

The Auxiliary Force (Amendment) Act, 1928.

The Chittagong Port (Amendment) Act, 1928.

## BILLS PASSED BY THE LEGISLATIVE ASSEMBLY LAID ON THE TABLE.

SECRETARY OF THE COUNCIL: Sir, in accordance with Rule 25 of the Indian Legislative Rules, I lay on the table copies of a Bill further to amend

[Secretary of the Council.]

the Indian Succession Act, 1925, a Bill to amend the Hindu Law relating to exclusion from inheritance of certain classes of heirs, and to remove certain doubts, a Bill to alter the order in which certain heirs of a deceased Hindu dying intestate are entitled to succeed to his estate, and of a Bill further to amend the Indian Mines Act, 1923, for certain purposes, which Bills were passed by the Legislative Assembly at its meetings held on the 22nd and 27th March, 1928.

THE HONOURABLE SIR SANKARAN NAIR (Madras : Non-Muhammadan) : Sir, under Rule 26 I give notice of my intention to move that the Bill to amend the Hindu law relating to exclusion from inheritance of certain classes of heirs and to remove certain doubts, and the Bill to alter the order in which certain heirs of a deceased Hindu dying intestate are entitled to succeed to his estate be taken into consideration ; and under Rule 27 I further request you, Sir, to dispense with the three days' notice that is required before they are actually taken into consideration, and if possible to have them taken into consideration to-morrow.

THE HONOURABLE MR. V. RAMADAS PANTULU (Madras : Non-Muhammadan) : Sir, with regard to these two Bills I have received communications from members of my party and others who are not here to-day that some of them wish to oppose the Bills or send in amendments. Therefore I beg to state that dispensing with the three days' notice will not suit some of us.

THE HONOURABLE SIR SANKARAN NAIR : Under those circumstances I do not press it.

THE HONOURABLE THE PRESIDENT : In that case the Bills will come on to the list of business under the Rules and Standard Orders in the ordinary course.

## CONGRATULATIONS TO THE HONOURABLE SARDAR BAHADUR SHIVDEV SINGH UBEROI.

THE HONOURABLE THE PRESIDENT : Before I adjourn the House Honourable Members I know would like me to refer to the fact that one of our colleagues has been honoured. Since we last met the title of Sardar Bahadur has been conferred on the Honourable Sardar Bahadur Shivdev Singh Uberoi. It was, I am sure, a great pleasure to all of us to see his name in the Honours List issued on the occasion of the King's Birthday. It is an honour not only to him, it is an honour to us, and it is moreover an honour to the community which he represents in this Council. I am sure the Council will join me unanimously in tendering to him our hearty congratulations.

THE HONOURABLE SARDAR BAHADUR SHIVDEV SINGH UBEROI (Punjab : Sikh) : Sir, I thank you and the Honourable Members of this House for the congratulatory remarks which have fallen from your lips and for the pleasant manner in which my Honourable colleagues have received them.

I also wish to thank the Government who have conferred upon me this honour in recognition of my services to the State and the public.

THE HONOURABLE KHAN BAHADUR SIR MUHAMMAD HABIBULLAH (Leader of the House): Sir, I should in the ordinary course have furnished the House to-day with a statement of business for the next few days but I am sorry to say that I am not in full possession of information which will enable me to furnish the House with a correct statement of business. As Honourable Members are aware, to-morrow is a non-official day. The agenda in respect of the work which comes up to-morrow has already been circulated. With your permission, Sir, I propose to make a statement of business to-morrow after the work of the days is closed.

The Council then adjourned till Eleven of the Clock on Wednesday, the 12th September 1928.

# COUNCIL OF STATE.

*Wednesday, 12th September, 1928.*

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

## QUESTIONS AND ANSWERS.

SCALES OF PAY OF CLERKS IN CERTAIN SPECIFIED OFFICES IN CALCUTTA.

47. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: Will Government be pleased to state the different scales of pay of the clerks in the following offices situated in Calcutta in 1922, 1925 and 1928, the Department of the Government of India to which each office appertains, and the educational qualifications required for the clerks in each office :—

(1) Accountant General of Bengal,

(2) Accountant General of Central Revenues,

(3) Examiner of Government Accounts,

(4) Director of Statistics.

(5) Controller of Currency,

(6) Posts and Telegraphs,

(7) General Post Office,

(8) Collector of Customs, and

(9) Controller of Printing and Stationery ?

THE HONOURABLE MR. A. G. CLOW: The Office of the Accountant General, Central Revenues, is no longer in Calcutta. Information regarding the other offices is being collected and will be supplied to the Honourable Member.

MEMORIAL OF THE STAFF OF THE OFFICE OF THE CONTROLLER OF PRINTING AND STATIONERY.

48. THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY:

(*a*) Is it a fact that the Controller of Printing and Stationery circulated under his unofficial I. No. 63-Camp, dated the 3rd January 1928, among the staff of the offices under him in Calcutta that he would submit the memorial from his staff referred to in part (*d*) of Legislative Assembly question 72 of the 1st February 1928 to Government in the last week of January 1928 ?

(*b*) Is it a fact that the Controller of Printing and Stationery again under his unofficial I. No. H. Q. 4/1041, dated the 16th May 1928, assured the staff under him in Calcutta that he would forward the memorial to Government very shortly ?

(*c*) Will Government be pleased to lay these two circulars on the table and say whether the memorial has since been submitted to Government ?

(*d*) If the answer to the last portion of (*c*) be in the negative, will Government be pleased to state whether he submitted any statement to Government stating his reasons for withholding the memorial ?

(*e*) If the reply to (*d*) be in the negative, have Government called for an explanation from the Controller ?

THE HONOURABLE MR. A. G. CLOW : (*a*), (*b*) & (*c*) Government have no information regarding the circulars to which the Honourable Member refers. The memorial has not yet been submitted to Government.

(*d*) Government understand that the memorial has not been withheld, and in consequence no occasion has arisen for indicating the grounds for withholding it.

(*e*) No.

(Questions Nos. 49 to 56 were put by the Honourable Kumar Sankar Ray Chaudhury on behalf of the Honourable Srijut Lokenath Mukherjee.

APPOINTMENTS OF ASSISTANT SUPERINTENDENTS OF THE GEOLOGICAL SURVEY OF INDIA MADE DURING THE LAST TWO YEARS.

49. THE HONOURABLE SRIJUT LOKENATH MUKHERJEE : Will the Government be pleased to state—

(*a*) How many appointments as Assistant Superintendents of the Geological Survey of India were made during the last two years ?

(*b*) How many vacancies in the above grade there are at present, or are expected to be in course of the next two years ?

(*c*) What is the present cadre of Superintendents and of Assistant Superintendents and the proportion of Indians among them ?

THE HONOURABLE MR. A. G. CLOW : (*a*) Four.

(*b*) There are no vacancies at present. Two vacancies are expected during the next two years.

(*c*) Twenty-eight, of whom ten are Indians.

APPOINTMENT OF ASSISTANT SUPERINTENDENTS OF THE GEOLOGICAL SURVEY OF INDIA MADE IN 1926.

50. THE HONOURABLE SRIJUT LOKENATH MUKHERJEE : Will the Government be pleased to state the names of all the persons with their respective academic qualifications who applied for and of those who were appointed as Assistant Superintendent of the Geological Survey of India since 1926 ?

THE HONOURABLE MR. A. G. CLOW : The selection in 1926 was made partially in India and partially in England, and in 1927 it was made directly on the recommendations of the Public Service Commission. In consequence " Government are not in possession of full particulars of the candidates and their qualifications or even of a complete list of their names. They consider that it

would be undesirable to publish a list of the unsuccessful candidates. The candidates who were appointed were :—

In 1926 .. { Mr. J. B. Auden, B.A.
Mr. Ved Pall Sondhi, M.Sc.

In 1927 .. { Mr. B. B. Gupta.
Dr. H. L. Chhibber, D.Sc.

EXPENDITURE INCURRED ON OBTAINING OPINIONS FROM PALÆONTOLOGICAL EXPERTS IN EUROPE.

51. THE HONOURABLE SRIJUT LOKENATH MUKHERJEE : Will the Government be pleased to state the amounts, if any, spent during each of the last five years in obtaining opinions from Palæontological experts in Europe ?

The HONOURABLE MR. A. G. CLOW :

| | Rs. |
|---|---|
| In 1923-24 .. .. .. .. | 4,586 |
| In 1924-25 .. .. .. .. | 4,444 |
| In 1925-26 .. .. .. .. | 1,191 |
| In 1926-27 .. .. .. .. | 6,411 |
| In 1927-28 .. .. .. .. | 2,336 |

These figures include honoraria and the costs of printing plates.

EUROPEAN ASSISTANT SUPERINTENDENTS OF THE GEOLOGICAL SURVEY OF INDIA POSSESSING THE DEGREE OF A DOCTOR.

52. THE HONOURABLE SRIJUT LOKENATH MUKHERJEE : Will the Government be pleased to state :

(*a*) how many of the existing European Assistant Superintendents of the Geological Survey of India joined the service with a Doctor's Degree ;

(*b*) how many, if any, have acquired the Doctorate subsequent to their appointments ;

(*c*) the period in each instance which elapsed between the date of joining service and that of the award of the Doctor's Degree ;

(*d*) how many European Assistant Superintendents are without a Doctor's Degree ?

THE HONOURABLE MR. A. G. CLOW : (*a*), (*b*) & (*c*) The information is being collected and will be supplied to the Honourable Member.

(*d*) Ten.

EDUCATION OF INDIANS IN ENGLAND.

53. THE HONOURABLE SRIJUT LOKENATH MUKHERJEE : Has there been any move, by the authorities concerned in India, to dissuade the educational institutions in England from entertaining Indian students for the higher degrees ?

THE HONOURABLE KHAN BAHADUR SIR MUHAMMAD HABIBULLAH : No, Sir.

PROMOTIONS FROM THE SUBORDINATE SERVICE TO APPOINTMENTS OF ASSISTANT SUPERINTENDENTS OF THE GEOLOGICAL SURVEY OF INDIA.

54. THE HONOURABLE SRIJUT LOKENATH MUKHERJEE : 1. (*a*) Will the Government be pleased to state whether there is a proposal to fill up henceforward the vacancies in the ranks of the Assistant Superintendents of the Geological Survey of India by promotions from the subordinate service ?

(*b*) Is it a fact that the two of the most senior Sub-Assistant Superintendents are non-matriculates ?

2. Will the Government kindly state how many of the Assistant Superintendents in the Geological Survey of India were promoted from the subordinate service ; their respective ages at the time of such promotion, and what proportion does their number bear to the total strength of the Indian section of the cadre and the cadre as a whole ?

THE HONOURABLE MR. A. G. CLOW : 1. (*a*) The answer is in the affirmative.

(*b*) Government have no information, but are inquiring.

2. Four Assistant Superintendents in the Geological Survey of India previously held non-gazetted appointments. Their ages at the time when they were appointed Assistant Superintendents were 44, 41, 40 and 49, respectively. The proportions are 4 : 10 and 4 : 22, respectively.

PROFESSOR OF GEOLOGY IN THE INDIAN SCHOOL OF MINES, DHANBAD.

55. THE HONOURABLE SRIJUT LOKENATH MUKHERJEE : 1. Will the Government be pleased to state :

(*a*) when was the last appointment to the post of Professor of Geology of the Indian School of Mines, Dhanbad, made ;

(*b*) whether the post was advertised and if so, how ; and if not, why not ;

(*c*) what were the qualifications demanded for the post ;

(*d*) the names of the candidates who applied for the above post and their respective qualifications ;

(*e*) by whom was the appointment made ?

2. Is it a fact that all the applicants with higher degrees of the Universities of London and of Cambridge were considered unfit for interview by the Selection Board and, if so, why ?

3. Is it a fact that Mr. Suhrid Kumar Roy has been appointed Professor of Geology in the Indian School of Mines, Dhanbad ?

4. (*a*) Will the Government be pleased to state whether it is a fact that in the matter of selection for the post the political activities of the candidates, if any, were taken into consideration ?

If so, will the Government kindly inform the Council whether all the candidates except the one who got the appointment were found to be connected with disloyal political activities ?

(*b*) Will the Government kindly state whether the applicants referred to in part 2 were found to be connected with any kind of disloyal activities ?

If not, will the Government be pleased to inform the Council the reasons for rejecting their claims ?

THE HONOURABLE MR. A. G. CLOW : 1. (*a*) January 1928.

(*b*) Yes, the post was advertised in the principal newspapers in India.

(*c*) The qualifications demanded for the post were given in the memorandum inviting applications as follows :—

"Candidates must be graduates in science with honours in Geology. They should have a sound knowledge of Mineralogy, Petrology, Palæontology and Geological field work. A knowledge of Indian Geology and the Geology of oil deposits will be considered special qualifications. They should be well versed in the economic side of the subject and should also know something of mining. Preference will be given to a candidate who has a working knowledge of French or German or of both these languages."

(*d*) It is not usual to publish lists of unsuccessful candidates and there would appear to be no sufficient justification for doing so in this case.

(*e*) The Government of India.

2. The Selection Committee selected for personal interview those whom they considered to be the best among the applicants.

3. Yes.

4. (*a*) No. Government in making the appointment had no information before them regarding the political activities of the candidates.

(*b*) No. Other candidates were not chosen as the Selection Committee and the Governing Body of the Indian School of Mines were unanimously of opinion that Dr. S. K. Ray was the best candidate.

EXTRACTS IN THE "MEMORIAL TO THE MEMBERS OF THE INDIAN LEGISLATIVE ASSEMBLY IN SESSION," WHICH APPEARED IN THE *Forward*, DATED THE 17TH FEBRUARY, 1925.

56. THE HONOURABLE SRIJUT LOKENATH MUKHERJEE : (*a*) Has the attention of the Government been drawn to the following extracts in the "Memorial to the Members of the Indian Legislative Assembly in Session" which appeared in the *Forward*, dated the 17th February, 1925 :

"We know that two Bengali *ex*-internees who served the police during the period of their detention were sent to Europe at the expense of the secret service " * * * *
"Also please ask some questions about *ex*-internees Ram Bhattyacharjee and Suhrid Roy who were supplied the money for their journey to Europe ? How do they maintain themselves in Europe ? What is the nature of their activities there and of Kshitish Biswas in America ? Is it a fact that all the four men acted as informers during internment " ?

(*b*) If so, will the Government kindly state whether the suggestions or allegations contained in the above quotation are based on facts ?

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

(*b*) This does not arise.

REPORT OF MR. JONES, REGARDING EDUCATIONAL FACILITIES AFFORDED TO THE CHILDREN OF EMPLOYEES OF THE STATE RAILWAYS.

57. THE HONOURABLE BABU RAMA PRASAD MOOKERJEE: (*a*) Will Government be pleased to state whether any action has been taken on the Report of Mr. Jones with regard to the educational activities of State-managed Railways?

(*b*) If so, when and what action has been taken?

(*c*) With reference to statements made by the Honourable Sir George Rainy in the Legislative Assembly on the 25th February 1928, has any step been taken to place the matter before the Central Advisory Council?

(*d*) If so, when was the matter placed before the Central Advisory Council and with what result?

(*e*) If the matter has not yet been so placed, when does Government intend to place it?

THE HONOURABLE SIR GEOFFREY CORBETT: It is proposed to place the whole matter before the Central Advisory Council for Railways at a meeting which will be held during the course of, or shortly after the close of, the present Session.

RESOLUTION *RE* LEVY OF REVENUE TAX, CESS OR FEE ON LAND HELD IN PRIVATE OWNERSHIP.

THE HONOURABLE RAO SAHIB DR. U. RAMA RAU (Madras: Non-Muhammadan): Sir, with your permission, I should like to make a slight alteration in my Resolution. In part (*a*) instead of the year 1929 I should like to substitute 1930. I hope you will give me permission to do so.

THE HONOURABLE THE PRESIDENT: I assume that there is no objection on the part of Government to the slight alteration.

THE HONOURABLE KHAN BAHADUR SIR MUHAMMAD HABIBULLAH (Education, Health and Lands Member): No, Sir.

THE HONOURABLE THE PRESIDENT: But I would invite the Honourable Member's attention to part (*b*) of the Resolution which recommends the Government to ensure that the legislation is completed in all its stages before the year 1929-30.

THE HONOURABLE RAO SAHIB DR. U. RAMA RAU: There I should like to insert the words "end of the" before the words "year 1929-30".

THE HONOURABLE THE PRESIDENT: The Honourable Member may move.

THE HONOURABLE RAO SAHIB DR. U. RAMA RAU: Sir, I beg to move the following Resolution which stands in my name:—

"This Council recommends to the Governor General in Council to issue instructions under section 45 of the Government of India Act to Local Governments—

(*a*) that no revenue tax, cess or fee shall, after the 31st March 1930, be levied or continued to be levied on land held in private ownership, except under and in accordance with laws duly enacted by the local Legislatures; and

(*b*) that Local Governments take immediate steps to introduce Bills to this end in the local Legislatures and ensure that the legislation is completed in all its stages before the end of the year 1929-30."

If there is one item of revenue in British India which has excited during the past century and more and is still exciting more interest, criticism and resentment than all the others put together, it is the land revenue. In dealing with this Resolution it is unnecessary for me to trace the history and evolution of the land revenue system from the dawn of British rule in India up to the present times. Suffice it to mention that the system has been built up on the wreckage of the systems prevalent in the old Hindu and Moslem Empires and based on doubt, confusion, misconception and misunderstanding, without due regard to the well-being of the agricultural population in India. What with the frequent settlements and re-settlements of land and the idiosyncracies of the Settlement Officers, whose one aim has always been to fleece from the ryot as much rent as possible, " by applying ", in the words of Sir Mount Stuart Elphinstone, " to all parts of the country, facts which are only true of particular tracts ; and by including in conclusions drawn from one sort of tenure, other tenures totally dissimilar in nature " and what with freaks of nature, bringing on famines almost every year through over-abundant rains and floods in some parts of the country and scanty rainfall and drought in others, and what with the lack of sufficient facilities for carrying on agricultural operations, such as irrigation, seedlings, manure, etc., which are deeply deplored even by the Agricultural Commission, a whole nation has been impoverished and reduced to the verge of misery and starvation. I am not alone in this condemnation of the British administration of India. Abler critics than myself, more experienced and better informed ones, among whom can be counted distinguished members of the I. C. S. of European descent, have spoken in scathing terms of the land revenue policy of the Government of India during the past 100 years. The dumb millions of India, who have been the victims of this excessive and oppressive taxation, have all along suffered in silence, true to the dictum " what cannot be cured must be endured." The worst sufferer from this pernicious system of settlement and re-settlement is my own province of Madras, the United Provinces and in a lesser degree the Punjab and Bombay coming next in order. It was the Madras land revenue that constituted the largest divided head of central receipts in the pre-reform days, and it was on this basis that, when, after the Reforms, the land revenue was wholly provincialized, the provincial contribution from Madras was fixed by Lord Meston at the huge figure of 348 lakhs. The reality of the burden of land-tax and the necessity for relief against its hardships were perceived by the Joint Parliamentary Committee at the very inception of the reforms, and they therefore made it a *sine qua non* of the reform scheme that the imposition of new burdens should be gradually brought more within the purview of the Legislatures. The Committee expressed its opinion that the time had come to embody in the law the main principles by which the land revenue is determined, the methods of valuation, the pitch of assessment, the periods of revision, the graduation of enhancements and the other chief processes which touch the well-being of revenue-payers, and they added that the system should be established on a clear statutory basis before the next change in the constitution took place. Eight years have elapsed since this memorable pronouncement was made and even the Commission on further

[Dr. U. Rama Rau.]

constitutional reforms have been ushered in, and yet no attempt was made to alleviate the lot of the poor ryots in India. On the other hand, in the Madras Presidency alone, of which I can speak with some knowledge, the land revenue which stood at 687 lakhs in 1920-21 had increased to about 758·31 lakhs in 1927-28. The burden of the ryot has thus been screwed up by nearly three quarters of a crore during this period. Certainly, the economic condition of the Madras ryots does not justify this horrible increase. The increase in the expenditure of this Presidency during the period between 1920-21 and 1925-26 was 242·73 lakhs, while the increase of revenue resources in the same period was 129 lakhs all told. This added to the total remission of the provincial contribution of 348 lakhs in 1927-28 will bring the total increase in the resources of the Madras Government to, say, 4½ crores roughly, while the increase in the amount of expenditure charged to revenue during the period will come up to roughly 2½ crores, thus leaving about 2 crores on the Government's own estimates as a recurring increase of resources in the hands of the Provincial Government from this year onwards. This by itself constitutes a strong justification to cry a halt in the policy of further enhancement of taxation through re-settlements. It is contended, for and on behalf of the Government, that the fertility of the land increases and the produce fetches better prices for the cultivator between one period of settlement and another, and the Government is therefore justified in getting a fair share of the profits in the shape of increased land revenue. But the lie direct to the theory of fertility of the soil is given by no less a body than the Royal Commission on Agriculture itself which concurs with the views expressed by the Agricultural Adviser of the Government of India that most of the area under cultivation in India has been under cultivation for hundreds of years and has reached its maximum impoverishment many years ago. And yet, at every re-settlement there is an enhancement of revenue on the ground of increased production. The cultivator's expenses and wants have also increased *pari passu* with better prices and the chronic indebtedness of the agricultural population of India, which the Royal Commission on Agriculture also deplores deeply, must convince the Government of India of the untenability of their position and the unreasonableness of their claim.

It need hardly be pointed out that the normal position of any sound Government so far as finance is concerned ought to be that it should raise as much taxation and not a pie more than is required to meet the needs of the Government and to satisfy the requirements of the people. Schemes of amelioration and of beneficial measures involving expenditure should always emanate from the representatives of the people who have to count the cost and provide the ways and means therefor by the imposition of additional cesses and taxation, if necessary. Only by that means can the tax-payer be protected and the expenditure of the State be made to secure the maximum of benefit to the people concerned. To provide a surplus and put it as a sop for making suggestions o r odd schemes of fresh expenditure is unsound and unjust.

The policy of automatic increase in the burdens of the ryots through re-settlements without regard to the needs and requirements of the Government as determined by the Legislature must be given the go-bye at once. This is

a reform that arose directly as a result of the Joint Committee's recommendations under the new constitution, and it ought not to be allowed to be delayed any further. The charge is laid at the door of the Central Government that they have persistently refused to accord sanction for a Land Revenue Bill which the Madras Government had contemplated to introduce in their Legislative Council. I do not know how far it is true. But whoever is responsible for this civil disobedience or passive resistance to the legally constituted Parliamentary authority, the stern fact cannot be ignored that the ryots have already begun to feel the pinch of the land-tax and have themselves launched on a vigorous no-tax campaign. My own benighted Presidency has led the way, and Tanjore was the first to protest against the increased assessment resulting from re-settlement and refused to pay the tax some five or six years ago. Through the timely intervention of the Legislature and wise statesmanship on the part of the Madras Government, a serious situation such as the one we had at Bardoli has been averted and a compromise effected. The rack-renting policy of the Government of India has been put to a vigorous test at Bardoli recently and has not succeeded. Let not the lesson of Bardoli be lost on the Government. It behoves the Government of India, therefore, to realize the gravity of the situation and forthwith direct the Provincial Governments to submit the question of land-tax to the vote of the Legislatures in obedience to the mandate of the Joint Parliamentary Committee, and thus absolve themselves from all blame in the matter. Here is a fair opportunity that has presented itself to the Government, and on their acceptance of this Resolution depends their sincerity to advance India politically and economically. I earnestly appeal to the Honourable non-official Members of this House to heartily support this Resolution as it is a question of vital importance affecting the well-being of every son of the soil, to whatever race, caste, community, religion or political predilection he may belong.

With these few words, I move the Resolution that stands in my name.

THE HONOURABLE KHAN BAHADUR SIR MUHAMMAD BABIBULLAH : Sir, I do not imagine that the Honourable Dr. Rama Rau asks the House to accept the Resolution which he has moved at its face value. It seems to me that it is more or less an expression on his part of the feelings of resentment at the alleged apathy on the part of the Provincial Governments and perhaps an assumed indifference on the part of the Government of India to have the necessary legislation framed in accordance with the recommendations of the Joint Parliamentary Committee on the Government of India Bill.

I shall show presently that neither the Provincial Governments nor the Government of India can justifiably be charged either with apathy or indifference respectively. For the moment I should like, if I may, to draw the attention of Honourable Members to the implications which arise from this Resolution, and for that purpose I hope they will bear with me for a few minutes if I should indulge in a criticism of such implications. Honourable Members will notice that this Resolution asks them to commit themselves to make a recommendation to the Governor General in Council that no revenue, tax, cess or fee shall, after the 31st March, 1930, be levied. In the second place, it asks this House again to commit itself to make a recommendation to the Governor General in Council that no revenue, tax, cess or fee shall, after the 31st March 1930, be continued to be levied, and it further asks that this revenue be neither

[Sir Muhammad Habibullah.]

levied nor collected after the 31st March, 1930, except under and in accordance with laws to be enacted by the local Legislatures. For the purpose of arming the Governor General in Council to exercise the power which this Resolution asks him to exercise, resort is had to section 45 of the Government of India Act. I am now trying to show that this section has no application whatsoever to the question that we are now discussing. Let me make it plain that I am not posing to claim for myself the right of a lawyer to interpret legislation. I will merely appeal to the common sense of this House. What does section 45 say in effect ? Section 45 says :—

"Subject to the provisions of this Act and rules made thereunder, every Local Government shall obey the orders of the Governor General in Council, and keep him constantly and diligently informed of its proceedings and of all matters which ought, in its opinion, to be reported to him, or as to which he requires information, and is under his superintendence, direction and control in all matters relating to the government of its province."

Perhaps my Honourable friend—I know he is not a lawyer—tries to lay emphasis on the words :

"Every Local Government shall obey the orders of the Governor General in Council",

but I have yet to know whether the Governor General in Council can issue any orders to a Local Government if such orders are *ultra vires* of the Act under which he professes to issue such orders. I think I must make myself a bit more clear. Honourable Members are aware that land revenue is a provincial reserved subject. What are its powers under the Act in regard to land revenue ? Its powers under the Act in regard to land revenue are that it has the absolute power to assess and collect land revenue. There is nothing in those words to indicate that either the assessment or the collection must be under a legislation framed by the local Legislative Council. That power is unconditional. When, therefore, under the Act the Local Government possesses the power to assess and collect land revenue, is it conceivable, I ask, that the Governor General in Council could issue peremptory orders to a Local Government that although such Local Government is in exercise of the power vested in it in law assessing and collecting land revenue, yet it shall refrain from exercising the power which the law entrusts it with ? I have tried to labour this point somewhat to convince this House that the Governor General in Council can, as the law stands at the present moment, issue no peremptory orders to any Provincial Government prohibiting it from either levying or collecting land revenue, which entirely is a provincial subject, and as such wholly under its cognizance and jurisdiction. Then, Sir, we are also asked to issue instructions to the Provincial Governments not to continue to levy the assessment on land. Let us assume for the sake of argument that each Provincial Government enacts to-morrow a piece of legislation regulating the levy and collection of land revenue. May I ask Honourable Members whether such legislation will have retrospective effect ? Will such legislation affect the settlements and re-settlements which have already come into operation ? Will such legislation in any way affect the collection of land revenue which is being levied and collected prior to the coming into operation of any new legislation ? How therefore could any legislation affect the collection and levy of taxation which had been in operation under previous settlements before the coming into operation of any statutory provision ?

Therefore it is rather hitting the point too high if you ask the Government of India not to continue the collection of all assessments, etc.

THE HONOURABLE RAO SAHIB DR. U. RAMA RAU: Until you enact the law.

THE HONOURABLE KHAN BAHADUR SIR MUHAMMAD HABIBULLAH: I understand what the Honourable Member has in mind. Perhaps, he is contemplating that after the new legislation comes into operation, all the previous settlements which have been in vogue will all simultaneously be brought to a termination and that fresh re-settlements will start in all parts of India at one and the same time. Unless that is his intention, it is unthinkable how any legislation which may be framed to-morrow will affect the settlements and re-settelments which have been in operation for years, which may have been conducted 10, 20 or 30 years ago, and in which under the stipulation which is entered into between the respective Governments and the land revenue payers there is an agreement not to interfere with these assessments for the period of settlement, which may be 20 or 30 years, according to the practice in the province concerned. So that, at any rate, as I maintain, is somewhat unthinkable. I assume, Sir, for the sake of argument again that the Government of India in issuing the orders suggested ignores the provisions of the Government of India Act, ignores also the fact that the Provincial Governments have so far levied and collected land revenue under the system in vogue until now; what will be its consequences? The Honourable Mover who hails from my own province has just now told us that the demand in respect of land revenue in the Madras Province is over Rs. 7½ crores. Well, it may fairly be said in regard to the other provinces as well that the demand in respect of land revenue stands at a high figure. The lowest demand, I think, is in Assam, parts of which are yet undeveloped, but even there I think the land revenue demand is something like Rs. 1 crore. I am not exaggerating facts when I say that land revenue on the whole forms the main source of revenue in every province. Scrap it and you see the consequences. Scrap it and you tear the whole machinery to pieces. Scrap it and you bring the whole administration to a standstill. That would be the inevitable consequence of the acceptance of this Resolution. Is this the time, Sir, when we should indulge in the pastime of stopping the collection of land revenue for any period? To my mind it is not easy to answer what that period may really be. The Honourable Dr. Rama Rau, in view of the amendment which he has now proposed, and which has been accepted by the Chair, gives us a grace time of one year within which to hasten the various stages through which any legislation has necessarily to pass before it becomes law. He has bemoaned the fact that eight long years have already passed without this legislation coming into operation, and yet he hopes that twelve months ought to be more than sufficient for the purpose of bringing that legislation into operation. Well, if that legislation is not ready by the time stipulated, what happens? The inevitable result would be that the collection of all land revenue will be suspended at once, every province will have to meet its demand from the slender resources which will be left at its disposal. Each province will have a very big slice cut off from its revenues. Each province will have again to go back, shall I say, to a state of financial insolvency. My Honourable friend must realise what a blow had been aimed at the financial prosperity of his own province as a result of the Meston Award. He still remembers, I

[Sir Muhammad Habibullah.]

I think, the depression that that event had produced on the activities of every branch of administration in his own province. He knows, I think, that many an important scheme of reform, many a scheme of public utility, had to be simply pigeon-holed for want of necessary financial resources. Thanks, indeed, to the abolition of the provincial contributions, the province I hope is now able to stand on its own legs once more and may well indulge in the idea of giving effect to some of those important schemes which for lack of funds had necessarily to be shelved. Now, if instead of the Meston Award which was responsible for taking away a large slice from out of the resources of each province we introduce in its stead another scheme by which a bigger slice will be cut off from its revenues, and the provinces are asked to manage their show on their remaining resources, the result must inevitably be calamitous. Let us remember that this is a time when I am expecting each province to put its hand deep into its pocket for the purpose of giving effect to those wholesome recommendations of the Royal Commission on Agriculture which will soon have to be translated into action. In the very near future there is going to be an All-India Conference for the purpose of determining a programme of work in respect of those recommendations.

It is hoped to arrange the programme in the order of urgency subject of course to financial possibilities. I am hoping, and ardently hoping, that each province will take that interest which the recommenations of the Royal Commission demand and earmark a good portion of its own revenues for the purpose of giving effect to those recommendations. Now, at a juncture like this, is it prudent, I ask, to make a present of a suggestion to the Provincial Governments of the character mentioned by the Honourable Mover? It seems to me, Sir, that it would be the reverse of wisdom to do so. I said in the beginning that neither the Provincial Governments nor the Government of India should be charged either with apathy or indifference in the matter of this legislation. Let me make it plain that nobody desires this legislation to come into operation at once more than myself. My Honourable friend who hails from Madras is somewhat conversant, I suppose, with my life in that province, and if that is so, he must be aware of the efforts which I in my position as Revenue Member of that province had put forth in connection with this important matter. It is, therefore, needless to tell this House that my sympathies are entirely in favour of this legislation. But let us at the same time realise that this legislation is not central; it is entirely provincial. The utmost that the Government of India can do is to draw the attention of the Local Governments from time to time to the urgency and the need for framing legislation in accordance with the recommendations of the Joint Parliamentary Committee. And let me assure my Honourable friends that this question which has been raised by the Honourable Member opposite has not escaped the attention of the Governor General in Council.

I think I might just tell the House what we have been doing from time to time in connection with this important piece of legislation. The House is aware that the Joint Committee of Parliament recommended that the process of revising land revenue assessment should be brought under closer regulation by legislation. Land revenue being a reserved provincial subject this recommendation was brought to the notice of the Provincial Governments who alone

could undertake the necessary legislation, and the need for early action was impressed on them so long ago as March 1920. In June 1924 again the Government of India forwarded to Local Governments a copy of a question and answer in Parliament on this subject and requested them to report on the steps taken by them to give effect to the recommendations of the Joint Committee. The replies received to this reference disclose that, with the exception of Bengal and Bihar and Orissa, which are largely under permanent settlement, and where the question is mainly one of academic interest, the Local Governments either already have taken steps or are contemplating taking action to introduce the necessary Bills in their provincial Councils. Bills were actually introduced in Madras, Bombay, the United Provinces, the Punjab, Assam and the Central Provinces, but in no case have they become law as yet.

THE HONOURABLE SIR SANKARAN NAIR (Madras: Non-Muhammedan): Why?

THE HONOURABLE KHAN BAHADUR SIR MUHAMMAD HABIBULLAH: I will tell you. The main reason for this has been the inability of the parties concerned, namely, the Government and the unofficial majorities in the Legislative Councils, to reach an agreement. In August 1927 the Government of India again drew the attention of the Local Governments to the matter. As Honourable Members will realise, the initiative rests with the Local Governments, and the decision with their Legislatures. The Government cannot dictate to Local Governments. The question is not, I must honestly confess, as simple as it looks. The Provincial Governments naturally have to think of their revenue. The provincial Councils, perhaps equally naturally, are more concerned with the reduction or limitation of the incidence of land revenue. The only possible solution is a compromise to which both the Local Governments and the majority of their Legislative Councils should agree. Such a compromise, I must confess, cannot be promoted or imposed from Delhi or Simla. I may also add for the information of the House that the Government of India have again decided to address Local Governments on the subject of land revenue administration, and they earnestly hope that their initiative on this occasion may be useful in contributing towards a solution of the outstanding questions of principle relating to this subject which have come into prominence since the Joint Committee made their recommendations, and I think I am not indulging in any unnecessary optimism if I say that, as a result of the efforts now proceeding, I hope a satisfactory solution of this problem will soon be arrived at. In view of what I have stated, Sir, I hope and trust the Honourable Member will not press his Resolution.

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN (Punjab: Nominated Non-Official): Sir, at the outset, on behalf of the zamindars, I must heartily thank our gallant Dr. Saheb for the Resolution he has just moved. It is no doubt true that the zamindars are the only class which is so hard hit, and the House knows that whenever I have spoken on this subject I have not been half-hearted. Though, we labour under many difficulties, on one side on account of the money-lender and on the other on account of the Government revenue which breaks the earthen pot, between the two iron vessels and though the Resolution goes a long way to help the zamindars, I for one think it impracticable, because it suggests a complete suspension of the revenue for a time which will dislocate the present administration. All that

[Sir Umar Hayat Khan.]

we desire is reform in the land revenue administration, about which the Honourable the Leader of the House has so lucidly spoken just now. I would therefore tell my Honourable and gallant friend that, though the proposed Resolution will help the zamindars, he should not press it.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab: Non-Muhammadan): Sir, I rise to support the Resolution which has been so ably moved by my Honourable friend Dr. Rama Rau. I have been following with interest the observations made by the Honourable the Leader of the House, but I am sorry that his arguments have not been very convincing to me.

The Honourable the Revenue Member says that land revenue is a transferred reserved provincial subject. That is true, Sir. But I want to ask the Honourable the Revenue Member whether the Royal Agricultural Commission was formed as a result of the recommendations made by the Executive or the provincial Legislatures of the various provinces. When the Government of India realises the great importance of a certain matter it moves. That is the very reason why there is an Agricultural portfolio in the Government of India. The Honourable the Revenue Member has also explained that Land Revenue is the chief source of Indian revenues. As far as my information goes, Sir, and with due deference to the Honourable the Leader of the House, I must say that his statement is not quite correct. The customs duties and the Income-tax added together much exceed the land revenue of the whole of India.

THE HONOURABLE SIR MUHAMMAD HABIBULLAH: Added together.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: So it is not right to say, Sir, that land revenue is the chief source of revenue in India. As far as the Meston Award is concerned, Sir, the Punjab has also suffered as much as Madras and Bombay have done. But, Sir, as far as the Punjab is concerned, I might say that no regular rigid policy of assessment of land revenue or of water rate is observed. In certain districts there are 20 years settlement, in others there are 30 years settlement, and now of late 5 years settlement has been introduced. In Lahore and other districts now every 5 years in certain parts of the district assessments are subjected to revision. My friend, Sir Umar Hayat Khan, from whom I expected that he would safeguard the interests of the zamindars has not done so to-day. When he rose I thought that he would strongly support the Resolution, but when he sat down I thought that he had only taken a lukewarm interest in the matter. The Honourable the Leader of the House has said that the Parliamentary Commission on Agriculture has laid great stress upon laying down a policy for the assessment of revenue and taxes, and he has also been pleased to say that the Government of India has conveyed that recommendation of the Parliamentary Commission to the local Provincial Governments. I find, Sir, that in the Punjab and in other provinces which the Honourable the Revenue Member has named, Land Revenue Bills have been moved. In the Punjab I know there was a great debate over it and the measure is still perhaps under the consideration of the Punjab Council.

THE HONOURABLE SIR MUHAMMAD HABIBULLAH: It is not under the consideration of the Punjab Council. It has been passed by the Punjab Council.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: I am sorry Sir. I thought otherwise. But I must say, Sir, that the Honourable the Mover has not in his speech made any reference to the water rates. In the Punjab I find, Sir, that, even in a case where one watering is given to the crops and although the canal fails for the rest of the year, the canal assessment becomes due and fully due. Such like things, Sir, are not just and equitable, and I think that along with the land revenue, as the Honourable Mover of the Resolution says, other taxes, including I believe the water rate, are to be considered. I consider it is the duty of the Government of India to strongly urge upon the Provincial Governments to lay down once for all their revenue policy. With these words, Sir, I support the Resolution.

THE HONOURABLE MR. V. RAMADAS PANTULU (Madras: Non-Muhammadan): Sir, I rise to support the feeling that is behind my Honourable friend, Dr. Rama Rau's Resolution. I must congratulate the Honourable the Leader of the House on the very successful way in which he grappled with words and demolished the spectres of financial chaos raised by him. I was only wondering why he did not say that the financial implications of Dr. Rama Rau's Resolution would lead to the disbandment of His Majesty's military, naval and air forces and so pave the way to invasion of India. He has very successfully evaded the real issue arising from the Resolution. Nobody ever thought that the financial dislocation of the Government of India was contemplated by the Honourable Mover. The Honourable the Leader of the House has tried to tell the House the implications of Dr. Rama Rau's Resolution. The real implications are not as stated by the Honourable Leader. The real implications are these: the acceptance of the Resolution would mean three things. *Firstly*, the giving up of the theory that land revenue in this country is rent but not a tax. If it is a tax, Sir, it is a known fact that no tax in any country is levied except with the sanction of the Legislature. In India there is not a single item of taxation which is levied except under the direct control of the Legislature. Land revenue is the only tax which is so levied. Apparently it is based on the theory that the State is the owner of the land and the cultivator is a tenant, therefore the landlord can levy from the tenant such rent as he pleased. That theory has been exploded long ago, and if the Government of India wants to give up the theory and recognise that land revenue is not rent but a tax, it is bound to place it under the control of the Legislatures. That is the first implication. I should like to know whether the Government of India is prepared to accept this implication. The *second* implication is that, if they accept the position that land revenue should be imposed under the control of the Legislatures, then the Government of India must be prepared to vest in the Legislatures the right to fix the *rate* of taxation. That is the second implication. My Honourable friend Sir Muhammad Habibullah has appealed to Dr. Rama Rau to judge him by his career in the Madras Council. It is a matter of public knowledge now that the Madras Government, when he was a member thereof, sent up for sanction a Land Revenue Bill and that it was turned down by the Government of India on the main question that the Government of India were not in favour of investing the Legislature with the power to fix the rate of taxation. The Government of India were quite agreeable to the passing of an innocuous measure vesting the power in the Legislature to levy land

[Mr. V. Ramadas Pantulu.]

taxation, but the Government of India were not prepared to allow Legislatures the right to fix the rate of taxation. Are the Government of India now prepared to do so ? That is really the crux of the whole matter. Then the *third* implication which underlies the Resolution of Dr. Rama Rau is this : that, even if the Legislature is invested with the power of fixing the rate of taxation, will there be any authority provided to test the justice of executive action ? In the case of income-tax we can have some recourse to the Courts. Are the Government of India prepared to set up a machinery, of an *ad hoc* character or one which will go into individual cases of hardship, to judge of the soundness and equity of the amount of revenue levied ? The fact that the Bardoli ryots wanted a judicial officer to be associated with the Settlement Officer is a proof positive that the people have no faith in the justice of the executive officials. Therefore the people of Bardoli insisted upon a judicial officer being associated in the inquiry. What the people want is, though land revenue is to be levied under legislative sanction, they want that the justice of the incidence of the taxation should be tested by an impartial tribunal. Are the Government of India prepared to accede to that ?

12 NOON.

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces : Nominated Non-Official) : Is there any country in the world which has done that ?

THE HONOURABLE MR. V. RAMADAS PANTULU : There is. I will ask my friend to refer to the Taxation Enquiry Committee's Report. It gives a survey of the way in which land tax is levied in various countries.

THE HONOURABLE SIR MANECKJI DADABHOY : I have read that. You have not answered my question.

THE HONOURABLE MR. V. RAMADAS PANTULU : There is a judicial machinery under the Income-tax Act. These are the implications which underlie Dr. Rama Rau's Resolution. The Government of India cannot have a blank mind or an open mind. What is its attitude then towards this question ? The Honourable the Leader of the House said that the delay in framing suitable Bills was due to the difficulty in an agreement being reached between the Legislative Councils and the Provincial Governments. What the Members of the Legislatures want is clear. What the Provincial Governments want and what the Government of India want, we do not know, because they have never issued any comprehensive Resolution on their land revenue policy. Since Lord Curzon's time the Government of India have stood on the fence and have always given evasive answers and never made up their mind as to their land revenue policy. What did they think of the Joint Parliamentary Committee's recommendations ? What had they to say about the demands made by various Provincial Legislatures on questions pertaining to land revenue ? The Government of India have not made themselves clear on these points, and an agreement has not been reached chiefly owing to the obstructive tactics of Provincial Governments and the Government of India. Therefore, it is no good telling us that the delay is due to the difficulty of reaching an agreement. All the difficulty is created either by the Provincial Governments or by the Government of India.

Then the technical plea under which Sir Muhammad Habibullah has been of late freely sailing is the demarcation of functions between Provincial and Central Legislatures. This is coming very handy to him in these debates. I think it is not a substantial objection. I may quote Sir Muhammad Habibullah himself in reply to his present attitude. He made a very sensible and very lucid pronouncement in 1927 on this question in answer to my friend Sir Ibrahim Haroon Jaffer's Resolution about the Co-operative Movement; and there he has clearly stated the powers of the Government of India with regard to the control of land revenue. I will only ask him to read that passage once more. I do not want to repeat it now. If he reads that passage once more, he will find that every one of his statements to-day is fully answered by himself on that occasion. Therefore, I should content myself with answering him with his own words on that occasion.

In this present anomalous position, land revenue settlements are going on in various parts of the country and people are protesting. Tanjore first, and there, the enhancement of 25 per cent., which was first sought to be levied, was reduced to 18¾ per cent. on protest. Now the settlement of the Kistna and Godaveri districts is going on. I have had the privilege of reading the Settlement Officer's preliminary report with regard to the proposed enhancement in these districts. The report gives a rosy picture of the economic prosperity of the ryots and their ability to bear additional taxation, of the wonderful achievements of the co-operative movements, and the great improvement which has been brought about in the staying power and the tax-paying power of the ryots. If one reads these reports one will wonder whether the land tax cannot be easily doubled. These reports are not to be relied upon and they will not bear scrutiny by any economist. The plaintiff who is also the judge is having his own case to go by, and the person who claims the additional land revenue will put forth his case in the settlement reports, and there is no way of judging the accuracy or the soundness of the statements contained therein. People protest against them but there is no way for them of getting redress except perhaps by resorting to Satyagraha as in the case of Bardoli. It will not be possible for the people in all parts of India to resort to such a movement, nor would the Government wish it. Therefore the Government of India must realise its responsibility in the matter.

There is just one word more which I would like to say before I sit down. The Leader of the House has referred to the improvements the Agricultural Commission has recommended and to the Provincial Governments' responsibility in devoting a large portion of the revenue to these improvements. But may I remind him, Sir, that unless this question of land revenue policy is settled satisfactorily, no agricultural improvement is possible? We have been protesting against the exclusion of this question of land revenue policy from the terms of reference to the Agricultural Commission. It was stated at the time that though it was not directly referred to the Commission, it would indirectly be dealt with by them, that some evidence would be taken and the Agricultural Commission would in some way throw some light upon the question. I myself have spoken in this House on the point and I read the speech which the Honourable the Leader of the House delivered on that occasion again this morning. He raised the distinct hope

[Mr. V. Ramadas Pantulu.]

that the Agricultural Commission would say something about the land revenue policy. But I find that they have very strictly adhered—and very rightly—to their terms of reference, and the Government of India misled us by saying that the matter would somehow or other come under the purview of the Agricultural Commission. The Government wanted to retain this matter exclusively in their hands and they were not prepared to entrust it to the hands of the Commission for investigation. The whole question, it is stated, is going to be settled by correspondence between Provincial Governments and the Government of India. The people are not to be taken into confidence. The public are not allowed to say anything in the matter. All that Sir Muhammad Habibullah assured us is that the Government of India are in correspondence with Provincial Governments and that a very satisfactory solution may be hoped for and he was optimistic on the point. But may I ask him whether the solution of a question like this can be satisfactory where the people themselves have no voice in determining the important issues involved in it? Therefore, I am sorry to say that on this occasion, though Sir Muhammad Habibullah has shown great dialectic skill, he really tried to evade the whole question. He has not dealt with the implications of the Resolution. I agree with my friend Sir Umar Hayat Khan that nobody should try to dislocate the administration of the country. But the principle is there, and all that we are praying for is that the principle underlying the Resolution should be acceded to by the Government of India at a very early date, and they must make up their mind as to what their position is on this question. Are they going to entrust this power to determine the land tax to the Provincial Legislatures? Are they going to agree to a judicial machinery being set up to test the equitability of the taxation? Will the Government of India give a free hand to the local Legislatures to enact measures suitable to their own provinces, or will they turn down such proposals in order to suit their own convictions? These are the main questions to be considered. Let us get unevasive replies, we have not got them to-day from the Leader of the House.

THE HONOURABLE SARDAR BAHADUR SHIVDEV SINGH UBEROI (Punjab: Sikh): Sir, I express my full sympathy with the principle of the Resolution moved by my Honourable friend Dr. Rama Rau. I have not had the advantage of hearing the reasons which he advanced in support of his Resolution on account of my reaching the Chamber a little late. But I have heard with great attention the reply of the Honourable the Leader of the House and the reasons which he had advanced. What I gather from the language of the Resolution is simply this, that the policy of assessing revenue, tax, cess or fee on any land possessed by private owners should not be made by the executive part of the Government, but should be enacted by the Provincial Legislatures. I think the time has come when the Indian administration must be more in the hands of the representatives of the people than in the hands of the executive machinery of Government. I do not think the fact can be denied that India's masses are composed of the agricultural community, that the happiness of India lies more in the happiness of the masses of the country, and that the strength and power of Government also lie in the happiness of the people

of the country. My community pays the highest proportionate revenue in my province and I cannot do justice to my position here if I do not express my hearty support to the principle underlying this Resolution. I do not see what objection there is to the land revenue, cess or tax which is levied on the land, being levied according to the wishes of the representatives of the people through the Legislative Councils, when customs duties, income-tax and other taxes are subject to the vote of the Legislative Assembly and the Council of State. As regards the argument of the Leader of the House that he fears a cessation of the machinery of administration, I do not think that there is any room for fear at all. First of all, we should not doubt, and we have no reasons or data to doubt, the *bona fides* or the patriotic sense of those representatives of the people who constitute the local Councils or that they would treat land revenue in such a way as to deprive the Government of its resources, because they will fully understand their duty, that while representing the people they should see that the machinery of Government is carried on. It cannot be granted for a minute that they would be so unmindful of their responsibility that they would chuck off land revenue or deliberately delay the passing of the necessary legislation relating to land revenue. That fear cannot be entertained for a minute. What this Resolution aims at is this, just as the other taxes are made subject to the vote of the representatives of the people, so land revenue also should be made subject to the wishes of the people. The majority of Members in the local Councils come from the agricultural community, and they are in the best position to judge for themselves the situation and suggest to Government the necessary measures.

Sir, one word more and I have done. The land revenue policy in the Punjab, and also I think in those provinces where the land revenue assessment is not permanent, leads to a tendency in the direction of increasing the land revenue at every settlement. It used to be every 10 years till some time ago, but now the period has been extended. However, during the last assessment I remember the land revenue has been very excessively increased in some places. For instance, agricultural lands around the cities, which have been brought within municipal limits, have not been exempted from land revenue assessment; on the other hand, the assessment has been increased perhaps 200 per cent. Even those lands which had come under houses are still liable to the payment of land revenue though at a much higher rate. This is one instance out of the many which happen under the present system. With these few words I heartily support the Resolution of my Honourable friend, Dr. Rama Rau.

THE HONOURABLE RAO SAHIB DR. U. RAMA RAU: Sir, nowhere in the Resolution have I said that you must stop the collection of land revenue. I was only anxious that no revenue should be collected beyond 1930 unless it is done according to the wishes of the people, and nowhere have I said that the collection should not be made. Nor have I said anywhere that it ought to have retrospective effect. If the period up to 1929-1930 is not sufficient, Government can extend the time, and they have power to do so if they accept this Resolution. All that I wanted was this. Government have been sleeping over this matter for the last eight years, and my object in moving this Resolution is to wake them up from their sleep. It is said that this is a provincial reserved subject and that the Central Legislature has nothing to do with it,

[Dr. U. Rama Rau.]

But when a Provincial Government sent up a Bill for sanction it was turned down by the Government of India. If the Government of India had been very anxious to promote legislation, why should they turn down that Bill? I did not ask the Government to stop the collection of land revenue; I only wanted the revenue to be collected after sanction by the Legislatures concerned. I know that a Resolution of this kind cannot be passed in this Council where the majority is with the Government. My object in moving this Resolution was to draw the attention of Government to this subject. I am very glad that the Leader of the House has given an assurance that he will hurry up the Local Governments. In these circumstances I do not propose to press my Resolution to the vote of the House, but to withdraw it with its permission.

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

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## RESOLUTION *RE* ALTERATIONS IN THE POWERS AND PROCEDURE OF THE HIGH COURTS IN INDIA.

*THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY (East Bengal: Non-Muhammadan): Sir, the Resolution that stands in my name runs as follows:

"This Council recommends to the Governor General in Council to take steps to have the Government of India Act so amended as to prevent the powers and procedure of the High Courts in India from being changed by executive orders of His Majesty in Council."

There are two factors to be considered about the establishment of law Courts in any country; the one relates to its establishment and vesting it with a certain territorial jurisdiction, and the other deals with its powers and procedure. The first matter comes within the purview of executive orders and the second ought to be, and is, in almost every civilised country, the exclusive function of the Legislature. This was acknowledged even when the High Courts were first established in India, and the then Secretary of State in his despatch, dated the 14th May 1862, paragraphs 6 and 7, observed as follows:

"6. Moreover, the words giving authority to confer on the Court such jurisdiction and such powers and authorities for the administration of justice as the Crown may direct appear very large, and as such, in point of fact invest the Crown with extensive legislative powers so far as administration of justice within the meaning of the sections may require. It has been, however, thought best to use this power very sparingly and simply as ancillary to the real purpose of the Act, namely, the establishment of new Courts."

Another reason for the form which the present Letters Patent assume is to be found in the provisions of section 17 of the Act of last Session. By that section power is given to the Crown to recall the Letters Patent establishing the Court at any time within three years after its establishment and to grant other Letters Patent in their stead. This provision was inserted in the Act mainly with the view of "enabling His Majesty's Government to avail themselves of the advice and assistance of the Judges of the Court in framing the more perfect Charter by which the jurisdiction and authority of the Court is to be permanently fixed." Accordingly, when the Government of India Act was passed in 1915, the power to alter the functions and procedure of existing High Courts was taken away from His Majesty and by its Fifth Schedule

* Speech not corrected by the Honourable Member.

they were made alterable by the Indian Legislature. But there was no provision in this Act whereby the executive Government of His Majesty could alter the territorial jurisdiction of any existing High Court, and consequently the Act was amended in 1916 by the addition of clause (1) (*a*) to section 106 in the following words :

"The Letters Patent establishing or vesting jurisdiction, powers or authority in a High Court may be amended from time to time by His Majesty by further Letters Patent."

Though the language of this amendment is somewhat wide, it was never meant, I submit, to extend the powers of His Majesty beyond simply what was "ancillary to the real purpose, namely, the establishment of Courts" over any area. In altering the procedure of appeal from the decision of a single Judge to a Divisional Bench of the High Court at Calcutta by changing its Letters Patent in 1921 instead of going through the process of legislation laid down in the Fifth Schedule of the Government of India Act, the Executive Government have not only shown scant courtesy to the Indian Legislature, but they have violated the elementary principle of the independence of the judiciary from the executive reiterated even as early as when the first High Courts were established in India. The Civil Justice Committee made many recommendations of which this was one, and many of them have been given effect to by being embodied in legislative enactments, but I fail to see why the same procedure was not adopted in this case, unless it be this, that the Government were doubtful of their being able to carry through such a piece of legislation, for when in 1916 similar proposals were advanced by Government they met with opposition from almost every quarter except the Patna and Allahabad High Courts, and the result of the amendment even within this short period has been to shut out almost all appeals to the Divisional Bench from the judgment of a single Judge of the Calcutta High Court. Similar results have also been brought about in Burma where a similar law prevails as will be borne out by the following observations of the Civil Justice Committee at page 351 :

"We understand that in Burma where the Letters Patent appeal only lies upon certificate, such appeals are seldom permitted by reason that it is considered that the proper time to insist upon the exceptional importance or difficulty of a case is before the single Judge proceeds to deal with it."

The result thus has been a curious one. An appeal lies under the law "only when the Judge who passed the judgment declares that the case is a fit one for appeal," and he refuses to give the declaration because he has himself dealt with the case. The principle of vesting the executive with powers to establish Courts and to invest them with whatever powers the executive might choose had led to the establishment of the Star Chamber Court in English history and had been condemned in no uncertain voice in England, and it is high time that it should find no place in the Statute-book of any civilized country. Similar restrictions have been embodied in the fundamental laws in many modern constitutions, and I submit that similar provisions ought to be embodied in our country. With these words, I commend my Resolution to the acceptance of this House.

THE HONOURABLE MR. H. G. HAIG (HOME SECRETARY): Sir, the Honourable Member has described the system under which powers are at present vested in High Courts, but I may perhaps restate the

[Mr. H. G. Haig.]

position in my own words. By section 106 of the Government of India Act jurisdiction and powers in relation to the administration of justice, the appointment of ministerial officers and power to make rules regulating the practice of the Court are vested in High Courts by Letters Patent issued by His Majesty. That is the first process. Then His Majesty has power, as, I submit, is only natural, to amend the procedure or powers which he has prescribed by the issue of further Letters Patent. At the same time the Letters Patent are also by a provision included in them subject to the legislative powers of the Governor General in Council. So that, in effect, there is concurrent authority for amending Letters Patent either by the issue of further Letters Patent or by legislation under the powers of the Governor General in Council.

Now, Sir, as far as I understand the Honourable Mover, he merely proposes that the power of amendment at present vested in His Majesty should be taken away and that this power should be confined to the Indian Legislature. He may in making this demand possibly congratulate himself on his moderation, if moderation is regarded by him as a virtue. But, I think, that logically he ought to go further. If it is reasonable for the original powers to be laid down by Letters Patent, then, Sir, I submit, it is not unreasonable that modifications should also be made under the same procedure. If my Honourable friend really desires to attack the whole system of Letters Patent as laid down in section 106 of the Government of India Act, he is of course raising a large question of principle on which different views may be held. I was particularly interested to see that different views were actually held by a body which, I am sure, he will regard as very authoritative. I am sure that as a good member of the Congress Party in this House he would subscribe, and probably subscribe to every word of the Report of the All Parties Conference, and I do not suppose that he has given his support to those proposals without reading and studying them. I am therefore interested to see that in the final recommendations of the All Parties Conference Report the provisions of the Government of India Act in respect of the establishment of High Courts are practically reproduced word for word. It is contemplated that the several High Courts should exercise such powers as are vested in them by Letters Patent, and further, not only is the original principle thus affirmed, but in regard to amendments it is provided that the Letters Patent establishing or vesting jurisdiction, powers or authority in a High Court may be amended from time to time by a further Letters Patent. It seems, therefore, that in this matter great authorities differ.

In any case this appears to me to be neither the time nor the method for making such an important change. We are invited to take steps, presumably to take steps now, to amend the Government of India Act, so as to produce the change which the Honourable Member suggests. But I think that the Honourable Member cannot, however much he may desire it, ignore the fact that there is in existence a body known as the Indian Statutory Commission which has included in the subjects on which it has invited opinions the Courts and the judi-

It would not be proper, Sir, for the Government at this stage to ex-

As a means of ventilating the sub-

sion

to the Honourable Member's views, I welcome the Resolution, and I only regret that the Honourable Member's convictions will not allow him to press his views on the Commission in a more direct manner. But this is a matter which clearly will come under the consideration of the Commission and it is clear that the Government cannot commit itself on this proposal. I must therefore ask the Council to oppose the motion.

*THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY: Sir, I just want to make a few observations with regard to some of the remarks made by the Honourable Mr. Haig. One is about the Report of the All-Parties Conference. With regard to that, my submission is that the framers of that Report have made it clear that that Report has to be taken as a whole. When we get Dominion status it will not matter whether the Letters Patent are changed by executive order or by legislation because in that case the executive will be entirely responsible to the Legislature. As regards the time being inopportune, I may say that on all important occasions, it has been the custom of the Government to say that the time is inopportune because there is some Commission or other in the country. We have been asked to postpone many beneficial measures on account of the existence of the Agricultural Commission, and we do not know how long we will have to wait for this measure also because of the Simon Commission. With these words, I commend my Resolution.

THE HONOURABLE THE PRESIDENT: The question is:—

"That the following Resolution be adopted:

'This Council recommends to the Governor General in Council to take steps to have the Government of India Act so amended as to prevent the powers and procedure of the High Courts in India from being changed by executive orders of His Majesty in Council.'"

The motion was negatived.

THE HONOURABLE THE PRESIDENT: The Honourable Mr. Khaparde and the Honourable Mr. Chari have both informed me that they do not intend to move the Resolutions† standing in their names.

## STATEMENT OF BUSINESS.

THE HONOURABLE KHAN BAHADUR SIR MUHAMMAD HABIBULLAH (*Leader of the House*): *Sir, owing to the course which events have taken in another place, the only official legislative business which it would be possible to place before the Council this week is the consideration of the Bill further to amend the Indian Mines Act, which was laid on the table yesterday. I should be reluctant to put Honourable Members to the trouble of attending a meeting of the Council for the sole purpose of proceeding with this small*

* Speech not corrected by the Honourable Member.

† THE HONOURABLE MR. G. S. KHAPARDE to move the following Resolution:

"This Council recommends to the Governor General in Council that the pay and allowances of the clerical cadre of the Postal and R. M. S. employees of Berar, Wardha, and Khanda Districts, be raised to the level of the scale granted to Ahmedabad, *viz.*, Rs. 50—5—150."

THE HONOURABLE MR. P. C. D. CHARI to move the following Resolution:

"This Council recommends to the Governor General in Council to take steps to relieve the agricultural indebtedness in India and to establish land mortgage Banks in India."

[Sir Muhammad Habibullah.]

Bill, and I would suggest for your consideration that in the circumstances no further meeting should be held during the course of the present week. There is another item of pending official business, namely, the discussion of the motion standing in my name on the subject of the election of Members of this Council to the Central Committee to sit with the Statutory Commission. I understand that you have been pleased to accord your consent under rule 24A to the moving of this motion and that copies of the motion have been distributed to Honourable Members in their places. It is for you, Sir, to decide the length of time which must elapse before this motion is placed on the list of business. On the assumption that you will be prepared to allow the motion to be tabled for Tuesday next, the 18th September, which would ordinarily be the date of the first official meeting next week, the Bill to which I have referred would also be placed on the list of business for that day.

THE HONOURABLE THE PRESIDENT: In view of what the Honourable the Leader of the House has said, I am practically compelled to cancel the meeting which has been fixed for to-morrow. With regard to the motion of which he has given notice, and of which copies have been distributed to Honourable Members in their places, it can hardly have taken the House by surprise in view of the Resolution which was adopted last Session; and therefore I think that, if, as he suggests, I allow the motion to be put on the list of business for next Tuesday, Honourable Members will have plenty of time to prepare themselves to deal with it.

The Council then adjourned till Eleven of the Clock on Monday, the 17th September, 1928.

# COUNCIL OF STATE.

*Monday, 17th September, 1928.*

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

## QUESTIONS AND ANSWERS.

LOANS RAISED BY THE GOVERNMENT OF INDIA AND PROVINCIAL GOVERNMENTS.

58. THE HONOURABLE SIR MANMOHANDAS RAMJI VORA: Will Government be pleased to furnish a statement showing:

(*a*) the amount of loans raised by the Government of India every year in the decade 1903—13,

(*b*) the amount of loans raised by the Government of India for Provincial Governments every year during the decade 1903—13,

(*c*) the amount of loans raised by the Government of India every year from 1920 to 1928, and

(*d*) the amount of loans raised by the Provincial Governments every year from 1920 to 1928?

THE HONOURABLE MR. E. BURDON: For the years up to 1926-27 inclusive, the Honourable Member will find the requisite information in the Finance and Revenue Accounts, *vide*, for example, accounts Nos. 82 and 82A in the Finance and Revenue Accounts for 1926-27. I must explain, however, that no loans were raised by the Government of India specifically for Provincial Governments prior to the Reforms. The loans raised in the open market in 1927-28 were as follows:—

| | | |
|---|---|---|
| By the Government of India in India .. | Rs. | 19,53,79,000 |
| By the Secretary of State for India in England | £ | 7,500,000 |
| By Provincial Governments .. .. | | *Nil* |

SALE OF SILVER BY THE GOVERNMENT OF INDIA FROM 1ST APRIL 1927 TO 30TH JUNE 1928.

59. THE HONOURABLE SIR PHIROZE SETHNA: Will Government state:—

(*a*) What is the total amount of silver sold by the Government of India from 1st April 1927 to 30th June 1928?

(*b*) Have Government accepted the recommendations of the Hilton-Young Commission in this respect?

(*c*) Do Government adhere to the programme for holdings of silver in the Paper Currency Reserve as laid down in the Reserve Bank Bill?

THE HONOURABLE MR. E. BURDON: (*a*) The silver sold in the financial year 1927-28 amounted to 9·19 million fine ounces. The Government of India are not prepared to give information regarding subsequent sales as to do so would not be in the public interest.

(*b*) and (*c*). The sat s do not at the moment indicate anything more definite than that the silver holdings in the Paper Currency Reserve are far too large. They stand at about 104 crores which is 19 crores, more than the basic figure of the 30th April 1926 on which the Currency Commission based their proposals.

PUBLICATION AT THE BEGINNING OF EVERY MONTH OF THE FIGURE INDICATING THE WAYS AND MEANS POSITION OF THE GOVERNMENT OF INDIA, ETC.

60. THE HONOURABLE SIR PHIROZE SETHNA: (*a*) Have Government considered the publication at the beginning of every month of the figure indicating the Ways and Means position of the Government of India for the period commencing from the beginning of the official year up to the end of the month immediately preceding in respect of —

(1) revenue received,

(2) expenditure incurred,

and also publish the figures showing as at the end of the preceding month,

(3) total amount of Treasury bills outstanding,

(4) total amount of bills in the hands of the public,

(5) loans from the Imperial Bank of India, and

(6) loans from the public departments ?

(*b*) Will Government state if it is the established practice in England to publish such figures week by week ?

(*c*) If such figures are not published in England in the form as stated in (*a*) above, will Government state what are the particulars that are published in England ?

THE HONOURABLE MR. E. BURDON: It is the established practice in England to publish week by week figures of the kind mentioned by the Honourable Member. This disposes of parts (*b*) and (*c*) of his question.

As regards part (*a*), I am afraid it is impossible to achieve the promptitude which the Honourable Member suggests, owing to the fact that the receipts of Government accrue, and disbursements have to be made, at a very large number of treasuries, and sub-treasuries, distributed all over this very large country, and also to the fact that the accounts of the Government of India to be complete must include the transactions of the Secretary of State and the High Commissioner. I take it the Honourable Member is aware that the Government of India already publish in the Gazette of India once a month a Statement of Revenue and Expenditure in India and in England, as also a Return of Rupee Debt once a quarter. Figures relating to Treasury balances are communicated to the Press monthly by the Controller of the Currency. Government will consider the possibility of putting the statistics into a more convenient and comprehensive form and of publishing them in the Gazette of India once a month. I am afraid, however, that the figures for any particular month cannot be made available till about three months after the close of the month.

THE HONOURABLE SIR PHIROZE SETHNA: May I ask what is the likely date from which these statistics will be published ?

THE HONOURABLE MR. E. BURDON : We have not come to any decision yet. We have not yet settled what I have described as the more convenient and comprehensive form. As soon as that is settled we will start it.

REGULATIONS UNDER WHICH LABOUR EMPLOYED ON THE ASSAM TEA GARDENS IS RECRUITED.

61. THE HONOURABLE SIR PHIROZE SETHNA : Will Government be pleased to state :—

(1) what are the regulations, if any, under which labour employed on the Assam Tea Gardens is recruited ?

(2) whether the employer is bound by law to provide adequate housing accommodation, medical facilities to coolies working on the tea gardens and schools for their children ?

(3) whether the employer is bound by law to pay a certain minimum wage to each working cooly and what is such minimum wage ?

(4) whether the employer is bound to pay wages at certain definite times, if so, when ?

(5) whether a cooly can be imprisoned or punished in any way for a breach of his contract of service ?

(6) the functions of the Assam Labour Board and its Chairman ?

THE HONOURABLE MR. A. G. CLOW : (1) The Assam Labour and Emigration Act and the rules and notifications issued thereunder.

(2) to (5) The answer is in the negative.

(6) They are responsible for the supervision of assisted emigration to Assam with a view to the prevention of abuses.

THE IMPERIAL AIRWAYS, LIMITED.

62. THE HONOURABLE SIR PHIROZE SETHNA : (*a*) Will Government state whether it is intended by the Imperial Airways, Ltd. to whom, according to the official memorandum, a subsidy is to be given, to register a branch in India with rupee capital and Indian Directors ?

(*b*) Have Government received any definite proposals from them, and, if so, what ?

THE HONOURABLE MR. A. G. CLOW : (*a*) The Government of India understand that a company in which Imperial Airways, Limited, are interested has been registered in India ; but they have no particulars regarding the composition of its directorate.

As the Honourable Member's question contains a statement which if it were to pass unquestioned, would give rise to serious misapprehension, I should like, Sir, with your permission to add that in no memorandum have the Government of India either announced or even proposed the grant of a subsidy to Imperial Airways or any other particular company. They are considering the possibility of offering subsidies for the development of air mail routes, but any such offer would be made to the public generally by means of a call for tenders.

(*b*) Certain proposals for subsidised air routes were made by Imperial Airways, Limited, in March 1927 ; but as these specific proposals were not and are not being pursued, Government consider that no useful purpose would be served by publishing them.

TAKING OVER OF BLOCK NO. 8 ON THE BACK BAY RECLAMATION, BOMBAY, BY THE GOVERNMENT OF BOMBAY ON BEHALF OF THE MILITARY DEPARTMENT.

63. THE HONOURABLE SIR PHIROZE SETHNA : Will Government state :—

(*a*) whether the Government of Bombay have approached them for taking over block No. 8 on the Back Bay Reclamation, Bombay, on behalf of the Military Department ?

(*b*) whether there will be loss of interest if they take over the building at once and the amount of such loss.

(*c*) Will they please lay on the table correspondence on this subject ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : (*a*) The attention of the Honourable Member is invited to the answer given on 30th August 1927 to part (*a*) of his question No. 88. I may mention that my answer then was that the Government of India pointed out no difficulties as regards Plot No. 8, and that it will be taken over as soon as it is in a fit condition for use by military authorities and properly levelled for purposes of surface drainage.

(*b*) This part of the question is not understood. There is no question of taking over any building with block No. 8 from the Local Government. Block No. 8 is not yet entirely reclaimed from the sea, and there has never been any building on it.

(*c*) The main decisions were not reached by means of correspondence but by personal conferences, and it would therefore be of little use to comply with the Honourable Member's request.

THE HONOURABLE SIR PHIROZE SETHNA : I think there is a printer's mistake,—I mean the word "land" and not "building" under (*b*).

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : We have taken over a portion of Plot 8 : the balance has not yet been taken over.

AMOUNT OF CUSTOMS REVENUE DERIVED FROM PAPER AND PRINTING INK DURING THE YEAR 1927-28.

64. THE HONOURABLE SIR PHIROZE SETHNA : Will Government be pleased to state what amount of customs revenue has been derived from paper and printing ink during the year 1927-28 ?

THE HONOURABLE MR. E. BURDON : *Paper including Stationery*—

| | Rs. |
|---|---|
| (*i*) Unprotected .. .. .. .. | 49,29,327 |
| (*ii*) Protected .. .. .. .. | 25,34,215 |
| *Printer's Ink* .. .. .. .. .. | 37,413 |

EXEMPTION OF IMMIGRANTS TO INDIA FROM THE PASSPORT REGULATIONS.

65. THE HONOURABLE SIR PHIROZE SETHNA: Will Government please state whether any class of immigrants to India are exempt from the passport regulations and, if so, why ?

THE HONOURABLE MR. B. J. GLANCY: No class of immigrants as such is exempted. The passport rules however only apply to persons entering British India by sea, by air, or by the Chaman, Khyber, or Nushki land routes ; and there are certain other general exemptions, which are stated in Rule 5.

THE HONOURABLE SIR PHIROZE SETHNA: Do Government propose to relax the passport rules, as has been done in other countries ?

THE HONOURABLE MR. B. J. GLANCY: Not that I know of, Sir.

ORDERS FOR LOCOMOTIVES, WAGONS AND SPARE PARTS PLACED ON BEHALF OF THE RAILWAY BOARD IN THE UNITED KINGDOM AND ON THE CONTINENT OF EUROPE.

66. THE HONOURABLE SIR PHIROZE SETHNA: Will Government be pleased to state the amount of orders placed on behalf of the Railway Board—

(*a*) in the United Kingdom, and

(*b*) on the Continent of Europe,

since April 1928 in respect of locomotives, wagons and spare parts both on capital and on revenue account ?

THE HONOURABLE SIR GEOFFREY CORBETT: I regret that figures for the period mentioned by the Honourable Member are not available. Those for the whole year will, as in previous years, be given in Appendix A of the Report by the Railway Board on Indian Railways, except that it is not possible, without more labour than the compilation would be worth, to show separately the figures for purchases in the United Kingdom and elsewhere abroad.

AMOUNT OF CAPITAL ATTRACTED FROM INDIA FOR SOUTH AFRICAN ORANGE FARMS AND NEW ZEALAND FOREST COMPANIES.

67. THE HONOURABLE SIR PHIROZE SETHNA: (*a*) Will Government state whether they have any information as to the amount of capital from India, which has been attracted during the last two years for—

(*i*) South African Orange Farms, and

(*ii*) New Zealand Forest Companies ?

*b*) Do Government take any steps to check and prevent a doubtful enterprise from collecting money in India by attractive advertisements ?

THE HONOURABLE MR. E. BURDON: (*a*) The reply is in the negative.

(*b*) Government have not hitherto found it necessary to take any such steps.

AMENDMENT OF THE INDIAN COMPANIES ACT.

68. THE HONOURABLE SIR PHIROZE SETHNA: (*a*) Will Government be pleased to state whether they have received the final recommendations for the amendment of the Companies Act in the United Kingdom ?

(*b*) if so, do Government propose to circulate the same and elicit opinions of commercial bodies as to the desirability of similar changes in the Indian Companies Act ?

THE HONOURABLE SIR GEOFFREY CORBETT: The Companies Act was passed by Parliament on the 2nd August last. As soon as copies have been received, the Government will consider the revision of the Indian Companies Act.

NUMBER OF CASES DEALT WITH BY THE RATES ENQUIRY COMMITTEE SINCE ITS ESTABLISHMENT.

69. THE HONOURABLE SIR PHIROZE SETHNA: Will Government be pleased to state :—

(*a*) the number of items dealt with by the Rates Enquiry Committee since its establishment ?

(*b*) how many of these items referred to the Bombay Presidency ?

(*c*) whether any of the co-opted members were from Bombay ?

THE HONOURABLE SIR GEOFFREY CORBETT: (*a*) 19 cases have been submitted to the Rates Advisory Committee of which they have disposed of 6.

(*b*) None of the 6 cases so far disposed of related to the Bombay Presidency.

(*c*) Yes.

THE HONOURABLE SIR PHIROZE SETHNA: May I know the names under (*c*).

THE HONOURABLE SIR GEOFFREY CORBETT: I have not got them here, Sir.

RATE WAR IN THE CHARGES FOR THE TRANSPORT OF RICE FROM RANGOON AND BOMBAY.

70. THE HONOURABLE SIR PHIROZE SETHNA: (*a*) Have Government considered the effect of the recent rate warfare in the charges for the transport of rice from Rangoon and Bombay ?

(*b*) In the event of an unfair combination in restraint of trade or of monopolistic cartel likely to prejudice the interests of the agriculturists of India, have Government any power at present to intercede ?

(*c*) Will Government be pleased to state whether they intend to initiate legislation against monopolies to the prejudice of the public in India on the lines on which similar legislation exists in the United Kingdom ?

THE HONOURABLE SIR GEOFFREY CORBETT: (*a*) The Government have not received information of any such rate war.

(*b*) No.

(*c*) No.

SAFEGUARDS RECOMMENDED BY THE TARIFF BOARD AGAINST THE FIXING OF MONOPOLISTIC CHARGES BY AGREEMENTS BETWEEN VARIOUS OIL COMPANIES.

71. THE HONOURABLE SIR PHIROZE SETHNA: Has the Tariff Board recommended any safeguards in the interests of the consumer against the fixing of monopolistic charges by agreements between various Oil Companies?

THE HONOURABLE SIR GEOFFREY CORBETT: I would refer the Honourable Member to Chapter VI of the Minority report, a copy of which he has, I hope, now received.

FINANCIAL COMMITMENTS IN RESPECT OF CIVIL AVIATION.

72. THE HONOURABLE SIR PHIROZE SETHNA: Will Government be pleased to state what financial commitments they have finally made in respect of civil aviation on behalf of the Central Government for the years 1928-29, 1929-30 and 1930-31?

THE HONOURABLE MR. A. G. CLOW: The present commitments, including expenditure under the head "Civil Works" attributable to the civil aviation programme, involve an approximate estimated expenditure of Rs. 7,24,000 in the current financial year, Rs. 4,00,000 in 1929-30 and Rs. 2,40,000 in 1930-31.

RESOLUTION *re* RUPEE TENDERS.

73. THE HONOURABLE SIR PHIROZE SETHNA: (*a*) Will Government be pleased to state when they intend to give effect to the resolution passed by the Assembly in 1924 for all tenders of Government requirements to be called in India in rupees?

(*b*) Will Government state why there has been delay in introducing this system?

THE HONOURABLE MR. A. G. CLOW: (*a*) I would refer the Honourable Member to the Government of India's resolution on the subject which was published in the Gazette of India on Saturday last and to the draft rules appended to that Resolution.

(*b*) The inter-departmental committee which was appointed to consider the revision of the rules held its last meeting on 21st January last. Having regard to the intricacy and importance of the questions involved, I do not think that an unduly long period has been occupied in the consideration of these questions by the authorities concerned.

SEPARATE CAPITAL AND REVENUE ACCOUNTS FOR GOVERNMENT TELEPHONE LINES.

74. THE HONOURABLE SIR PHIROZE SETHNA: Will Government be pleased to state:

(*a*) whether separate capital and revenue accounts are kept for Government telephone lines?

(*b*) what progress has been made in commercialising these accounts?

(*c*) whether Government are making a profit or a loss on the service which they are offering in the matter of trunk telephones?

THE HONOURABLE MR. A. G. CLOW: (*a*) Not for individual lines but for the telephone undertakings of the Government as a whole.

(*b*) Telephone accounts have been commercialised along with the other accounts of the Department.

(*c*) No, as no separate account is maintained for the trunk telephones.

TAXATION OF BRASS AND ALUMINIUM INGOTS AND SHEETS.

75. THE HONOURABLE SIR PHIROZE SETHNA: (*a*) Are Government aware that brass and aluminium ingots and sheets, which are the raw material of numerous small factories and of artificers making utensils, etc., are taxed in India at the same rate at which the finished article is taxed ?

(*b*) Have Government received any complaints from commercial bodies or firms against this practice ?

(*c*) Are Government considering reducing the rate for the raw material before next budget time ?

THE HONOURABLE SIR GEOFFREY CORBETT: (*a*) and (*b*). Yes.

(*c*) The Government of India have referred to the Tariff Board cases in which it is represented that the development of an industry is hampered by the fact that the duty on the finished article is lower than the duty on the materials which have to be imported for its manufacture. But when the duty on the finished article and that on the materials imported for its manufacture are the same, there is no inequality of tariff treatment. At the same time, the Government recognised that it is in the interests of industrial development that the duties on the raw materials of industries should be as low as possible, and such duties are being reduced or removed as opportunity and financial considerations permit.

THE HONOURABLE SIR PHIROZE SETHNA: Will they be taken into consideration in the next Budget, and may any further reductions be expected ?

THE HONOURABLE SIR GEOFFREY CORBETT: It is not our habit, Sir, to announce our intentions in advance of the next Budget.

EXTENSION OF WORKSHOPS OF STATE RAILWAYS.

76. THE HONOURABLE SIR PHIROZE SETHNA: Will Government please state the total outlay on the extending of workshops of State railways since the Acworth Committee's Report was received ?

THE HONOURABLE SIR GEOFFREY CORBETT: Government regret that they have not got the information asked for, and that its compilation would involve a considerable amount of labour and expenditure incommensurate with its value when received.

CLOSING OF RAILWAY WORKSHOPS.

77. THE HONOURABLE SIR PHIROZE SETHNA: Will Government please state which railway workshops have been shut up as the result of the Raven Committee's Report ?

THE HONOURABLE SIR GEOFFREY CORBETT: The Locomotive Shops at Karachi and Rawalpindi.

The Carriage and Wagon Shops at Rawalpindi.

The Carriage Shops at Karachi.

The Wagon Shops at Sukkur.

ADOPTION OF THE SYSTEM OF ACCOUNTS SUGGESTED IN THE REPORT OF SIR ARTHUR DICKINSON IN STATE RAILWAY WORKSHOPS.

78. THE HONOURABLE SIR PHIROZE SETHNA: (*a*) Will Government state whether the system of accounts suggested by the Dickinson Report has been adopted in the State Railway workshops?

(*b*) Is the manufacture of any parts in State Railway workshops being done cheaper to-day than the prices at which such parts could be secured either in England or in India?

THE HONOURABLE SIR GEOFFREY CORBETT: (*a*) There are many recommendations regarding workshop accounting in Sir Arthur Dickinson's Report, and it is difficult to reply in the compass of an answer given in this House to the Honourable Member's question. A complete memorandum on the subject will shortly be placed before the Standing Finance Committee for Railways, and a copy of it will be sent to the Honourable Member.

(*b*) The question is still under examination.

CONTROL EXERCISED BY THE RAILWAY BOARD OVER THE STORES PURCHASED BY THE DIFFERENT RAILWAYS.

79. THE HONOURABLE SIR PHIROZE SETHNA: Will Government be pleased to state what kind of control is exercised by the Railway Board over the stores purchased by the different railway systems?

THE HONOURABLE SIR GEOFFREY CORBETT: The State-managed Railways are required to follow the instructions issued by the Government of India from time to time with regard to the purchase of stores, and their purchases must conform with any specifications or special requirements laid down by the Railway Board. These Railways are also required to send copies of all indents for the purchase of stores abroad to the Indian Stores Department; and these indents are scrutinized at monthly meetings by representatives of the Railway Board and the Indian Stores Department in order to see that they do not contain any item which can be purchased in India.

RECOMMENDATIONS OF THE CINEMA COMMITTEE.

80. THE HONOURABLE SIR PHIROZE SETHNA: Will Government state when they propose to take action in accordance with the recommendations of the Cinema Committee with regard to—

(*a*) the Central Cinema Department, and

(*b*) the Central Board of Censors?

THE HONOURABLE MR. H. G. HAIG: Government have taken the recommendations in question under their consideration, but some time must elapse before it is possible to secure the views of Local Governments and to reach final conclusions on the proposals.

ATTRACTION OF PRIVATE CAPITAL FOR PUTTING UP BUILDINGS IN NEW DELHI.

81. THE HONOURABLE SIR PHIROZE SETHNA: Will Government be pleased to state whether so far any private capital has been attracted from British India for putting up buildings in New Delhi?

If so, what is the approximate amount thereof?

THE HONOURABLE MR. A. G. CLOW: Yes. Only a very rough estimate of the amount of money spent on buildings is possible; but the total sum is probably of the order of 20 lakhs of rupees. This excludes expenditure by Indian States or their Rulers.

THE HONOURABLE SIR PHIROZE SETHNA: Is the 20 laks exclusive of the value of the land?

THE HONOURABLE MR. A. G. CLOW: I think that it relates to the buildings alone.

CONTRACT FOR THE CARRIAGE OF MAILS BETWEEN ENGLAND AND INDIA WITH THE P. & O. STEAM NAVIGATION COMPANY.

82. THE HONOURABLE SIR PHIROZE SETHNA: Will Government please state:

(*a*) when the existing contract for the carriage of mails between England and India was entered into between Government and the P. & O. Steam Navigation Co.?

(*b*) for how many years this contract is entered into?

(*c*) whether the amount payable every month is the same or varying, and what is such amount or amounts?

(*d*) on what basis was the amount or amounts fixed?

(*e*) what was the amount paid by Government in the years of the Great War and the ten years prior to the Great War?

THE HONOURABLE MR. A. G. CLOW: The information required by the Honourable Member is being collected and will be supplied as soon as possible.

RAILWAY BETWEEN INDIA AND BURMA.

83. THE HONOURABLE SIR PHIROZE SETHNA: Will Government be pleased to state:—

(*a*) at what point it is intended to connect the systems of railway in India with the Burma Railway?

(*b*) if any survey of this or any route has been made?

(*c*) what is the estimated cost of such a connecting railway?

(*d*) why this programme has been held up?

THE HONOURABLE SIR GEOFFREY CORBETT: (*a*) There is no present proposal for connecting India and Burma by railway.

(*b*) I would refer the Honourable Member to the reply which I gave to the Honourable Mr. Kumar Sankar Ray Chaudhury's question No. 130 on the 5th March, 1927.

(*c*) A rough forecast of the cost of the southern route *via* Chittagong, Akyab and the An pass is Rs. 10 crores, and of the northern or Hukong Valley route Rs. 6 crores.

(*d*) Because there is no hope of the construction of such a line being remunerative at present.

STRIKES ON RAILWAYS.

84. THE HONOURABLE SIR PHIROZE SETHNA: (*a*) Will Government be pleased to state the number of occasions with dates and particulars during the last ten years when there was any strike on a Railway and when a successful or unsuccessful attempt was made by strikers or others to interfere with train traffic ?

(*b*) Do Government propose to acquire any additional powers to secure public safety against strikers or any others tampering with means of public communication ?

THE HONOURABLE SIR GEOFFREY CORBETT: (*a*) A statement giving the information for the last 9 years, so far as this is readily available, is placed on the table.

(*b*) The criminal law already provides adequate powers to deal with persons who can be proved to have committed or to have instigated such actions, and no proposal is under consideration for taking additional powers of this kind.

*Statement of Strikes on railways since November 1919.*

| Railways. | Date of commencement. | Date of termination. | Staff affected. | Particulars of attempts to interfere with train traffic. |
|---|---|---|---|---|
| East India Railway.. | 1-12-19 | 16-1-20 | (Jamalpur Workshop staff). | Some boulders were placed on the night of 4th January 1925 near Jamalpur and minor damages were done to a passenger engine. |
| Madras and Southern Mahratta Railway. | 26-2-20 | 6-4-20 | (Workshop staff, Hubli) | None. |
| Burma Railways .. | 22-4-20 | 11-5-20 | (Insein Workshops, Burma). | Do. |
| North Western Railway. | 22-4-20 | 10-6-20 | (Carriage and Wagon Shops, Moghalpura but spread to other Departments). | Do. |
| Bombay, Baroda and Central India Railway. | 20-5-20 | 21-5-20 | (Bulsar and Bandra, Parel and running sheds). | Do. |
| Great India Peninsula Railway. | 25-5-20 | 31-5-20 | (Workshop Staff at Bandra, Parel and Matunga). | Strikers did some damage to interlocking arrangements and cabins and stoned passenger trains. |
| Southern India Railway. | 4-6-20 | 14-6-20 | (Workshop Staff at Negapatam). | None. |
| Madras and Southern Mahratta Railway. | 22-6-20 | 2-7-20 | (Permanent way gangmen). | Do. |

| Railways. | Date of commencement. | Date of termination. | Staff affected. | Particulars of attempts to interfere with train traffic. |
|---|---|---|---|---|
| Bengal and North Western Railway. | 28-6-20 | 3-8-20 | (Bengal and North Western Railway Loco. shop). | None. |
| Bengal Nagpur Railway. | 8-10-20 F. N. | 8-10-20 A. N. | (Traffic staff, Khargpur). | Do. |
| Great India Peninsula Railway. | 15-10-20 | 7-11-20 | (Loco. Carriage and Wagon Shops, Jhansi). | Do. |
| East Indian Railway | 2-2-20 | 1-4-20 | (Carriage and Wagon shops, Lillooah). | On 28th February 1920 loose rails were placed on the permanent way but no accident was caused to trains. |
| Bombay, Baroda and Central India Railway. | 10-2-20 | 24-2-20 | (Loco. Carriage and Wagon shops, Parel, Bombay). | Strikers threw stones and attempted to interfere with traffic. |
| Burma Railways .. | 25-2-20 | 14-6-21 | (Traffic staff and Workshop staff, Insein, Burma). | None. |
| Eastern Bengal Railway. | 3-3-21 | 6-6-21 | (Loco. Carriage and Wagon and Electrical shops, Kanchrapara, and metre gauge shop, Saidpur). | Do. |
| North Western Railway. | 29-5-21 | 2-7-21 | (Loco. Shops Sukkur) | Do |
| Gondal Railway .. | 2-7-21 | 29-7-21 | (Most of Traffic staff) | Do. |
| Bengal and North Western Railway. | 21-7-21 | 22-7-21 | (Loco. shop, Gorakpur) | Do. |
| Great India Peninsula Railway. | 17-8-21 | 6-9-21 | (Loco. shops, Perel, Bombay). | Do. |
| Bombay, Baroda and Central India Railway. | 5-12-21 | 9-12-21 | (Running Shed, Parel, Bombay). | Do. |
| East India Railway.. | 15-10-21 | 26-10-21 | (Karhar-Barri Colliery) | Do. |
| East India Railway.. | 19-12-21 | 6-1-22 | (Loco. Running Staff, Jhaja). | One fireman was pulled out of a passenger engine and struck by strikers. |
| East India Railway.. | 2-2-22 | Middle of April 1922. | (Indian Loco. Staff, Tundla, but spread to other Departments and stations). | (1) A crowd of 5 or 6 hundred men stoned two light engines on 31st March 1922 near Asansol one fireman being injured. |

| Railways. | Date of commencement. | Date of termination. | Staff affected. | Particulars of attempts to interfere with train traffic. |
|---|---|---|---|---|
| | | | | (2) On 1st April 1922 strikers stoned Asansol station.<br>(3) On 4th April 1922 Up Punjab Mail was wrecked by removal of rails at Mudacanta Block Hut. 6 persons were killed and a number injured.<br>(4) The Indian crew of a goods train were forcibly removed near the West outer Signal, Asansol, on 5th April 1922.<br>(5) On 7th April 1922 when a goods train was about to start from Asansol, a lever frame was found on the track about 500 yards in front of the engine.<br>(6) On 8th April 1922 a Goods train was stopped between Signals near the Troop siding, Asansol, owing to the rails being greased.<br>(7) On 9th April 1922 a goods train was stopped between Asansol and Borachuk owing to rails being greased. 4 wagons containing stores were broken open and some of their contents stolen. |
| Rohilkund and Kumaon Railway. | 31-1-22 | 20-2-22 | (Workshop Staff) .. | None. |
| Madras and Southern Mahratta Railway. | 2-8-22 | 21-8-22 | (Engineering Workshop staff, Arkonam, Madras and Southern Mahratta). | Do. |
| East Indian Railway | 1-1-23 | 17-1-23 | (Collieries, East Indian) | Do. |
| Bengal Nagpur Railway. | 19-6-23 | 20-6-23 | Menial Yard Staff, Kharagpur). | Do. |
| Bengal and North Western Railway. | 19-12-23 | 16-6-24 | (Workshop Staff, Gorakpur). | Do. |

| Railways. | Date of commencement. | Date of termination. | Staff affected. | Particulars of attempts to interfere with train traffic. |
|---|---|---|---|---|
| East Indian Railway | 22-5-24 | 23-5-24 | (Workshop Staff, Lillooah). | None. |
| South Indian Railway | 29-5-24 | 16-6-24 | (Firemen at Madura and Podanur Workshops). | Do. |
| Bombay, Baroda and Central India Railway. | 19-1-25 | 22-1-25 | (Ash pit cleaners) .. | Do. |
| North Western Railway. | 18-3-25 | 20-3-25 | (Carriage and Wagon Shops, Moghulpura). | Do. |
| North Western Railway. | 26-3-25 | 27-6-25 | (Workshop Staff but spread to other departments). | Do. |
| Bombay, Baroda and Central India Railway. | 19-3-25 | -4-25 | (Baroda Locomotive night Shed). | Do. |
| Bengal Nagpur Railway. | 1-10-26 | 2-10-26 | (Wagon shops, Kharagpur). | Do. |
| South Indian Railway | 22-9-26 | 23-9-26 | (Carriage Cleaners and Sweepers). | Do. |
| Bengal Nagpur Railway. | 11-2-27 | 9-3-27 | (Workshops, Kharagpur). | Do. |
| Bengal Nagpur Railway. | 7-9-27 | 8-12-27 | (Workshops, Kharagpur). | Do. |
| East Indian Railway | 7-3-28 | 10-7-28 | (Workshop Staff, Lillooah, but spread to Ondal, Howrah and Asansol). | (1) Shooting took place at Bamangachi when strikers attempted to draw men from the Locomotives Yard.<br>(2) On 9th May 1928 a passenger train was derailed at Dhanbad due to tempering with rails.<br>(3) On 8th July 1928 a passenger train was derailed between Belur and Dankuni stations. 18 killed, 8 injured, and 24 slightly injured.<br>Engine and Coaches telescoped due to tampering of permanent way by strikers. |

| Railways. | Date of commencement. | Date of termination. | Staff affected. | Particulars of attempts to interfere with train traffic. |
|---|---|---|---|---|
| South Indian Railway | 19-7-28 | 30-7-28 | (Workshop Staff at Golden Rock, Podanur and Negapatam, but spread to other departments). | (1) On 21st July 1928 the Ceylon Boat Mail was derailed between Kattupakkam and Singaperumal Koil. 11 injured and 1 dead.<br>(2) On 23rd July 1928 a passenger train was derailed between Kodaikanal Road and Ambaturai Stations. |

EXPENDITURE ON THE VIZAGAPATAM HARBOUR.

85. THE HONOURABLE SIR PHIROZE SETHNA: Will Government be pleased to state:

(*a*) the expenditure incurred so far in connection with the Vizagapatam Harbour and the railway connecting thereto by (I) the Railway Board and by (II) the Madras Government?

(*b*) whether the Government of India have made any special grants towards this work and, if so, the amount thereof?

(*c*) what additional outlays are intended to be made, if any?

THE HONOURABLE SIR GEOFFREY CORBETT: (*a*) and (*b*) The expenditure on Vizagapatam Harbour to the end of June 1928 was 107½ lakhs, and on the Raipur Vizianagram Railway to the end of March 1928 was 112 lakhs. These are the latest periods for which figures are at present available. The amounts are chargeable to Central and Railway revenues respectively. The Madras Government is not financing either the harbour or the railway.

(*c*) According to the latest estimates expenditure of about 120 lakhs has still to be incurred on the harbour and of 282 lakhs on the railway. These figures do not include interest during construction.

RECRUITMENT OF THE MINISTERIAL STAFF OF THE GOVERNMENT OF INDIA SECRETARIAT THROUGH THE PUBLIC SERVICE COMMISSION.

86. THE HONOURABLE SIR PHIROZE SETHNA: (*a*) Will Government state which of the Government of India Departments do their recruiting directly, and which of them do it through the Public Service Commission?

(*b*) If there are any Departments that are not using the Public Service Commission, will Government be pleased to state the reasons therefor?

THE HONOURABLE MR. H. G. HAIG: (*a*) and (*b*) I understand that the Honourable Member asks for information in respect of the ministerial staff. Recruitment to the Secretariat offices is normally made through the Public Service Commission. The Railway Department is, however,

exempted from this requirement, as in view of the nature of the work to be done, it is necessary to recruit partly from the technical staff of Railway Administrations. Similarly, the Finance Department and the office of the Financial Adviser, Military Finance, are allowed to recruit a limited number of trained and experienced men from their subordinate Accounts Offices ; otherwise recruitment to these two offices is conducted through the Public Service Commission.

IMPORT OF AUSTRALIAN WHEAT.

87. THE HONOURABLE SIR PHIROZE SETHNA : Will Government be pleased to state how much Australian wheat has come to India during each of the last three years ?

THE HONOURABLE SIR GEOFFREY CORBETT :

| | Tons. |
|---|---|
| 1925-26 .. .. .. .. .. | 35,000 |
| 1926-27 .. .. .. .. .. | 40,000 |
| 1927-28 .. .. .. .. .. | 69,000 |

RAILWAY SLEEPERS.

88. THE HONOURABLE SIR PHIROZE SETHNA : (*a*) Will Government please state whether they have any fixed policy with regard to the use of :—

(*i*) Cast iron sleepers,

(*ii*) Steel sleepers, and

(*iii*) Wooden sleepers,

and, if so, what ?

(*b*) Is it a fact that during the last ten years wooden sleepers have been ordered from Canada and steel sleepers have been ordered from abroad ?

(*c*) If the reply to (*b*) is in the affirmative, what are the quantities of the different kinds of sleepers that are to be ordered from outside India during the current year and from where are they to be ordered ?

THE HONOURABLE SIR GEOFFREY CORBETT : (*a*) Except on certain comparatively small sections of the line the Railway Board are of opinion that either cast iron or steel or wooden sleepers can be suitably used, and the selection between the three materials is therefore in the main determined by the price at the time of deciding which material it is profitable to use ; account is of course taken of the relative life of the different materials. At the same time the decision is also influenced by the desire of the Railway Board that there should continue to be a market in which sleepers of all the three materials can be purchased.

(*b*) Wooden sleepers have been imported from Canada during the past ten years to meet emergent requirements of State-managed railways when supplies could not be obtained at a reasonable price in India, but there have been no such importations since 1926. Steel sleepers have been imported from Europe since at present they cannot be obtained in the number required

in India. It is hoped, however, that they will be forthcoming in larger quantities in India in the future.

(*c*) It is not proposed to import any wooden sleepers during the current year. It is intended shortly to issue a simultaneous call for tenders in India and England for the supply of cast iron and/or steel sleepers for a part of next year's requirements. The exact quantity required for the year is not yet known, but it may be in the region of 20 lakhs of sleepers. The proportion of each kind which will be taken will be determined by the prices quoted.

TRANSFER OF CLERKS FROM CALCUTTA FOR THE RAILWAY CLEARING ACCOUNTS OFFICE, DELHI, ETC.

89. THE HONOURABLE SRIJUT LOKENATH MUKHERJEE: (*a*) Is it a fact that the Railway Clearing Accounts Office has been permanently established at Delhi to deal with the apportionment of freight charges between Railways in respect of through traffic ?

(*b*) If the answer to (*a*) is in the affirmative, will Government be pleased to state whether it is a fact that consequent upon the establishment of the said Office at Delhi the services of clerks numbering over 500 attached to the Traffic Audit establishment of the East Indian and Eastern Bengal Railways were transferred permanently from Calcutta ?

(*c*) Is it a fact that there is a proposal for sending away a second contingent of clerks, numbering about 600, serving on the local Traffic Audit Branch of the said two railways from Bengal to work along with the former at Delhi ?

(*d*) Is it in the contemplation of the Government to transfer the audit work relating to through traffic of the Bengal Nagpur Railway to the Clearing House Office at Madras ? If so, will the Government kindly state (*i*) whether this arrangement will result in the transfer of over 200 men from Calcutta to Madras; (*ii*) the object underlying this proposed arrangement ?

(*e*) If the answers to (*a*), (*c*) and the first part of (*d*) are in the affirmative, will the Government be pleased to state whether they have considered the effect of these transfers on employment in Bengal ?

(*f*) Have the Government considered the project of the formation of a unit at Calcutta by the three broad gauge Railways, *viz.*, East Indian, Eastern Bengal and Bengal Nagpur with the Assam Bengal and other smaller provincial Railways to work along with them ? If so, will the Government kindly state the reasons for rejecting the same ?

THE HONOURABLE SIR GEOFFREY CORBETT: (*a*) It is proposed to establish a Clearing Accounts Office on a permanent basis at Delhi to deal with the check and apportionment of foreign traffic.

(*b*) The number of men transferred from the East Indian and Eastern Bengal Railways to Delhi is 267.

(*c*) There is a proposal to transfer the work relating to local traffic accounting to this office, but it will not be undertaken at present nor until the proposal has again been placed before the Standing Finance Committee for Railways. I am unable to say at present how many clerks will be transferred from Calcutta to Delhi if this proposal is adopted.

(*d*) The Bengal Nagpur Railway have not proposed to hand over their work to the Clearing Accounts Office yet.

(*e*) Since the clerks already doing the work will continue to be employed, Government do not consider that the adoption of these proposals will have any effect on unemployment in Bengal.

(*f*) The formation of a number of branches will defeat the object of a Central Clearing Accounts Office, the fullest economies of which can only result when it deals with the maximum amount of work possible. A branch may have to be opened at Madras because the documents of the Southern Railways cannot be brought sufficiently quickly to Delhi.

OVERWORKED STAFF IN THE POSTAL SAVINGS BANK DEPARTMENT OF THE GENERAL POST OFFICE, CALCUTTA.

90. THE HONOURABLE SRIJUT LOKENATH MUKHERJEE : (*a*) Will the Government be pleased to state whether it is a fact that there is a Government circular order to the effect that the clerks in the Postal Savings Bank Department of the General Post Office, Calcutta, doing figure work should not be so employed for more than 5 hours a day ?

(*b*) Is it a fact that during the season for calculation of interest on savings accounts the clerks have now got to attend office at 9-30 or 10 A.M. at the latest and to work up till midnight ?

(*c*) If the answers to (*a*) and (*b*) are in the affirmative, will the Government kindly state what steps they propose to take in the matter ?

(*d*) Is it a fact that a large amount of work formerly done by the Audit Department has lately been made over to the Savings Bank Department of the General Post Office at Calcutta ?

(*e*) If the answer to (*d*) is in the affirmative, will the Government be pleased to state what increase was made in the number of hands in the Savings Bank Department and whether they intend to make a further increase therein ?

THE HONOURABLE MR. A. G. CLOW : Government have no information, but enquiries will be made and the required information furnished to the Honourable Member in due course.

COLLIERIES OWNED BY THE EAST INDIAN RAILWAY, ETC.

91. THE HONOURABLE SRIJUT LOKENATH MUKHERJEE : Will the Government be pleased to state (1) the number of collieries owned by the East Indian Railway ; (2) the number of officers drawing Rs. 500 (five hundred) or more a month employed in those collieries and how many of them are Indians, how many Europeans and how many Anglo-Indians ; (3) the number of Overmen employed in those collieries, their range of pay and the number of Indians, Europeans and Anglo-Indians among them ; (4) the number of Deputy Overmen employed in those collieries, their range of pay and the number of Indians, Europeans and Anglo-Indians among them ; (5) how many of the said Deputy Overmen, if any, draw a monthly wage and are their posts within the permanent list ?

THE HONOURABLE SIR GEOFFREY CORBETT : One colliery is owned by the East Indian Railway, and one jointly by the East Indian Railway and

the Bengal Nagpur Railway. There are 12 officers who draw Rs. 500 or more employed in these collieries, and there are also 7 Overmen and 38 Deputy Overmen. The pay of the Overmen is from Rs. 300 to Rs. 650 per mensem, and of the Deputy Overmen, who are not on the permanent list, from Rs. 2 to Rs. 4 per diem.

Government regret that they do not think it desirable to give figures of communal representation in individual offices or branches of the service.

ABSENCE OF INDIANS IN THE SUPERIOR STAFF OF THE SECURITY PRINTING PRESS, NASIK.

92. THE HONOURABLE SRIJUT LOKENATH MUKHERJEE: (*a*) Have the Government of India in the Finance Department lately received any letter from the Indian Merchants' Chamber regarding the Nasik Security Press?

(*b*) If the answer to (*a*) is in the affirmative, will the Government kindly state whether it is a fact that the said letter pointed out the entire absence of Indians in the higher staff of the said Press and the consequent disparity in the salaries drawn by Europeans and Indians?

(*c*) If the answers to (*a*) and (*b*) are in the affirmative, will the Government be pleased to state whether they have taken any action on the said letter?

(*d*) If the answer to (*b*) is in the affirmative, are the facts stated in the letter true and, if so, will the Government be pleased to state the reasons for pursuing such a policy?

(*e*) Will the Government be pleased to state (1) the highest monthly salaries drawn by a European and an Indian employed in the said Press; (2) the number of (*i*) Europeans, (*ii*) Domiciled Europeans, (*iii*) Anglo-Indians, (*iv*) Indians, employed in the said Press; (3) the total monthly salary bills of Europeans, Domiciled Europeans, Anglo-Indians and Indians employed in the said Press?

THE HONOURABLE MR. E. BURDON: The Government of India have received more than one letter from the Indian Merchants' Chamber on the subject mentioned by the Honourable Member, and I will send the Honourable Member a copy of all the correspondence which has taken place up-to-date. I would also refer the Honourable Member to the reply given to Mr. Gaya Prasad Singh's starred question No. 206 in the Legislative Assembly on the 6th of this month. If the Honourable Member should find that he requires any further information, I should be gald to supply it to him.

REDUCTION OF THE TELEPHONE RATES IN CALCUTTA.

93. THE HONOURABLE SRIJUT LOKENATH MUKHERJEE: (*a*) Is it a fact that on the 23rd July, 1928, a deputation of the Telephone Subscribers' League waited on the Honourable Mr. A. Marr, Commerce Member, Government of Bengal?

(*b*) Is it a fact that the Telephone Subscribers' League represents at least 20 associations and a number of Chambers of Commerce?

(*c*) If the answer to (*a*) is in the affirmative, will Government kindly state the object of the said deputation?

(*d*) Is it a fact that the said deputation urged the reduction of the rate by increasing the number of calls allowed per rupee from 12 to 18 ?

(*e*) Is it a fact that ever since the introduction of the message rate in September 1924 the income of the Bengal Telephone Corporation has gone up steadily ?

(*f*) Will the Government kindly state the total receipts of the Bengal Telephone Corporation in the years 1923 and 1927 and also in the year ending June 1928 ?

(*g*) Has the Government received the report of the said Corporation for the year 1927 ? If so, will the Government kindly place a copy of the report on the table ?

(*h*) Will the Government be pleased to state whether the Bengal Telephone Corporation enjoys a monopoly for its business granted to it by the Government of India or has got to encounter any competition from Companies carrying on a similar business ?

(*i*) Do Government propose to enquire into the matter of the reduction of the telephone rate ? If not, why not ?

THE HONOURABLE MR. A. G. CLOW : (*a*), (*c*) and (*d*). The Government of India understand that certain discussions have taken place between certain parties interested in the reduction of the telephone rates in Calcutta and a representative of the Government of Bengal, but they are not in possession of sufficient details to answer these parts of the question precisely.

(*b*) The Government of India have been informed that a number of local bodies were associated with the League on one occasion, but they are not certain if these bodies are represented by the League.

(*e*) The gross income of the Corporation has increased in recent years.

(*f*) The total rentals and call charges, sales and miscellaneous receipts, transfer fees, interest and exchange were for the year ending 30th June 1923 Rs. 18,72,449, and for the year ending 30th June 1927 Rs. 29,76,813. Figures for the year ending 30th June 1928 are not in the possession of the Government of India.

(*g*) Government have received a copy of the report for the year ending 30th June 1927, but they do not propose to lay it on the table.

(*h*) The Corporation has no monopoly rights for its business. There is a certain amount of competition by the Government Regent System in Calcutta, but no license has been granted to any other company operating in the same area.

(*i*) As I have already stated, the question has been engaging the attention of the Government of Bengal, and the Government of India do not propose to take part in the inquiry at present.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE : Is Regent connection allowed to private people ?

THE HONOURABLE MR. A. G. CLOW : I rather think it is, but I am not certain.

## EMPLOYMENT OF INDIANS IN THE SUPERIOR SERVICES OF THE CALCUTTA PORT TRUST.

94. THE HONOURABLE SRIJUT LOKENATH MUKHERJEE: (*a*) (*i*). What action, if any, have the Government taken on the Resolution moved by the Honourable Sir (then Mr.) P. C. Sethna on the 26th January 1922 ? (*ii*) if no action has yet been taken, is there any chance of Government's taking any action in future, and, if so, when ?

(*b*) Is it a fact that in their address to the Governor of Bengal presented in July 1928, the Indian Chamber of Commerce pressed for applying the declared policy of Government in the matter of filling up the superior services under the Trust ?

(*c*) If the answer to (*b*) is in the affirmative, will the Government be pleased to state whether any action has been taken by the Government of Bengal since the presentation of the address ?

(*d*) Will the Government be pleased to state (1) the number of Indians drawing Rs. 500 and more under the Calcutta Port Trust and their total monthly salary bill; (2) the number of non-Indian Officers of the same rank under the Trust and their total monthly salary bill ?

(*e*) Is it a fact that over and above their normal salaries the European officers are either given house allowances or provided with housing accommodation on very low rates and that the Indian officers of the same rank do not get any such advantage ? If so, why ?

(*f*) Will the Government be pleased to state :—

(1) the name and especial qualifications, if any, of the present Chairman of the Calcutta Port Trust;

(2) the monthly salary and the kind and amount of monthly allowance if any, fixed for the post of the Chairman of the Calcutta Port Trust and the term of the office;

(3) whether the Chairman of the Calcutta Port Trust is elected by the Commissioners or is appointed by somebody and if the latter, by whom and on what basis ?

(*g*) Will the Government kindly state whether there is any bar to the appointment of an Indian to the post ?

(*h*) If the answer to (*g*) is in the negative, will the Government kindly state (1) why no Indian has yet been appointed to the said post; (2) whether they propose to appoint an Indian to the post next time or in the near future and, if not, why not ?

(*i*) If the answer to (*g*) is in the affirmative, will the Government kindly state whether they propose to remove the bar and, if not, why not ?

THE HONOURABLE SIR GEOFFREY CORBETT: (*a*) The Government addressed Local Governments on the subject on the 6th March 1922 As I stated in my reply to Sir P. Sethna on the 13th February last, under the various Port Acts the Boards of Trustees have statutory power to appoint their own staff. The Government considered, therefore, that the most practical way of giving effect to the Resolution would be the amendment of

the Port Acts so as to increase the number of Indians on the Boards in which the power of appointment has been vested; and the Port Acts of all the principal Ports have been amended accordingly.

(*b*) The Government have not received a copy of the address.

(*c*) The Government have no information.

(*d*) and (*e*). Information is being obtaineed and will be supplied to the Honourable Member in due course.

(*f*) (1) The present Chairman is Mr. S. C. Stuart Williams. He was previously Secretary to the Agent, East Indian Railway, and Secretary and afterwards Vice-Chairman of the Calcutta Port Commissioners.

(2) and (3). The post carries a pay of Rs. 5,000 per mensem, and house rent of Rs. 840 per mensem.

Under the Calcutta Port Act, 1890, the Chairman is appointed by the Local Government after consultation with the Commissioners and continues to hold office until he resigns, or the Local Government cancels his appointment or appoints a successor.

(*g*) No.

(*h*) So far as the Government are aware, no Indian with the necessary qualifications has hitherto been available. The post is not likely to be vacant in the near future.

(*i*) Does not arise.

FARES BETWEEN SEALDAH AND BELGHURRIAH RAILWAY STATIONS ON THE EASTERN BENGAL RAILWAY.

95. THE HONOURABLE SRIJUT LOKENATH MUKHERJEE: (*a*) Will the Government be pleased to state the actual distance between Sealdah (Calcutta) and Belghurriah railway stations on the Eastern Bengal Railway?

(*b*) Is it a fact that the 7th mile stone from Sealdah is fixed on or by the station platform and a few yards below the booking office?

(*c*) Will the Government be pleased to state the mileage on which fares are actually charged from passengers travelling between Sealdah and Belghurriah on the Eastern Bengal Railway?

(*d*) Is it a fact that the fare charged is on 8 miles?

(*e*) Is it a fact that formerly fares were charged on 7 miles only?

(*f*) If the answer to (*d*) and (*e*) is in the affirmative, will the Government be pleased to state when, why and under what circumstances fares on increased mileage began to be charged?

(*g*) Is it a fact that lately a representation was made by the passengers to the Railway Board on this matter?

(*h*) If the answer to (*g*) is in the affirmative, will the Government be pleased to state what action, if any, has been taken on the same?

(*i*) Will the Government be pleased to state whether it is a fact that some time before in reply to a letter on this matter the railway authorities

concerned wrote to say that though the Belghurriah Station is 7 miles from Sealdah for "Engineering Purposes" it is 8 miles from the same station for "Traffic Purposes"?

(*j*) If the answer to (*i*) is in the affirmative, will the Government kindly state what is meant by the two terms "Engineering Purpose" and "Traffic Purpose"?

THE HONOURABLE SIR GEOFFREY CORBETT: Enquiries are being made from the Agent of the Eastern Bengal Railway with reference to parts (*a*) to (*f*) and (*i*) to (*j*) of the Honourable Member's question and a further communication will be sent to him in due course.

(*g*) and (*h*). A representation was received from a certain gentleman, but as his letter gave no address, it was impossible to reply to it.

ALLEGED HARSH TREATMENT OF HIS INDIAN STAFF BY MR. J. L. SALE, OFFICIATING CHIEF ENGINEER, DELHI, ETC.

96. THE HONOURABLE MR. MAHMOOD SUHRAWARDY: (*a*) Is it a fact that Mr. J. L. Sale, Officiating Chief Engineer, Delhi, has stopped the increment of Mr. Chela Ram. S. D. O., 5th division, without assigning any reason.

(*b*) Have Government received complaints that Mr. J. L. Sale, Officiating Chief Engineer, Delhi, is treating his Indian staff very harshly and in particular that he abused M. Shujaat Ali, Upper Subordinate on the work, on the 28th instant when the said M. Shujaat Ali was showing him a plan?

(*c*) Is it a fact that Mr. J. L. Sale selected a mistri, Mahbub Ali, for the post of a Surveyor on £ 250 per annum (required by the Kenya Colony Government)?

(*d*) Is it a fact that the said Mahbub Ali was found quite unfit for the post and was returned from Africa? If so, will Government kindly state whether there were no other applications from qualified men? Why did Mr. J. L. Sale select this mistri? Who is responsible for the loss borne by the Government for the travelling allowance, etc., given to the said Mahbub Ali? What is the amount of this loss?

(*e*) Have Government received complaints that Mr. J. L. Sale does not grant interviews to any one of his staff and does not listen to the contractors?

(*f*) Is it a fact that Mr. J. L. Sale had proposed to abolish the post of Chief Engineer, Delhi, when he was officiating Chief Engineer in 1926-27 for 6 months? If so, will Government kindly lay on the table a copy of the proposal?

THE HONOURABLE MR. A. G. CLOW: (*a*) The information is being collected and will be supplied to the Honourable Member.

(*b*) No.

(*c*) Mr. Sale was one of a board which examined candidates for Surveyors' posts under the Government of Kenya.

(*d*) Mr. Mahbub Ali was considered unsuitable for the work for which he was employed. Others who applied for these posts were either found unfitted or

were subsequently unable to proceed to Kenya. As regards Mr. Mahbub Ali's return from Africa and the loss (if any) so incurred, inquiries are being made and I shall let the Honourable Member know the result.

(*e*) No.

(*f*) No such proposals were received.

DISMISSAL OF ABDUL RAHMAN, LOCO FITTER, PUBLIC WORKS DEPARTMENT, DELHI.

97. THE HONOURABLE MR. MAHMOOD SUHRAWARDY: (*a*) Is it a fact that one Abdul Rahman, Loco Fitter, P. W. D., Delhi, has been dismissed? If so, will Government kindly state:—

(*a*) what was his length of service?

(*b*) What was his fault?

(*c*) Why was he sent to Gazipore, Bengal?

(*d*) Was he paid his fare from Gazipore to Delhi, when he was sent back to Delhi?

(*e*) Did Mr. Kaisho, S. D. O., Gazipore send a D. O. to the Executive Engineer, 7th Division, P. W. D., Delhi, *re* Abdul Rahman?

(*f*) How long had Abdul Rahman, Fitter, worked under Mr. Kaisho, S.D.O.

(*g*) Was two days' overtime which he did under Mr. Kaisho, S. D. O. withheld from Abdul Rahman?

(*b*) Is it a fact that prior to his final dismissal the said Abdul Rahman, Loco Fitter, reported the theft of some Government articles by a Christian Fitter, Saran, and a Christian Store-keeper and was dismissed at the instance of Mr. Wyllie, Loco Foreman?

(*c*) Is it a fact that the said Abdul Rahman represented his case to the Superintending Engineer (Electrical) and was reinstated in his post on Rs. 39 p.m., instead of Rs. 43 p.m.?

(*d*) Is it a fact that the said Abdul Rahman worked in Delhi after reinstatement for two months and was sent to Gazipore and was again dismissed?

THE HONOURABLE MR. A. G. CLOW: (*a*) It is a fact that Abdul Rahman was dismissed.

(*a*) Nine and three-quarter years' temporary service.

(*b*) Neglect of duty.

(*c*) On duty.

(*d*) No.

(*e*) Not so far as Government are aware.

(*f*) 10 days.

(*g*) Government have no information.

(*b*) Yes.

(*c*) He was re-employed on another job ; but Government are not in possession of the scales of pay drawn.

(*d*) Yes.

PROMOTION OF SUBORDINATES OF THE PUBLIC WORKS DEPARTMENT, DELHI, TO THE POSTS OF EXECUTIVE ENGINEERS OR ASSISTANT ENGINEERS.

98. THE HONOURABLE MR. MAHMOOD SUHRAWARDY: With reference to question No. 23 in the Council of State on 8th February 1928, will Government kindly state—

(*a*) Are the rules and regulations laid down in the P. W. D. Code being carried out in the Delhi P. W. D.?

(*b*) Has the P. W. D. of Delhi Province devised their own rules ?

(*c*) What is the number of the paragraph of the P. W. D. Code or Rules of the Delhi P. W. D., if any, by which P. W. D. subordinates are allowed to be promoted to the posts of Executive Engineers or Assistant Engineers, without passing the examinations prescribed for Engineers ?

THE HONOURABLE MR. A. G. CLOW : (*a*) Yes, in so far as that Code has not been superseded by other general orders.

(*b*) No.

(*c*) There is no such paragraph. Neither is there any rule, in the Public Works Department Code or elsewhere, which debars a subordinate from holding a divisional or sub-divisional charge, provided that, in the former case no qualified officer of the Indian Service of Engineers is available to hold it.

PREFERENTIAL TREATMENT TO CANDIDATES FOR CIVIL EMPLOY ON THE SCORE OF WAR SERVICES.

99. THE HONOURABLE MR. MAHMOOD SUHRAWARDY: With reference to the reply to question No. 30 in the Council of State on 8th February 1928, will Government kindly state whether preferential treatment " to candidates for civil employ on the score of war services " is still accorded ?

THE HONOURABLE MR. H. G. HAIG : The orders in question are still in force.

QUALIFICATIONS FOR THE POST OF AN ENGINEER.

100. THE HONOURABLE MR. MAHMOOD SUHRAWARDY : With reference to the reply to question No. 54 (*c*) in the Council of State on 20th February 1928, will Government kindly state whether the departmental test of a (unqualified) Sub-Overseer is a recognised qualification for the post of an Engineer ? Is such test included in the list of examinations recognised by the Secretary of State or by the Government of India ?

THE HONOURABLE MR. A. G. CLOW : No qualifications are prescribed for appointments to posts usually held by members of the Indian Service of Engineers in cases where no member of that Service is available.

QUALIFIED MUSLIM CANDIDATES FOR THE POSTS OF ENGINEERS IN THE PUBLIC WORKS DEPARTMENT, DELHI.

101. THE HONOURABLE MR. MAHMOOD SUHRAWARDY: With reference to the reply to question No. 58 in the Council of State on 20th February 1928, will Government kindly state the names of the 12 qualified Muslim candidates for the posts of Engineers, standing on the Delhi P. W. D. Register from 1921, with their qualifications and addresses? What are the names of the 3 Muslim Engineers appointed from among the above-mentioned candidates?

THE HONOURABLE MR. A. G. CLOW: A statement will be furnished to the Honourable Member giving the names, qualifications and districts of residence of the 12 candidates. Only one of these particular candidates was appointed, *viz.*, Mr. Mohammad Hanif.

EMPLOYMENT OF TEMPORARY SUBORDINATES IN THE PUBLIC WORKS DEPARTMENT, DELHI.

102. THE HONOURABLE MR. MAHMOOD SUHRAWARDY: (*a*) Will Government kindly state how many temporary subordinates have been appointed by the Delhi P. W. D. since 1921? What are the names of these subordinates and what recognised examinations have they passed?

(*b*) Will Government kindly state the names of the subordinates who have been given charge of sub-divisions with an allowance of Rs. 75 per mensem since 1921? What is the qualification of these subordinates?

(*c*) (*i*) Will Government kindly state why the registered qualified candidates were not appointed to take charge of sub-divisions in the Delhi P. W. D.?

(*ii*) Has the Delhi P. W. D. asked those registered candidates to accept employment as temporary subordinates? If so, will Government kindly lay on the table original replies received from them?

THE HONOURABLE MR. A. G. CLOW: (*a*) and (*b*) Statements have been compiled and will be supplied to the Honourable Member.

(*c*) and (*d*) An inquiry is being made and the results will be supplied to the Honourable Member.

APPOINTMENT OF MR. MATHUR, AS SUB-DIVISIONAL OFFICER, 6TH DIVISION, DELHI.

103. THE HONOURABLE MR. MAHMOOD SUHRAWARDY: (*a*) Is it a fact that one Mr. Mathur, Assistant Executive Engineer was brought into the P. W. D. of Delhi Province, in July, 1928, from the Central Provinces to officiate for Mr. Wazir Dyal, Executive Engineer, 1st Division, Delhi?

(*b*) Is it a fact that Mr. Wazir Dyal did not go on leave and that Mr. Mathur was put into the 6th Division, Delhi to work as a sub-divisional officer? Why was he not returned to his Province? Was special sanction obtained to open a 2nd Sub-division in the 6th Division?

Why was a qualified registered candidate of the Delhi P. W. D. not appointed in the 6th Division to work as sub-divisional officer?

THE HONOURABLE MR. A. G. CLOW: Mr. Mathur was brought from the Central Provinces to Delhi in July, 1928, but not for the purpose of officiating for Mr. Wazir Dyal or any other Executive Engineer. He was brought for employment as Assistant Executive Engineer and was placed in charge of the 2nd Sub-Division of the 6th Project Division, the creation of which was sanctioned in order to secure more rapid progress with the work entrusted to it: Mr. Wazir Dyal did not go on leave recently; but Mr. Mathur's appointment to sub-divisional charge was not the result of this and there was no reason for returning Mr. Mathur to his province. I have no precise information regarding the concluding part of the question but presume that Mr. Mathur was better qualified.

DISMISSAL OF GANDA SINGH, SANITARY JAMADAR, NEW DELHI.

104. THE HONOURABLE MR. MAHMOOD SUHRAWARDY: Is it a fact that one Ganda Singh, Sanitary Jamadar, New Delhi, Public Health was dismissed in April 1928 by the Health Officer, New Delhi; if so, will Government kindly state (*a*) What was his length of service in Public Health, New Delhi, (*b*) What was his fault? (*c*) Was he a man with military service? (*d*) Did he submit a representation to the Health Officer, New Delhi, to consider his case? (*e*) What action was taken on it by the Health Officer, New Delhi? (*f*) Did he submit representations on 7th and 15th May 1928 to the Chief Engineer, Delhi? (*g*) Whether any enquiries were made by the Chief Engineer, Delhi? (*h*) What was the result of these representations?

THE HONOURABLE KHAN BAHADUR SIR MUHAMMAD HABIBULLAH: With your permission, I shall answer questions 104, 105 and 110 together. The information has been called for from the Chief Commissioner, Delhi, and will be communicated to the Honourable Member on receipt.

ALLEGATIONS AGAINST BIJE SINGH, SANITARY DAROGHA IN THE HEALTH DEPARTMENT, NEW DELHI.

*105. THE HONOURABLE MR. MAHMOOD SUHRAWARDY: (*a*) Is it a fact that the pay of sanitary sweepers working in the Health Department, New Delhi, is disbursed in the presence of one Sanitary Darogha Bije Singh?

(*b*) What are the pay, status, educational qualifications and antecedents of Darogha Bije Singh?

(*c*) Have Government received complaints that the said Darogha Bije Singh takes one rupee from each sweeper engaged under him *per mensem*?

(*d*) Is it a fact that the said Darogha Bije Singh has purchased landed property worth some thousands in his district of residence? If so, will Government kindly state whether he has given any information either to the Delhi P. W. D., or to the Deputy Commissioner of his District? Have the Government enquired into the income of the said Bije Singh Darogha?

(*e*) Is it a fact that many complaints were made by sweepers and shopkeepers of New Delhi area against Darogha Bije Singh, if so what action was taken by the late Health Officer, New Delhi?

(*f*) Is it a fact that the late Health Officer, New Delhi, left a note to make him Sanitary Inspector? if so, will Government kindly state what are his qualifications for this post?

* For answer to this question, see answer to question No. 104.

PERMANENT CADRE OF THE PUBLIC WORKS DEPARTMENT, DELHI.

106. THE HONOURABLE MR. MAHMOOD SUHRAWARDY: (*a*) Is it a fact that the permanent cadre of the Delhi, P. W. D. has been sanctioned by the Government; if so, will Government kindly lay on the table a copy of it?

(*b*) Is it a fact that the permanent cadre of the Delhi P. W. D. is not yet brought, wholly or partially, into force after sanction? If so, will Government kindly state the reasons for same?

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

(*b*) Does not arise.

ENTERTAINMENT OF THE SONS OF CERTAIN EXECUTIVE ENGINEERS IN THE PUBLIC WORKS DEPARTMENT, DELHI, AFTER THEIR RETURN FROM ENGLAND.

107. THE HONOURABLE MR. MAHMOOD SUHRAWARDY: (*a*) Is it a fact that R. B. Malik Teja Singh, R. B. Sardar Bishen Singh, Executive Engineers and B. Durga Das, S. D. O. of the Delhi P. W. D., Delhi, sent their sons to England for engineering training from Delhi in 1926?

(*b*) Is it a fact that the settlement of the permanent cadre of the Delhi P. W. D. is in abeyance pending the return of the sons of R. B. Malik Teja Singh, R. B. Sardar Bishen Singh and B. Durga Das for entertainment as engineers?

THE HONOURABLE MR. A. G. CLOW: (*a*) Government have no information.

(*b*) No.

TECHNICAL AND EDUCATIONAL QUALIFICATIONS OF BABU DURGA DAS OF THE PUBLIC WORKS DEPARTMENT, DELHI.

108. THE HONOURABLE MR. MAHMOOD SUHRAWARDY: (*a*) Is it a fact that B. Durga Das was taken by R. B. Malik Teja Singh from the 8th Division, Delhi, to work under him in the 6th Division, Delhi? What was the cause of his transfer from the 8th Project Division.

(*b*) Is it a fact that B. Durga Das, S. D. O., S. Dharam Singh, Contractor of the Government House, Delhi, and R. B. Malik Teja Singh, Executive Engineer, Delhi, are of the same caste?

(*c*) Is it a fact that B. Durga Das has been put in charge of two Sub-divisions by R. B. Malik Teja Singh, Executive Engineer, Delhi, for a period of 4 years? If so, what was the reason of giving two sub-divisions to B. Durga Das? How many sub-divisions were under R. B. Malik Teja Singh? What are the technical and educational qualifications of B. Durga Das?

THE HONOURABLE MR. A. G. CLOW: (*a*) No. He was transferred in the interests of the public service.

(*b*) No.

(*c*) The VIth Project Division comprised two sub-divisions, one of which was held by Babu Durga Das and the other by Mr. Sulaiman. On the latter's transfer both charges were amalgamated and placed under the former. Babu Durga Das has passed the 1st examination of Civil Engineering of the Punjab University and is a matriculate.

MATERIAL FOR GOVERNMENT HOUSE, NEW DELHI.

109. THE HONOURABLE MR. MAHMOOD SUHRAWARDY: (*a*) Is it a fact that the material and the work on Government House, Delhi is not according to the specifications ?

(*b*) Is it a fact that the chajja of the court yard of Government House, Delhi, fell down in May 1928 ? If so, will Government kindly state the cause of its fall ? Did the Executive Engineer, 6th Division, Delhi calculate the strength of this chajja before hoisting or making it ? What is the amount of Government loss by the fall of this chajja and who is responsible for this ?

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

(*b*) Some pieces of the white stone pattern underneath the chajja cracked off during May 1928 owing to differential plastic yield. The Executive Engineer calculated the strength of the chajja. The loss was insignificant as it was decided to use the material elsewhere.

EMPLOYMENT OF A MUSLIM CLERK IN THE HEALTH OFFICE, NEW DELHI.

*110. THE HONOURABLE MR. MAHMOOD SUHRAWARDY: Is it a fact that there is no Muslim clerk in the Health Office, New Delhi ?

SHORTAGE OF BRICKS IN THE 8TH PROJECT DIVISION, DELHI.

111. THE HONOURABLE MR. MAHMOOD SUHRAWARDY: Is it a fact that the bricks in the charge of B. Din Dyal, Upper Subordinate, 8th Project Division, Delhi, were found to be short to the extent of 5 lakhs ?

THE HONOURABLE MR. A. G. CLOW: No.

EMPLOYMENT OF BABU RUP NARAIN AS SUPERINTENDENT, W-III SECTION CENTRAL OFFICE, PUBLIC WORKS DEPARTMENT, DELHI.

112. THE HONOURABLE MR. MAHMOOD SUHRAWARDY: Is it a fact that B. Rup Narain, Superintendent, W-III Section, Central office, P. W. D., Delhi, was dismissed from Cantonment Magistrate's Office, Amballa, and from other offices ? If so, will Government kindly state why this man was engaged and why he is still in Government service ?

THE HONOURABLE MR. A. G. CLOW: An inquiry is being made into the suggestions contained in the Honourable Member's question ; but Government have not yet received the results.

STOPPAGE OF THE RECRUITMENT OF MUSLIMS TO THE OFFICE OF THE COMMISSIONER OF THE NORTHERN INDIAN SALT REVENUE DEPARTMENT, ETC.

113. THE HONOURABLE MR. MAHMOOD SUHRAWARDY: (*a*) Is it a fact that there have been office orders or instructions to close the recruitment of Muslims and to engage Hindus in the Office of Salt Revenue, Delhi (transferred from Agra) ? If so, will Government kindly state the reasons for closing the recruitment to Muslims ?

(*b*) Is recruitment for Government service conducted on a communal basis ?

(*c*) Why has not the recruitment of Hindus in the offices of the Accountant General, Central Revenues, Delhi; P. W. D. Delhi; Indian Stores Department

* For answer to this question, see answer to question No. 104.

(Government of India); Railway Clearing Accounts Office, Delhi, been closed so as to enhance the percentage of Muslims ?

(*d*) Is it a fact that a candidate, Lahori Mal, was appointed as accounts clerk by the Central Accounts Officer, New Delhi, in June, 1928 ?

(*e*) Is it a fact that the said B. Lahori Mal is the son of B. Jawahar Lal, Superintendent of the Central Accounts Office, New Delhi and that he remained under his father for a month in the Works Section after his appointment ?

(*f*) Is it a fact that one B. Mohamed Unis was a senior candidate to B. Lahori Mal in Central Accounts Office, New Delhi, if so, will Government kindly state the reasons for not appointing B. Mohamed Unis ?

(*g*) Will the Government kindly state the number of Muslim and non-Muslim clerks serving in the office of the Central Accounts Officer, New Delhi (P. W. D.) ?

THE HONOURABLE MR. E. BURDON: Inquiries are being made and a reply will be sent to the Honourable Member as soon as the information is available.

TECHNICAL AND EDUCATIONAL QUALIFICATIONS OF CERTAIN EMPLOYEES OF THE PUBLIC WORKS DEPARTMENT, DELHI.

114. THE HONOURABLE MR. MAHMOOD SUHRAWARDY: Will the Government kindly state the recognised qualifications, both technical and educational, by examination only of the following persons belonging to the Delhi P. W. D. :—

(1) Mr. C. W. Pigott, Sanitary Superintendent, New Delhi.

(2) Mr. W. C. S. DeKnock, Furniture Supervisor, New Delhi.

(3) Mr. T. E. Thomas, Superintendent of Quarters, P. W. D., Delhi.

(4) B. Durga Das, S. D. O., 6th Division.

(5) B. Ram Chand, S. D. O., 1st Division.

(6) B. Chela Ram, S. D. O., 5th Division.

(7) B. Nand Lal, S. D. O., 8th Division.

(8) B. Gurdat Singh, Upper Subordinate.

(9) B. Man Singh, Upper Subordinate.

(10) B. Amar Singh, Upper Subordinate.

(11) B. Sunder Das, Temporary Subordinate, 8th Project Division.

(12) B. Ram Chand, Temporary Subordinate, 8th Project Division.

(13) B. Shib Dial, Temporary Subordinate, 9th Division.

(14) B. Raghbir Singh, Temporary Subordinate, 9th Division.

(15) B. Harnam Singh, Temporary Subordinate, 9th Division.

(16) B. Kesar Chand, Temporary Subordinate, Electrical.

THE HONOURABLE MR. A. G. CLOW: A tabular statement will be furnished to the Honourable Member.

ALLEGED NEPOTISM IN THE PUBLIC WORKS DEPARTMENT, DELHI.

115. THE HONOURABLE MR. MAHMOOD SUHRAWARDY: (*a*) Is it a fact that B. Nand Lal, S. D. O., 8th Project Division, P. W. D., Delhi, has employed his cousin Khairati Ram and his village man Manghe Ram, as Assistant Fitters (Water Supply) under him?

(*b*) Is it a fact that the contractors Kirpa Shanker, Shiv Narain, and Inchha Ram are working in the 1st Division P. W. D., Delhi, and that they are Kayasth by caste and relatives to the Executive Engineer, 1st Division?

(*c*) Is it a fact that B. Kunwar Bahadur, clerk, Central Office, P. W. D., Delhi, is a brother-in-law of Mr. Wazir Dyal, Executive Engineer, 1st Division?

(*d*) Is it a fact that the brother of B. Umrao Bahadur, clerk, Central Office, P. W. D., Delhi, is Storekeeper in the Horticulture Division, P. W. D., Delhi.

(*e*) Is it a fact that the Executive Engineer, 8th Project Division, P. W. D., Delhi, has employed the following men of his own district Ludhiana:—

(1) His own nephew B. Jagir Singh, as work-charged subordinate under him.

(2) B. Daya Singh, B. Jewander Singh, as work-charged subordinates under him.

(3) Mistries Khazan Singh, Attar Singh, Mitta Singh, and Mohamed Bux under him.

(4) Water-Supply Pipe Fitters, Khairati Ram, Manghe Ram under him.

(*f*) Is it a fact that B. Nand Lal, S. D. O. $\frac{1}{8}$ P. W. D., Delhi, is also of Ludhiana District and works under the X. A. N. 8th Division, Delhi?

THE HONOURABLE MR. A. G. CLOW: Information is not available, but will be supplied to the Honourable Member later.

## RESOLUTION *RE* THE REPORT OF THE AGRICULTURAL COMMISSION.

THE HONOURABLE SIR PHIROZE SETHNA (Bombay: Non-Muhammadan): Sir, I beg to move:

"That this Council recommends to the Governor General in Council to expedite the consideration of the Report of the Agricultural Commission, and to take such steps as may be necessary to give prompt effect to its recommendations, particularly to those which have a direct and intimate bearing on the uplift of the agricultural population."

The object of this Resolution speaks for itself. It is to expedite the consideration of the Report of the Agricultural Commission by Government with a view to taking prompt action on its recommendations, particularly those which have a direct bearing on rural uplift and which can be given effect to without such preliminary work as will necessarily involve delay.

I do not know whether I can assume that the Honourable Members of this House have all of them been able to find time enough to peruse the report. It is a voluminous report extending over 750 pages, and it is true, much time has not elapsed since its publication. It will not therefore be surprising if many Honourable Members have not yet been able to peruse it and bestow on its

[Sir Phiroze Sethna.]

contents that close and careful attention which its importance, its wide range and comprehensive character entitle it to. It is not unlikely that because of the very voluminous nature of the Report some of us, who are not specially interested in the subject matter, may feel inclined to relegate it to the limbo of oblivion. It is therefore desirable to tackle the Report and its recommendations, before its freshness has worn away. Moreover, the questions dealt with by the Commission are so important, and some of them, of such an urgent nature, that the sooner action is taken the better. To the main Report is appended what is called an abridged report. It is a summary of the main Report, intended to reach the general public. Its defect however is that it does not give in a handy and convenient form the recommendations of the Commission. The average person will be content to know what just those recommendations are, and the value of the abridged report would have been enhanced, and it would have been a self-sufficient document if an appendix had been attached thereto giving under each head in a serial form all the important conclusions reached by the Commission and also all the important recommendations made by them.

While, Sir, I just said that there has been no Appendix attached to the abridged report, I find from the home papers received by last mail yesterday that such an appendix has been prepared. Mr. Harold Cox, who was a regular contributor to the columns of the "*Sunday Times*", in its issue of August 28th writes as follows :—

"The Royal Commission on Agriculture in India has just issued an appendix to its previously published report. As a rule appendices to official reports are rather heavy reading, full of dull figures and solemnly stated facts. In this Appendix, of necessity, both these rather unattractive features are to be found, but in addition the various authors have brought out a number of most interesting facts in a way to appeal to the general reader, and in dealing with many of them have often adopted a pleasantly light tone that one hardly expects to find in an official report."

I have not yet got a copy of this Appendix in India so far. Mr. Cox goes on to say :

"This substantial volume is divided into chapters, each devoted to one of the provinces of India, but, with minor differences the essentials of the agricultural problem are much the same throughout the Indian Empire."

It means therefore that this Appendix is a substantial volume in itself and does not answer the purpose which I thought an appendix would have served.

Some critics who are ready to express their opinions immediately a document is published, whether there is time enough for study, reflection and digestion or not, have compared the deliberations of the Commission to the proverbial mountain in labour and some have bemoaned the entire absence of any originality or novelty in the recommendations made by the Commission, as if nothing is valuable which is not original or novel. Whatever such critics may say, there is no doubt that the Report of the Commission is marked by a thoroughness and a patient and profound investigation which invest it with more than ordinary importance and value. It is a unanimous report agreed to by both the European and the Indian members of the Commission. Such being the nature and the value of the Report, it will be a thousand pities if it does not result in prompt tangible action that will achieve the object with which the inquiry by the Commission was set on foot and lead in a steadily increasing mea-

care to the general improvement of the material, educational, civic and moral condition of the agricultural population of this country. Sir, many people have lost faith in Commissions and Committees because of the paucity of actual results they lead to, and cynics are apt to say that Commissions and Committees are appointed not because the Government really want to tackle the problems referred to them but because that is the most convenient time-honoured way of shelving inconvenient questions. I sincerely hope that in this case, at all events, the voice of cynicism will be utterly silenced.

The recommendations of the Commission cover a very wide field ; they refer to every question and aspect bearing on rural uplift, the improvement of agriculture and the promotion of the welfare and prosperity of the rural population. It is not possible to refer to them or to discuss them in my speech on the present occasion, nor is it necessary for the particular purpose I have in view to-day. The total number of their conclusions and recommendations under different heads is 667. They relate to (1) the organisation of agricultural research ; (2) agricultural improvement ; (3) the sub-division and fragmenation of holdings ; (4) demonstration and propaganda ; (5) animal husbandry ; (6) forests ; (7) diseases of live stock and their control ; (8) irrigation ; (9) communications and marketing ; (10) the finance of agriculture ; (11) co-operation ; (12) the village, *i.e.*, conditions in the village and amenities of village life ; (13) education ; (14) rural industries and labour ; (15) horticulture and plantations ; (16) statistics and (17) agricultural services. Besides there are a few conclusions and recommendations under the heading " Miscellaneous ".

Now, the question is, what should be done with a view to expediting the consideration of, and decisions on, the Report, so that practical work can be promptly undertaken. What is wanted is the framing of a programme to be worked out steadily, say, during the next five or ten years by each Provincial Government and also by the Central Government. This programme must be carefully thought out and steadily but firmly worked so as to complete it within the scheduled period. Obviously therefore it will be necessary to sift the recommendations of the Commission and to divide them into categories according to the priority to be given to them, having regard to all these considerations immediate or far-reaching which will have to be taken into account in finally determining priority. I see in the Press that His Excellency the Viceroy has convened a Conference of Ministers in charge of Agriculture and heads of the Agricultural Department to consider the Report and probably to devise the procedure to be adopted so as to achieve the very object with which I am moving this Resolution. This is a step in the right direction, and I hope the Conference will be a thorough success and bear the expected fruit. What I would suggest, Sir, is that the Government of India should circularise to all the Provincial Governments asking them to appoint a Committee of non-official and official Members of their respective Legislative Councils to consider in particular those recommendations of the Commission which are of a provincial nature and with the assistance and co-operation of such a Committee, to frame a programme of rural uplift to be carried out steadily within the next ten years. The Government of each province should consider this programme and then should submit it, as finally approved by the Government, to the Legislative Council for its sanction and adoption. A similar Committee of the Indian Legislature should be appointed with the same object in view, to consider in particular those

[Sir Phiroze Sethna.]

recommendations which are of an All-India character. All this should be done as soon as possible within a time limit that should be rigidly observed by each Provincial Government. If such a time limit is not enforced, and things are allowed to drift with endless redtapeism, the result will be that the initial mementum of interest and enthusiasm will wane, the labours of the Commission will be washed, its Report will be condemned to oblivion and we shall remain practically where we are. In a matter like this, prompt and steady action is absolutely essential. We want all Governments to be up and doing in the matter, to show something of the initiative, the activity, the personal interest and zeal, the tenacity of purpose which characterised the late Lord Curzon when he undertook his twelve tasks and applied himself to the question of agricultural reform. Fortunately His Excellency the present Viceroy is known to take the keenest interest in agriculture. We may well expect him therefore to evince the same energy, zeal and tenacity of purpose that marked his illustrious predecessor, Lord Curzon, and set all the available forces in motion, so that steady progress can be made to the attainment of the great ideal which we all have at heart, *viz.*, elevating the masses of India to a decent level of existence as men and as citizens. If this is done His Excellency's Viceroyalty will surely create a landmark in the development of this country of which he will have good reason to be proud.

Sir, the problem of promoting the welfare and prosperity of the agricultural population of India has since the new orientation of British political policy in India received additional importance. The Reforms have begun the process of enfranchising them and in course of time we may look forward to the enfranchisement of a large proportion of them so that with the growth of a responsible system of government, our Councils and our Executive Governments will be responsible to them and they will have their due share in controlling and determining national affairs. That they are becoming a real and growing power has been recently evidenced in my Presidency by the fact that the Government of Bombay have thought it expedient to hold over the Small Holdings Bill which they had introduced in the Legislative Council, out of regard for the opposition shown to the Bill by the agricultural population. Their attitude in this particular case may not be just the kind of expression of public opinion which we should desire in a sound, enlightened state of public opinion. But even in advanced democracies of the West public opinion has, at times, vitiated by the same ignorance, prejudice and unsoundness. This new life opened out to the masses of India has been well described by the late Mr. Montagu and Lord Chelmsford in their Report on Indian Constitutional Reforms. They say :—

"We are not setting about to stir 95 per cent. of the people out of their peaceful conservatism and setting their feet upon a new and difficult path merely at the bidding of the other 5 per cent. nor would that be our reason, whether the articulate minority were 20 per cent. or one-half per cent. of the whole. Our reason is the faith that is in us. We have shown how step by step British policy in India has been steadily directed to a point at which the question of a self-governing India was bound to arise, how impulses, at first faint, have been encouraged by education and opportunity, how the growth quickened nine years ago, and was immeasurably accelerated by the war. We believe profoundly that the time has now come when the sheltered existence which we have given India cannot be prolonged without damage to her national life, that we have a richer gift for her people than any we have yet bestowed on them, that nationhood within the Empire represents something better than anything India has hitherto attained, that the placid, pathetic

contentment of the masses is not the soil on which such Indian nationhood will grow and that in deliberately disturbing it we are working for her highest good."

The stirring has begun, the dry bones are heaving with the new life. The Indian agriculturist is ceasing to be a mere tiller of the soil, he is becoming more and more a political animal also. He is yet in his infancy as a political animal, but his birth has taken place and he is sure to grow to adolescence and youth in his new birth. The movement for uplift therefore must take account of him as a complete man, of his condition in all its aspects, economic, social, moral and political. The Commission is perfectly right in saying that it involves a psychological change. Such a change is not impossible of attainment, but it can be brought about by a suitable system of education demanded by the change, by raising him from poverty to plenty, by raising his average income by elevating his general standard of existence and by the play of those new forces of government, administration, political education which the new political ideal and the reformed constitution have set in motion. I am not sure that the political aspect of the problem has been envisaged in its entirety by the Commission. But it is a factor which must now necessarily be taken into consideration. Be that as it may, the recommendations of the Commission constitute the most valuable and the most comprehensive contribution we have yet had to the solution of this problem, and I do hope that the Government will lose no time in expediting the whole matter so that the goal will steadily, with increasing advance, be attained. With these words, Sir, I commend the Resolution bearing in mind a paragraph which appears on page 673 of the Report and which says :

"If the inertia of centuries is to be overcome, it is essential that all the resources at the disposal of the State should be brought to bear on the problem of rural uplift. What is required is an organised and sustained effort by all those departments whose activities touch the lives and the surroundings of the rural population."

This is the crux of the whole Report.

THE HONOURABLE MR. V. RAMADAS PANTULU (Madras : Non-Muhammadan) : Sir, I beg to move the amendment that stands in my name, namely :—

"Add the following words to the Resolution :—

—'such as those relating to the establishment of Central Land Mortgage Banks for the issue of debentures, the introducing of legislation to guarantee interest on the debentures issued by such banks and to add those debentures to the list of Trustee Securities under the Indian Trust Act'."

My Honourable friend, Sir Phiroze Sethna, wanted me to make a small verbal change in the above amendment, *viz.*, to substitute the word "including" for the words "such as, so as not to unduly emphasize a particular recommendation"; and if you will permit me, I will do so. My Honourable friend, Sir Phiroze Sethna, referred to the criticism that has appeared in the Press, namely, that the Report is on the whole a disappointing document. I may at once say that the critics who have put forward that criticism are not really disappointed with the absence of anything new in the actual recommendations made by the Commission. The Commission has made very useful recommendations. If I have understood the critics aright, what they are disappointed with is the fact that similar recommendations had already been before the Government and the people for a long time past, but that it was found impossible for the G

[Mr. V. Ramadas Pantulu.]

or the people to give effect to those improvements which the Commission have again reiterated and that the Commission has not suggested ways and means for giving effect to their own recommendations. Many of their recommendations for improving the agricultural conditions in this country and the lot of the agriculturists are not new. They were time and again urged upon the Government and the people, but the Government of India found it impossible to give effect to this reform in agriculture either for want of finance or for lack of co-ordination between the Provincial Legislatures and the Central Legislature or for other reasons; and the agriculturists who were advised to improve their condition also found themselves unable to improve their condition because they had no finance. These two potent factors always stood hitherto against any effective agricultural reform being carried out in this country. The recommendations of the Commission, valuable as they are in themselves, will suffer from the same serious defect which recommendations of a similar nature have hitherto suffered from: and the Royal Commission, not having put forward any financial proposals to back up their recommendations, there is a widespread feeling of disappointment in the country that the recommendations are bound to be a dead letter as similar recommendations have hitherto been, because the Government of India have not realised their duty to find finances and the people have no financial resources to put into effect these very valuable recommendations. In the provinces the Development Ministers have often complained that their nation-building departments have actually been financially starving and there is no prospect of either the Provincial Governments or the Government of India finding adequate funds for giving effect to the recommendations of the Royal Commission most of which will cost huge sums of money. Therefore some of us who feel very greatly interested in agricultural reform are bound to confess to a feeling of pessimism that the Report is not going to lead to any better results than similar efforts in the past. If the Government of India and the Provincial Governments will however take up the matter in earnest and will find the finance to give effect to these recommendations, as they ought to, we may expect some good to come out of the work of the Commission. There is one recommendation, Sir, in the Report which is of a very far-reaching character, namely, the constitution of a Research Council to bring to bear upon agricultural development in India the latest scientific knowledge on the subject which is itself of the greatest importance to this country. Therefore, that recommendation of the Commission is to be welcomed. But, Sir, after reading the details of the recommendations relating to the constitution of the Council of Research, I find that it will not be possible for us to accept those recommendations *in toto*. However, the Commission itself has said that legislation should be introduced to constitute the Council of Research, and it will be for this House to examine in great detail those recommendations when the necessary legislation is introduced.

Now, Sir, coming to the subject of my amendment, which forms one of the most important recommendations of the Commission, I shall with your leave say a few words. The main causes for the backwardness of the agriculturist in this country and for the backwardness of the Indian peasant are his chronic indebtedness and his ever-growing burden of unproductive debt. Neither the

State nor the politicians in India seem to have recognised that agriculture like other industries requires capital and credit, and that the most outstanding problem of rural economics in this country is the supply of cheap and productive capital and credit to the cultivator. That is the fundamental question affecting the condition of the agriculturists in this country. The State unfortunately in this country has not risen to a sense of its responsibility in this matter. Sir, after a fairly careful study of the conditions of other self-governing countries I have found that there the State fully recognized its duty to finance the cultivator who produces not only the food but all the national wealth from the land. The agricultural and co-operative banking systems have been assimilated with the banking system of the State and ample finances are provided for the agriculturist. But in India the problem has not even been tackled. Therefore the recommendations of the Commission on agricultural finance are very vital, and I hope the Government of India will take them up very seriously and earnestly. The co-operative movement has been trying to provide funds by finding capital and credit for ryots, but hitherto the co-operative movement has been supplying only short term funds merely for the purpose of financing the cultivator to enable him to run his industry from day to day. The co-operative movement has not yet been able to find long term credit for the agriculturist for making permanent improvements to his lands or for liquidating prior debts and so on. It has been found impossible in practice to supply that kind of credit through the ordinary village co-operative societies which are organized only to deal out short term accommodation. Long term finance can only be supplied by what are known as Land Mortgage Banks, and the Commission therefore has laid great emphasis on the need to organize Land Mortgage Banks. At present we have a few Land Mortgage Banks, but they are primary banks operating in very small areas. If you merely multiply these primary Land Mortgage Banks, not only will they not be able to attract all the long term money, but by offering competitive rates of interest will make long term money dear. Therefore, the Commission have very properly said that each province should contain a Central Land Mortgage Bank to raise money on the strength of debentures. The issue of debentures is one of the most remarkable devices of modern finance, to mobilise land values, for otherwise land is immobile credit. Debentures issued by small village banks, however, are not likely to have great value in the market. Therefore the recommendation of the Commission to establish provincial Central Land Mortgage Banks is of the utmost importance and value to the agriculturist. And the Commission further say that the Government, in order to make the debentures attractive, readily negotiable and marketable, should guarantee the interest on those debentures and also should add those debentures to the list of Trustee Securities under the Indian Trust Act. That is the least the Government can do. The farmers in the country want money, and there are men who are prepared to advance money as an investment. The most useful intermediary organisation to link them up is a mortgage bank. It can attract long term money on very favourable terms and can find ample resources for financing the agricultural industry of the country. Therefore, the Government should take up this recommendation promptly and work it up and give such assistance as they can. With these words I commend the Resolution of my friend Sir Phiroze Sethna and my amendment to this House, and I appeal to the Leader of the House not to raise technical pleas but to accept it if he possibly can.

THE HONOURABLE THE PRESIDENT: Amendment moved:

"That the following words be added at the end of the Resolution, namely:—

'including those relating to the establishment of Central Land Mortgage Banks for the issue of debentures, the introducing of legislation to guarantee interest on the debentures issued by such banks and to add those debentures to the list of Trustee Securities under the Indian Trust Act'."

THE HONOURABLE KHAN BAHADUR SIR MUHAMMAD HABIBULLAH (Education, Health and Lands Member): I have heard with the greatest interest the speeches of my Honourable friends, Sir Phiroze Sethna and Mr. Ramadas Pantulu. I shall not venture at this stage to deal exhaustively with the observations made by them on the details of the report which will receive the consideration which they deserve, but I may say at once that the Government of India welcome the anxiety displayed by them to expedite the consideration of the Report of the Agricultural Commission, and to take such steps as may be necessary to give prompt effect to its recommendations, particularly to those which have a direct and intimate bearing on the uplift of the agricultural population, and the establishment of central land mortgage banks. It is unnecessary for me to stress the point that the report is pregnant with immense possibilities for the advancement of Indian agriculture and the improvement of the lot of the Indian agriculturists. Indeed, the Government of India recognised the need for prompt action the moment the Report was published, and have already taken effective steps, as I shall presently show, to secure its early consideration.

As Honourable Members will doubtless recognise, agriculture being a transferred provincial subject, the great majority of the recommendations concern the Local Governments primarily, and responsibility for giving effect to them lies upon such Local Governments. It is indeed true that a good number of the recommendations concern the Government of India themselves, while some others affect both the Government of India and the Provincial Governments. The line of demarcation of responsibility in respect of many of the recommendations is not, however, clear in all cases. As a preliminary step, therefore, to facilitate the consideration of the Report by both the Government of India and the Provincial Governments, the Government of India, on the 23rd July 1928, invited all Local Governments to send representatives—to be chosen by the Local Governments, but including the Provincial Ministers of Agriculture, if possible—to a conference with the representatives of the Government of India at Simla on a date which has since been fixed for the 1st October and following days.

The objects of the Conference are several. In the first place, the Conference is designed, as explained above, to determine which recommendations primarily concern Local Governments, which the Government of India, and which concern them both. Until the vital question of responsibility has been settled, progress cannot be sure or definite. Secondly, to determine the order of priority, the line of action, and the time of inception of co-operation, where co-operative action on the part of the authorities responsible for giving effect to the recommendations, is desirable or necessary. And, thirdly, to endeavour to arrive at a common determination to put into force, as soon as occasion permits, those recommendations of the Commission which are finally approved by

the authorities concerned. In suggesting this Conference, the Government of India have been careful to see that its objects are not misunderstood. There is no intention whatever of asking the Conference to reach binding decisions on recommendations, the majority of which are obviously for the decision of the respective Local Governments. In brief, the object of the Conference is rather to secure personal discussion and common consultation about the recommendations by the Commission and the best method of giving effect to those of them which are approved. Honourable Members will agree that a conference conducted along these lines cannot but yield useful results and promote the objects which my two Honourable Friends, who have spoken before me, have at heart.

In conjunction with this Conference, it is proposed to hold also a Conference of Co-operators to discuss the recommendations of the Commission which deal with co-operative matters of the nature specifically referred to by the Honourable Mr. Ramadas Pantulu in his amendment. The ordinary biennial Conference of Co-operative Registrars was to have been held this year in any case, but its scope has been extended specially in view of the Commission's Report, and the principal item on its agenda will be the recommendations of the Commission about co-operative matters. The Government of India have no doubt that this Conference, like the Agricultural Conference, will be very useful in determining the action which the Central and Provincial Governments should take on many of the Commission's recommendations.

The proposed holding of these Conferences by no means exhausts the action which the Government of India have taken on the Report. They are already considering those of the recommendations which concern them primarily, such as the proposal for the establishment of an Agricultural Research Council, and recommendations which concern other Departments besides that of Education, Health and Lands, such as, the recommendation for the perfection of methods of protection against the import of destructive insects and pests, have been referred to the Departments concerned for opinion. It would thus be obvious to Honourable Members that, in view of what I have stated already, it is not possible for me at this stage to announce any conclusions on any of the recommendations, as it is not proposed to reach such conclusions before the Government of India have had the advantage of consultation with the representatives of the Provinces at the proposed Conference. I can assure Honourable Members that, as soon as possible thereafter, the Government of India will decide what action should be taken on the recommendations which, if accepted, it is for them to enforce, and the method which should be employed in doing so. The Government of India have no doubt that Local Governments will do the same in the case of recommendations with which they are concerned.

I regret that I am not able to tell the House more than what I have indicated in the course of my brief speech. I will, however, venture to emphasise that the Government of India were not at all remiss in the matter of applying themselves to a consideration of the ways and means before they could reach conclusions. I need not assure Honourable Members that they fully share the desire already expressed to give prompt effect to the recommendations contained in the Report, particularly to those which have a direct and intimate bearing upon the uplift of the agricultural population. Let me again emphasise that consideration must precede action. In all these circumstances, I hope that the Honourable Member will withdraw his Resolution

[Sir Muhammad Habibullah.]

not only in the light of what I have said, but also on my assurance that no time will be lost and no efforts spared to expedite action on the recommendations of the Commission.

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN (Punjab : Nominated Non-Official) : Sir, I always say this against my friend, the Honourable Sir Phiroze Sethna, that whenever he deals with a subject he deals with it in such a way that he does not leave any scope for others to advance arguments, because he brings them all up. The most vital thing, after what has been done, is the amendment of my friend from Madras, for which we are very much indebted to both. I have always said, Sir, that if there was any one class which was absolutely forgotten in the way of help it was the poor zemindars ; and of course, as has been said, they do feel it. The only thing that is most needed is money, and my Honourable friend from Madras hit the nail in the right place when he mentioned that. You cannot do anything unless there is money. Previous to our present Government, the laws were not stable and as the various Governments had to get something out of the agriculturist, what they did was that whenever there was a dispute between an usurer and a zemindar the unwritten law that they had, which was much better perhaps than the present one, was that they always saw that the man who was working in the fields must live and his family must live also. They gave the usurers as much money as they thought he should get. Now there are stable laws and things are different. On the one side Government dues which are always increasing have to be paid and then the moneylender takes away the rest. It is no use whatever improving agriculture if what the tiller gets out of the land does not go to him but to the *bania*. In reality I would make bold to say that this class, since the advent of our best Raj, has been practically sold to the usurers and there is no way of helping them except to buy them back and that can only be done by the banks. There are certain banks which have no doubt proved very useful, but they are on such a small scale that they cannot serve all those who want money. There are lands which are very valuable but they are mortgaged. The agriculturist, having no money, cannot get them back. We have in the Punjab a Land Alienation Act by which lands have been saved from being alienated, but unfortunately those who interpret the law belong to families, joint families, as they are called, which are carrying on this very moneylending business. The law is naturally interpreted against the agriculturists and that is one of the great difficulties we have got hitherto. Though the land cannot be alienated, it can be given away to a moneylender for 20 years. If that happens, how is the agriculturist to eat ? Naturally he gets more and more into debt. After 20 years it will again go to another moneylender. The agriculturist will be compelled to steal and go to jail as he cannot possibly live on the land. It is not only for the Provincial Governments to come to our aid but it is for the Central Government to help us also. If the Central Government does not come to the help of 90 per cent. of the population, who are agriculturists simply because they have been divided into various provinces, I do not think the Government is doing the right thing. After all, this Resolution has been brought forward not to give effect to every recommendation in the Report. As the Leader of the House has said, this Conference which will be convened will pick out the best recommendations

which ought to be acted upon at present. That is what is meant by this Resolution and I do not see why it should not be adopted. I appeal to the House in the name of 90 per cent. of the population to show them their kindness, to show them that the House feels for them. I would ask the House not only to adopt the Resolution but also the amendment moved by my friend from Madras. It has been said that the Resolution should be withdrawn. After all this is an appeal of mercy to the Government of India. In practice they are going to do exactly what is asked for in this Resolution. When both sides have come to an understanding, I do not see why the Resolution should not be adopted. I appeal again in the name of 90 per cent. of our stricken brethren to the House that the whole House should come forward and see that this very good Resolution and very good amendment are carried.

THE HONOURABLE MR. MAHENDRA PRASAD (Bihar and Orissa : Non-Muhammadan) : I rise to support the Resolution moved by the Honourable Sir Phiroze Sethna and the amendment moved by the Honourable Mr. Ramadas Pantulu. The subject is of great importance as it affects the agricultural interests of the population. The recommendations of the Commission should be considered as soon as possible, especially those relating to the Central Land Mortgage Banks. The system of short term credits under the Co-operative Act has done its work very well. But they cannot be of much help so far as long term credits are concerned. The chief reason to my mind is that the rate of interest which the borrowers have to pay from rural societies is so very high that it cannot be of any help to persons taking large loans for long terms. The rural societies cannot give loans to their members at less than 9 per cent. which I think is very high and cannot be brought down unless land mortgage banks are established. The land mortgage banks will have to raise money by issuing debentures which do not carry so high a rate of interest as short term deposits. If the Government guarantees interest on debentures, as proposed by the Honourable Mr. Ramadas Pantulu, the interest on debentures will be very low and money so raised can be lent out to borrowers at 6 per cent. or even less. In order to keep down interest, it will also be necessary to add the debentures to the list of securities under the Indian Trust Act. The greatest service that the land mortgage banks can do is, in the words of the Commission, to lower the rate of interest, and it is for this reason that their establishment is of the greatest possible necessity. The Honourable the Leader of the House has asked the Mover to withdraw his Resolution. I do not see any reason why this Resolution should be withdrawn. The views of this Honourable Council will be of some help to the Conference which meets on the 1st October in coming to a decision.

I therefore think that there should be no difficulty in the acceptance of this Resolution with the amendment.

(The Honourable Sir Phiroze Sethna was about to rise in his place.)

THE HONOURABLE THE PRESIDENT : I see the Honourable the Mover of the Resolution is rising in his place, from which I assume that he is not attempting to bring the Resolution to a vote prematurely, but that his intention is really to ask the leave of the Council to withdraw the Resolution. That of course is a matter which is entirely in the hands of the Council, and I should therefore now call upon the Honourable Member only if that is his intention.

THE HONOURABLE SIR PHIROZE SETHNA : It is not, Sir.

THE HONOURABLE THE PRESIDENT: Then I propose to allow the debate to continue.

THE HONOURABLE RAO SAHIB Dr. U. RAMA RAU (Madras: Non-Muhammadan): Sir, Agricultural India to-day is immersed in chronic indebtedness. As rightly observed by the Royal Commission on Agriculture "the most powerful obstacle in the path of rural development and the most crushing burden on the people is indebtedness". Co-operative societies in India have done immense good, no doubt, in rescuing the people from the hands of merciless usurers and moneylenders, but at the same time it must be pointed out that they have not tried to redeem the agricultural population of this country to the extent they ought to, on account of the numerous defects and limitations under which they are functioning at present. They are helpful only in advancing small loans for short periods with prompt recoveries. To my knowledge only such co-operative societies as have been formed in urban areas and those by the Government employees and others who have a fixed monthly income or daily wages to count upon, thrive well, inasmuch as prompt repayment is possible in these cases. The purely rural co-operative societies, where the members are mostly agriculturists, do not reap the full benefit of co-operation. Prompt re-payment of even small loans taken from the co-operative societies becomes impossible, as money can be had only at certain seasons of the year by the sale of their produce, and the moneylender is looked up to for help to discharge the debt of the society in the interim period.

Often times, lands and personal properties are pawned at a usurious rate of interest and with the successive failure of monsoons and the consequent failure on the part of the agriculturist to repay the debt and redeem the lands and properties pledged, they naturally pass into the hands of the moneylenders. The establishment of land mortgage banks is, in my opinion, the only effective means of saving the agriculturists from utter destruction. Loans are required by the agriculturist not only for the improvement of his lands but also for meeting marriage ceremonials and other expenses, and such loans are usually large in amount and cannot be repaid within a short interval. There must be land mortgage banks in every taluk to which the agriculturist can run at any time of the day, mortgage his land, borrow money at the same rate of interest as in credit societies and pay back the debt in annual instalments along with the *kists*, spread over a number of years. There should no doubt be a central financing body in each province which should issue debentures. Government should guarantee interest on the debentures. A sinking fund should be arranged with a view to secure the redemption of the debentures on the expiry of the period. The Imperial Bank should be asked to assist the flotation of debentures and as the repository of State funds should be invited to make advances under section 20 of the Trust Act against mortgages taken by a mortgage bank and endorsed in favour of the Imperial Bank. All existing concessions in the form of exemption from stamp duties, registration fees, etc., which at present swallow up a fairly large proportion of the money borrowed, through private agency, should be continued in favour of mortgage banks. These wholesome recommendations made by the Conference of Registrars held in Bombay in 1926, and approved of *in toto* by the Royal Commission on Agriculture, should be given effect to forthwith, and this amendment of my friend the Honourable Mr. Ramadas is none too soon nor too drastic to be shelved. With these few observations I strongly support the Resolution with the amendment.

THE HONOURABLE MR. P. C. DESIKA CHARI (Burma : General) : Sir, I do not want to give a silent vote. Honourable Members are aware that I wanted to move a Resolution for the establishment of land mortgage banks and for the necessary steps being taken by Government with a view to relieving agricultural indebtedness. I am glad that the Government is making earnest attempts to give effect to the numerous recommendations of the Agricultural Commission's Report, but I am anxious because they have to consider the question of priority of the various recommendations, that is, as regards the order in which they have to give effect to many of these recommendations. I know, as Honourable Members of the Council know, that the Indian peasant is not in a position to get relief from the heavy load of debt which is practically oppressing him and which makes it impossible for him to think about the ways and means of improving his standard of living, and I submit that it is our duty to impress upon the Government that the want of capital being the great obstacle in the way of the agriculturist improving his position, it must be the first duty of the Government and of those who take a part in the Conference for giving effect to the recommendations of the Royal Agricultural Commission to see that the first place is given to the question of the establishment of land mortgage banks. Sir, I find that the Royal Commission has made certain specific recommendations with reference to the establishment of such banks, but I find that they have been a little over-cautious in making those recommendations, and at the same time I do find that their overcaution is not because of the fear that such banks will not be popular or will not be a safe investment, in fact I find in the latter portion of their Report they seem to apprehend that the debentures are likely to compete with State loans, and that as in other countries where land mortgage debentures have been issued, such debentures issued for the purpose of financing the land mortgage banks in India are likely to be very popular and there is absolutely no doubt that they will be more popular than the State loans themselves. Under these circumstances I am surprised to find that they say with an apology as it were that there should be a stage of preliminary inquiries before Government starts the land mortgage banks. So I think it is high time that these banks were started, because, without capital, without long term loans, the Indian agriculturist cannot thrive; and of course as everybody who is interested in the safe and proper working of agricultural banks will agree, the agriculturist who has to take loans from these banks should be made to understand that they ought to keep to regular engagements and that they will be obliged to pay regularly all the instalments as they fall due. But at the same time unless you establish land mortgage banks which can give long term loans extending, say, over a period of forty years, it is not possible for the Indian agriculturist to be in a position to pay regularly year by year the instalments due from him. The proper object to be kept steadily in view for starting land mortgage banks is to see that, as far as possible, these loans that can be given by them should be for as long a duration as possible, possibly covering 50 or 70 years, so that the Indian agriculturist may be in a position to pay regularly of course after paying the land tax, without feeling the burden and the oppression of the debt. Unless the agriculturist gets capital, all the other recommendations, whatever the Government may do, will go in vain, because the agriculturist will not be in a position to take advantage of any of these agricultural improvements which may be worked out either by research or by any other

[Mr. P. C. Desika Chari.]

means or by taking action on the various recommendations of the Report. I therefore submit, Sir, that it is the duty of the Government, as of those fortunate people who will be called upon to give their advice to Government in this matter, to see that they insist upon this programme of land mortgage banks being started early. If capital is forthcoming the agriculturist's outlook on life will be brightened. It is only then that he will think of improving his land and have before him the ideal of a higher standard of living; otherwise it is absolutely impossible. Now the agriculturists are desperate, more especially the small agriculturists. From generation to generation they have been going on shouldering this huge burden of debt and they have not sufficient interest in cultivating the land because an agriculturist thinks that he has been born to that standard of life to which he and his fathers have been accustomed. It is impossible for him to take interest because he knows full well that he has to work from morn till eve with one meal, or perhaps not even one full meal, in the course of the day; and at the same time he knows that whatever he cultivates goes to the moneylender, who is entitled to insist upon his interest. The principal is very rarely paid up and unless the peasant is immediately relieved of all this burden, it will be impossible for him to improve his position in any manner. I therefore welcome this amendment that special attention should be directed to the establishment of central land mortgage banks for the issue of debentures and the introducing of legislation to guarantee interest on such debentures which should also be added to the list of trustee securities under the Indian Trust Act. I hope the Conference and the Government will consider other means to improve upon the recommendations made by the Royal Commission in this matter. But if they cannot take a longer view of things, if they will at least give effect to these specific recommendations made by the Royal Commission after an elaborate inquiry, that will go a long way towards improving the condition of the agriculturist. I have therefore great pleasure in supporting the Resolution as well as the amendment. I hope that this Council, which has always been known to take an abiding interest in the agriculturist, will vote for this with one voice, so that the people who meet in the Conference, including the provincial representatives of various Governments, may be impressed with the fact that this House, which is primarily composed of people who are in intimate touch with the agricultural classes, think, and think rightly, that the first and most important consideration ought to be directed towards the relief of agricultural indebtedness by the establishment of land mortgage banks.

THE HONOURABLE MAJOR NAWAB MAHOMED AKBAR KHAN (North-West Frontier Province: Nominated Non-Official): Sir, it is indeed very fortunate for the agriculturists of this country that after an exhaustive and painful inquiry into all aspects of their life the Royal Commission on Agriculture has now succeeded in preparing its Report as to the present condition of the Indian agriculturist and suggesting ways and means to improve it. I believe that every careful reader of the Report will not fail to appreciate the labours of the members of the said Commission for which they rightly deserve the highest gratitude of the agriculturists and landowners of the various provinces in India. Now, Sir, the question of improving the deplorable condition

of all those engaged in agriculture is of vital importance to this country. At present I do not want to go into details of the miseries under which the agriculturists are labouring, as they are well-known to every Member of this House. What I have to say in this respect is that immediate steps ought to be taken to relieve them of their present embarrassing condition, for I think that the betterment of their condition will bring peace, prosperity and contentment in India as a whole. Nearly 80 per cent. of the population of this country is composed of agriculturists and landowners, and if suitable measures are taken to enable them to live a life of contentment and peace, it will surely help greatly in finding a solution of the ever increasing problem of unemployment in India. The agriculturists and landowners are so closely connected with each other that under no circumstances could they be independent of each other; so that if the agriculturists are better off their betterment will surely result in bettering the condition of landowners and *vice versa*, and the betterment of this large section of the people will naturally have its effect on the public revenue. The Royal Commission on Agriculture has come and gone and its Report to ameliorate the condition of the agriculturists has been published by this time. It is now for the Government to see to the uplift of the agriculturists by giving effect to the recommendations made in that Report, and the sooner they are given effect to the better it will be for all those concerned.

Sir, I associate myself entirely with and support the Honourable Mover of the Resolution as well as the Mover of the amendment. I do not think that any of us who have anything to do with the agriculturists will hesitate to support this Resolution. Sir, personally I would be satisfied if the Leader of the House takes some action on that Report. A good deal of money has been spent on the Report and it is a very exhaustive Report. Personally I will be satisfied if the Report does not become a dead letter. If the Leader of the House makes representations to the various Governments and takes some action himself I will be quite satisfied. The pretext is often put forward that there is no money. But I say, Sir, that where there is a will there is a way. We all know that if Government want to raise capital, the money can be easily found from Great Britain, America or other rich countries and even in India. If the Leader of the House takes action on the Report I can assure him that he will earn the gratitude of all the agriculturists throughout India.

With these remarks, Sir, I strongly support the Resolution and the amendment.

THE HONOURABLE MR. G. S. KHAPARDE (Berar Representative): I propose that the question may now be put.

THE HONOURABLE SIR PHIROZE SETHNA: Sir, in my reply I shall be as brief as possible. In the first place I would like to remove a misunderstanding which seems to prevail in one part of the House. Some Honourable Members have asked me if I adhere to the strict meaning of the wording in my Resolution. I have said "to take such steps as may be necessary to give prompt effect to its recommendations." They interpret this to mean that I expect Government to give effect to every single recommendation. In my opening remarks I observed that there were as many as 667 recommendations. I cannot expect Government to give effect to every one of the 667 recommendations even in as many weeks. I quite realise this. My Honourable friend

[Sir Phiroze Sethna.]

the Mover of the amendment and myself will be more than pleased if they will give immediate effect to the recommendations on the points that he and myself have laid stress on.

Now, Sir, the next point is that my friend Mr. Ramadas Pantulu found fault with me for taking to task some of the critics of the Report and he observed that the critics were not so much against the Report as against Government themselves who for years past have done nothing. Perhaps there is force in that contention, and I am reminded of the Report of Dr. Voelker, the agricultural authority, who published his Report as far back as 30 years and whose recommendations have been entirely endorsed by the Agricultural Commission. It is a pity that Government have taken no action on his recommendations till now except that perhaps on the recommendation of the Chairman of the Agricultural Commission a C. I. E. was conferred on the learned Dr. in the last Honours List in recognition of his long forgotten services of 30 years ago.

My Honourable friend the Leader of the House has made an appeal to me that I should withdraw this Resolution. I fear I cannot do so for a very good reason and it is this. My Honourable friend, the Leader, in the course of a very elaborate statement, which has given entire satisfaction to the Honourable Mr. Ramadas Pantulu and myself, has, as far as I know, gone even beyond what we both of us asked for. Therefore, instead of my withdrawing the Resolution, which would be paradoxical after Government accepting and going beyond what we had asked for, I, in my turn, appeal to the Leader of the House to convince the Indian public that it is not always that the Government of India oppose the wishes of the public and that in matters of great public importance like this, the Government of India do at times see eye to eye with the public. I trust therefore that not only the Leader of the House but all the Members of Govenment will vote in support of the Resolution and we will carry it unanimously.

THE HONOURABLE KHAN BAHADUR SIR MUHAMMAD HABIBULLAH: Sir, when I addressed my appeal to my two.....

THE HONOURABLE SIR ARTHUR FROOM (Bombay: Chamber of Commerce): Sir, on a point of order, might I have your ruling in connection with the speech just delivered by my Honourable friend Sir Phiroze Sethna? My reading of the Resolution is that, if it were accepted, it would commit the Government to give prompt effect to *all* the recommendations of the Agricultural Commission's Report. That is my difficulty, Sir.

THE HONOURABLE THE PRESIDENT: The Honourable Member's difficulty is, I think, solved by the fact that the adoption of a Resolution by the House is after all merely a recommendation to the Government. There is no commitment.

THE HONOURABLE KHAN BAHADUR SIR MUHAMMAD HABIBULLAH: When I addressed my appeal to my two Honourable friends opposite, I did not in the least expect any single Member of the House to understand that the Government were opposing this Resolution. I tried to show in the course of the brief statement which I made the action that the Government of India have already taken in the matter and the steps which they contemplate

for the future. I think I convinced the two Honourable Movers of the fact that the Government had, long before either the proposer of the original Resolution or of the amendment had tabled their respective motions, taken the necessary action in the matter (Hear, hear) and I am pleased to hear that the Honourable Sir Phiroze Sethna recognises that the Government have not merely complied with the recommendation that he makes but that they have even gone far beyond that recommendation. While that is so, Sir, I expected that the Honourable Sir Phiroze Sethna will not have any objection whatsoever to the withdrawal of the Resolution, seeing that the objects he had in view, the intentions that underlay his Resolution, were more than fulfilled. It was only the other day that we were told by a friend on the opposite side who moved a similar Resolution on land revenue that his intention was merely to rouse sleeping dogs. Both in that case and in this it is not the rousing of sleeping dogs but it is an attempt to rouse watchful dogs. So, as I said, there is no object in my two Honourable friends opposite pressing for the adoption of this Resolution. But I see that not only on their part but generally on the part of other Honourable Members also who have spoken on this Resolution there is a desire that the Government should accept it. Well, as I have said, I am not opposing it. As I have said repeatedly, I am doing everything that this Resolution asks us to do and more. In view of these circumstances, Sir, I have no objection whatever to accept the Resolution.

THE HONOURABLE THE PRESIDENT: The original question was:

"That the following Resolution be adopted:

'This Council recommends to the Governor General in Council to expedite the consideration of the Report of the Agricultural Commission, and to take such steps as may be necessary to give prompt effect to its recommendations, particularly to those which have a direct and intimate bearing on the uplift of the agricultural population'."

Since which an amendment has been moved:

"That the following words be added at the end of the Resolution, namely:

'including those relating to the establishment of Central Land Mortgage Banks for the issue of debentures, the introducing of legislation to guarantee interest on the debentures issued by such banks and to add those debentures to the list of Trustee Securities under the Indian Trust Act'."

The first question what I have to put is that that amendment be made.

The amendment was adopted.

THE HONOURABLE THE PRESIDENT: The question then is:

"That the Resolution, as amended, be adopted."

The motion was adopted.

## RESOLUTION *RE* REVISION OF THE TIME TESTS IN THE POST OFFICE.

THE HONOURABLE MR. G. S. KHAPARDE (Berar Representative): Sir, the Resolution that I beg to move runs as follows:

"This Council recommends that the Governor General in Council be pleased to appoint a committee consisting of a senior Superintendent of Post Offices and two of the employees

[Mr. G. S. Khaparde.]

elected by the All-India Postal and Railway Mail Service Union to revise the time tests obtaining at present in the Postal Department."

This Resolution of mine puts forward two propositions. One is that the time tests should be revised and the next is as to how revision should be carried out. The first part of it, I think, I need not dilate on at any great length, because from the amendment tabled by the Honourable Member in charge I shrewdly guess that the Government accept the necessity of revising the time tests. If my guess is correct, then I need not elaborate, need not carry coals to Newcastle, for nothing at all. I will therefore speak about the next proposition and that proposition is that the time test should be revised, in the particular manner which I have suggested, namely, that there should be a senior Superintendent of Post Offices on the Committee and two members elected by what may be briefly described as the Indian Postal Union. They have got a long name, but for this purpose I am referring to them as the Indian Postal Union. This is not the first time that I have raised this question of the revision of time tests. In 1919 or 1921 I proposed a Resolution on this subject. It was passed by this Honourable Council. Government acting on it appointed two gentlemen to revise the time test. These two gentlemen were senior officers in the Post Office. They recorded no evidence. They depended entirely on their own knowledge of the subject and they framed a certain scale of revision. That scale of revised time tests has been going on up to this time. But complaints about it have been rife. The chief complaints are two: that the allowance for each item of work is very scanty, sometimes inadequate, and secondly, that much of the important work which the Post Office people had been doing was not brought under the time tests. These two objections have been urged from time to time until at last I thought that I would try my hand again and see what could be done. These items that have been left out of: calculation are rather large. As enumerated in the papers supplied to me, they come to about 20 and it may even be 25 or 30. If 30 items which people have got to go through in the course of the day are omitted from the time tests the work suffers tremendously. Further one of these omissions refers to items of banking. I can elaborate this matter but it will do no good. The important part of the thing is that the system should be improved and attention should be drawn prominently to it. I shall not at this stage make further remarks but shall reserve them to a later stage.

Sir, I move my Resolution.

THE HONOURABLE MR. A. G. CLOW (Industries and Labour Secretary): Sir, I rise to move the motion standing in my name:

"That for the words 'to appoint a committee consisting of a senior Superintendent of Post Offices and two of the employees elected by the All-India Postal and Railway Mail Service Union' the words 'to take steps' be substituted."

I may say at once that my Honourable friend's "shrewd guess" is quite correct and that on the main proposition underlying his Resolution Government are in complete accord with him. In other words, they recognise that the time has come for the revision of the time tests prevailing in the Postal Department. The only point on which they do not see eye to eye with my Honourable friend is one of detail and that relates to the manner in which the revision of

these time tests is to be conducted. The words which I am asking the Council to delete suggest the appointment of a committee of three members, one an official and two elected by the Postal Union. Now quite apart from any question as to whether a committee is the most suitable organisation for conducting this work or not, there are two objections to the composition of the committee as suggested in the Resolution. The first is a minor one. Government do not think that work of this kind can suitably be entrusted to an officer of the rank of Superintendent and desire to appoint an official of higher rank. The second is a much more serious one and that is that the committee will have on it one impartial officer and two members who will be directly interested in the results to be achieved, or, if they are not directly interested, they will represent those who are very keenly interested in any findings that may be reached. In other words, out of a jury of three, one will be impartial and two will be keenly interested in the verdict. And the House will, I think, agree that the results arrived at by a committee of that kind would not be results on which reliance could be placed with confidence.

But I am anxious before I sit down to give the House some indication of the action which Government propose to take if this Resolution is carried, for they propose to go a good deal further to meet my Honourable friend than perhaps the wording of my amendment indicates. In the first place they propose to entrust the main responsibility for this inquiry to an Indian officer of the rank of Postmaster-General. They intend to place him on special duty for this purpose during the next cold weather; but in order to ensure that his recommendations are not made without hearing the views of those who are bound to be affected by any recommendations he may make, we propose to instruct him to ask for the co-operation throughout his inquiries of a representative of the Postal and R. M. S. Union. This will secure two ends. In the first place the responsibility for the recommendations will rest with an impartial authority, and in the second place those to whom the results are a matter of importance will be able to ensure that no factor which they regard as relevant is overlooked during the inquiry. I hope that in view of this explanation my Honourable friend will be prepared to accept my amendment.

THE HONOURABLE MR. G. S. KHAPARDE: Sir, this is a good beginning. A man asked God for one eye and God gives him two. The Honourable Member has proposed a much higher officer than I would have dared to ask to record evidence and give his finding on it. I therefore accept the amendment with great pleasure.

THE HONOURABLE THE PRESIDENT: The original Resolution was:

"That this Council recommends that the Governor General in Council be pleased to appoint a committee consisting of a senior Superintendent of Post Offices and two of the employees elected by the All-India Postal and Railway Mail Service Union to revise the time tests obtaining at present in the Postal Department."

Since which an amendment has been moved:

"That for the words 'to appoint a committee consisting of a senior Superintendent of Post Offices and two of the employees elected by the All-India Postal and Railway Mail Service Union' the words 'to take steps' be substituted."

The question is that that amendment be made.

The motion was adopted.

THE HONOURABLE THE PRESIDENT: The question is:

"That the following Resolution, as amended, be adopted:

'This Council recommends that the Governor General in Council be pleased to take steps to revise the time tests obtaining at present in the Postal Department.'"

The motion was adopted.

THE HONOURABLE THE PRESIDENT: The Honourable Mr. Chari* and the Honourable Dr. Rama Rau† do not desire to move the Resolutions standing in their names. The fifth item standing in the name of the Honourable Mr. V. Ramadas Pantulu has already been disposed of by the first item discussed this morning.

THE HONOURABLE KHAN BAHADUR SIR MUHAMMAD HABIBULLAH: Sir, now that all the Resolutions which appear on the agenda have been disposed of, the only other work that remains is that relating to the legislative business appearing on page 2 thereof. I am afraid, Sir, we are very nearly up to lunch time. The agenda for to-morrow, which is of course an official day, has already been circulated to Honourable Members and they would have noticed therefrom that it is a very brief agenda. It seems to me that it will suit the convenience of Honourable Members if instead of meeting again after lunch we meet to-morrow and, subject of course to your directions, after the official work on the agenda is finished, take up the consideration of the items left over to-day. I may tell the House that in view of the happenings in another place we will perhaps have heavy work in the course of the next few days, and I hope that none of the Honourable Members will have any objection to our adjourning at lunch time this day and to our meeting to-morrow. Of course official Members like myself could certainly have no objection to our sitting not only in the afternoon but for as long as possible, but my only object in making this suggestion is to meet the convenience of Honourable Members.

THE HONOURABLE SIR SANKARAN NAIR (Madras: Non-Muhammadan): If the Honourable the Leader of the House can take up this matter immediately after questions to-morrow, I have no objection to an adjournment; but once any business begins, one does not know when it will finish. I am therefore unwilling to give my consent except on the condition that these Bills will be taken up immediately after questions and before the Government business begins; otherwise I should like to go on at once.

THE HONOURABLE KHAN BAHADUR SIR MUHAMMAD HABIBULLAH: I think the Honourable Member has already received the agenda for to-morrow.

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*"This Council recommends to the Governor General in Council to appoint a Committee with a non-official majority to make enquiries and suggest legislation to give women the same rights as men in the matter of succession to a deceased Hindu's Estate."

†"This Council recommends to the Governor General in Council to appoint forthwith a Committee of official and non-official medical experts to enquire into the existing defects in the curricula of education for Medical Licentiates in the various provinces of India and suggest ways and means to improve their course of study with a view to secure uniformity in the standard of education imparted to them and at the same time make it conform to the minimum registrable qualification prescribed by the General Medical Council of Great Britain."

THE HONOURABLE THE PRESIDENT: I can assure the Honourable Mover of the Bills that when he asks that his business may be taken up to-morrow immediately after questions, he will be practically getting what he wants, because I understand the Government business on the paper to-morrow after questions will take a very short time. I can assure the Honourable Member also that I am not putting the convenience....

THE HONOURABLE SIR SANKARAN NAIR: I hope it is not inconvenient to you, Sir?

10703

THE HONOURABLE THE PRESIDENT: I am not consulting my own convenience; my desire is and has always been to study the convenience of the majority of Honourable Members. The House has given me no guidance in the matter. Perhaps if I continue up to lunch time I may be able to decide then.

## HINDU INHERITANCE (REMOVAL OF DISABILITIES) BILL.

THE HONOURABLE SIR SANKARAN NAIR (Madras: Non-Muhammadan): Sir, I move that the Bill to amend the Hindu Law relating to exclusion from inheritance of certain classes of heirs, and to remove certain doubts, as passed by the Legislative Assembly, be taken into consideration.

This, Sir, will be a very short matter. A Bill was first introduced in 1921 in the Assembly for this same purpose, it was circulated for opinions, it was then referred to a Select Committee, which Committee had the assistance of the then Home Member, of Mr. Rangachariar, as strong an advocate of the orthodox view as you can find in India, and also of the late Mr. Seshagiri Aiyar, a retired Judge of the High Court. After very careful consideration, they made material alterations and then they passed the Bill in the form in which we have it now. It then came up before this Council of State and this Council thought that it had not received sufficient consideration, and that there were many matters to be explained. Accordingly they did not reject the Bill but they left the matter over for further consideration and under the rules of business it lapsed. Then another Bill was introduced in the Legislative Assembly and this Bill was then passed and now it comes up before this Council. So you will see, Sir, that the matter has been considered very fully by the Legislative Assembly. The Bill was again passed in the Assembly after considering everything that was said in this Council, and I trust that there will be no objection to pass it without any long discussion. With regard to one particular amendment on the paper to the Bill, I say that amendment is not an objection to the Bill in its present form but the amendment is intended to carry the Bill further in order to include lunatics and idiots. I have told you, Sir, that the Bill seeks to remove certain disabilities which exclude Hindu heirs from inheritance. Those disqualifications I will read out for the purpose of drawing the attention of the Council to the amendment that is going to be proposed. The disabilities are these. One is a text of Baudhayana, "Woman is not entitled to inherit. Then females and persons deficient in the organs of sense are deemed incompetent to inherit." Manu says "Eunuchs and outcasts, persons born blind or deaf or dumb or who have lost the use of a limb are excluded from a share in inheritance." Narada says " Any man who is an outcast, an impotent person and one suffering from an incurable disease has no share in the inheritance even though they be

[Sir Sankaran Nair.]

legitimate." Thus there are three classes : one is a class which refers to vicious persons, that is, for example, a disobedient son ; the next those who have lost the use of a limb ; that is the second class. Then the lunatics and idiots form the third class. Now this Bill does not touch the third class—it does not touch the lunatic or the mad man. The result of that is that the law with reference to them will remain as it is now. They will be disqualified and they cannot inherit and the amendment is directed to bringing them under the Bill. As to the others, I trust, Sir, that the Council will pass the Bill. I will only now draw attention to one remark by the Chief Justice of Madras. The whole matter was considered over and over again, and the Madras High Court said in Volume 43 Mad. that all these laws are obsolete and " therefore we will not have anything to do w th them now " and they will not enforce them. Later a Full Bench of the High Court reconsidered them and they said, " well, if the circumstances are now different, it is not for the courts to declare that they are no longer the law ; that must be done by the Legislature", and that is the reason the Council is now asked to pass the Bill. I may draw the attention of this Council, Sir, to the fact that it was the Chief Justice of the Madras High Court, the Honourable Sir Murray Coutts-Trotter, w! o overruled the decision in 43 Madras saying that the courst must not interfere with this law, and it is for the Legislature to do it. What he now says is this :—

" Every court in India has struggled to limit so far as it could the barbarity of the traditional law."

There are decisions which support this view ; some of them were referred to by Sir Hari Singh Gour in his Statement of Objects and Reasons accompanying his Bill. They are the decisions in the Madras Law Journal, 251, the decisions in 25 Madras 133 and 405 and other decisions which will not be interesting to those who are not lawyers.

In those circumstances I trust the Council will pass it without any further discussion. I commend to the Council the consideration of this Bill.

THE HONOURABLE MAHARAJADHIRAJA SIR RAMESHWARA SINGH OF DARBHANGA (Bihar and Orissa: Non-Muhammadan): Sir, I rise to oppose the Bill and I oppose the Bill on principle, the principle that the State or Legislature should not interfere with the religions, or with customs or laws based on the religions of His Majesty's subjects. This principle was recognised long ago, was clearly enunciated in the Proclamation of Her Majesty Queen Victoria, and has been scrupulously followed by the Government of India ever since. The solemn pledges given in that Proclamation are the foundation of peace in India and of the loyalty of His Majesty's Indian subjects and I strongly deprecate the tendency shown by Indian legislation since the Reforms to interfere with Hindu law, because that law, as in the present case of inheritance, is based on religious precepts and beliefs. It is common knowledge that in the Sm itis inheritance is associated with the idea of Shradh and, generally speaking, while they recognise affinity of relationship they hold that relative to be the heir of a deceased on whom rests the duty of performing the Shradh. It is unnecessary to quote authorities for such a well-known fact. That this is so is supported by the opinion of Mahamahopadhyaya Dr. Ganganath Jha, Vice-Chancellor of the Allahabad University, which I see has

already been circulated. Yet I think it will bear repetition and I wish therefore to quote it here *in extenso*. This is what he says :

" It has always been my firm conviction that the several parts of Hindu Law are so closely inter-related that any attempt at piecemeal legislation cannot but be disastrous. Dr. Gour's Bill affords an instance in point. Under Hindu Law, the right to inherit goes hand in hand with the duty to perform Shradha. If, therefore, some people are to be inserted in the middle of Yajnavalkya's list, it will upset not only the rights of inheritance, but also the liability to Shradha."

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY (East Bengal : Non-Muhammadan) : On a point of order, Sir, is the Honourable Member the Maharaja of Darbhanga discussing the Bill now under consideration or the next one ?

THE HONOURABLE THE PRESIDENT : I think the Honourable Member is probably right in pointing out that the Honourable Maharaja's remarks would be more appropriate to the second Bill on the agenda to-day, though I am not able to say that they are so far entirely inappropriate to the present Bill.

THE HONOURABLE MAHARAJADHIRAJA SIR RAMESHWARA SINGH OF DARBHANGA : Very good, Sir.

(The Honourable Member resumed his seat.)

THE HONOURABLE THE PRESIDENT : The Honourable Lala Ram Saran Das.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan) : Sir, I rise to oppose this Bill as I did when it was introduced into this Council on the 19th July 1923. I then told the House that to judge our sacred laws by the criterion of whether they suit the present so-called reformed members of our society or not is an anomaly. If we allow such things to be done there will be no end to it. There are a number of things in religion which from our standpoint may not be right or suitable, but if we go on amending our laws like this slowly but surely all our religious laws will be broken one by one and all will be disintegrated. In this Bill it is proposed to restore succession to certain classes of people whom the Dharm Shastras have not allowed to succeed. Lunatics and idiots only have been excluded from the present Bill, and so the idea is to restore the rights of succession to the other members who are to inherit and who are debarred by congenital blindness, deafness and dumbness, congenital want of a limb or organ, and so on. I think, Sir, that as this is a very important and a very controversial matter and as it means the breaking of the Dharm Shastra, I must oppose the introduction of the Bill because I do not want this Council to interfere with the established religious practice of the Hindus which has been in force for thousands of years past.

The Council then adjourned for Lunch till Twenty Minutes to Three of the Clock.

The Council re-assembled after Lunch at Twenty Minutes to Three of the Clock, the Honourable the President in the Chair.

THE HONOURABLE MR. V. RAMADAS PANTULU (Madras : Non-Muhammadan) : Sir, I wish to give my very hearty support to this motion. I know

[Mr. V. Ramadas Pantulu.]

how in these cases Judges of the High Courts have always felt helpless in the matter of administering justice and desired legislative interference to get rid of the obsolete texts. It is really painful to think that these disabilities should still remain. It is a matter for wonder that the disabilities were not removed hundreds of years ago. I hope my Honourable friends who object to this Bill on the score of religion will kindly reconsider the matter. I am afraid they have not considered the matter from the correct point of view. Dharma was never allowed to stand the same for all time. It is expressly stated that Dharma might change from time to time according to the conditions of the country and that the learned men of the country have a right to meet together and decide what the Dharma should be from time to time. If any orthodox Hindu tells me that the Dharma of the Krita Yuga is the same as that of the Thretha Yuga, or that the Dharma of the Thretha Yuga is the same as that of the Dwapara Yuga, or that the Dharma of the Dwapara Yuga is the same as that of the Kali Yuga, then he has not studied the text books. Dharma has undergone many changes in the past and our books say that Dharma can be changed. Such changes have occurred in the past and are bound to occur in the future and I claim for this House and for the other House and for the Legislative Councils of the country the right to determine new Dharma; they consist of learned men who are animated by patriotism and a desire to serve their country. These bodies are essentially qualified to change the Dharma from time to time and I appeal to my orthodox friends not to perpetrate wrongs in the name of ancient Dharma. These disabilities resulting in exclusion from inheritance are barbarous and no civilised nation ought to countenance them. I appeal to my Honourable friends the Maharajadhiraja of Darbhanga and Lala Ram Saran Das to judge these things from a rational standpoint and according to the present conditions of the country and not to harp back upon Dharma Shastras. Dharma Shastras do not support the theory that Dharma is unchangeable for all time to come. I therefore give my fullest support to the motion for consideration.

THE HONOURABLE MR. S. R. DAS (Law Member): Sir, I think it is right to explain to the House the attitude that Government propose to take in regard to this measure. As it is usual with the Government in all matters of this kind they think it right to take up a neutral attitude and leave it to the House to decide either against or in favour of this Bill. Government propose to remain neutral, which means that the Members of the Government will not vote either way on this occasion, but the official Members will be free to vote in any way they think fit.

THE HONOURABLE SIR SANKARAN NAIR: Sir, there is only one objection that has been started and that is by the Honourable Lala Ram Saran Das. He ventured to say that the law of succession is indissolubly bound up with religion and therefore we must not interfere with the law of succession. Now, I want to ask my Honourable friend whether he has studied this Bill which is before the Council because the Bill says it will not apply to any person governed by the Dayabhaga School of Hindu Law. The difference between the Dayabhaga School of Hindu Law and the Mitakshara and other sacred books which apply generally to the rest of India is this, that in the case of the Dayabhaga School of Hindu Law, inheritance depends upon the right to

offer oblations. Strictly therefore if you interfere with the law of succession in Bengal under the rule of Dayabhaga, it will be an interference with religious law and one has to justify that interference under that law. But generally elsewhere in India, the conclusion that has been arrived at by men who are competent to pronounce any opinion is that propinquity or blood relationship determines the right of succession, th ough some writers go further and say that the man who takes the property of the deceased must offer the funeral oblations. I have made these observations generally, but I cannot help going further and saying with reference to the province of my friend the Honourable Mr. Ram Saran Das that whatever doubt there may be elsewhere in India, in the Punjab there is absolutely no doubt that religion has nothing whatever to do with succession, and it is absolute ignorance to say that in the Punjab religion is associated with succession. I would not ask the Council to take it from me, but I will just read a few statements by Mr. Mayne who is an acknowledged authority on these questions. He says :

" As regards the Village Communities, the Punjab and the adjoining districts are the region in which alone they flourish in their primitive vigour. This is the tract which the Aryans must have first traversed on entering India. Yet it seems to have been there that Brahminism most completely failed to take root."

It is the Brahmins who have been responsible throughout India for introducing these religious elements into all these questions of succession. Dr. Muir cites various passages from the *Mahabharata* which establish this. The inhabitants " who dwell between the five rivers which are associated with the Sindhu (Indus) as the sixth ", are described as " those impure *Bahikas*, who are outcasts from righteousness."

" Let no Arya dwell there even for two days. There dwell degraded Brahmans, contemporary with Prajapati. They have no Veda, no Vedic ceremony, nor any sacrifice."

(*An Honourable Member :* " Question) ". Of course you will question.

" There a *Bahika* born a Brahman, becomes afterwards a Kshatriya, Vaiciya, or a Sudra, and eventually a barber. And again the barber becomes a Brahman. And once again the Brahman there is born a slave. One Brahman alone is born in a family. The other brothers act as they will without restraint. And they retain this character to the present day, as we shall see that with them the religious element has never entered into their secular law."

And then with reference to the law of succession, Mayne says that the right of inheritance, according to Hindu law, which is wholly regulated with reference to the spiritual benefits " is strictly and absolutely true in Bengal. It is not so elsewhere. Among the Hindus of the Punjab the order of succession is determined by custom, and not by spiritual considerations." The objection is so wholly without any basis that I was taken aback when my friend started it in utter ignorance of what passes in his own country and contradicted me without having ascertained the facts. A custom, a rule of law which prevails in the Punjab has so little to do with what is prevailing in other parts of India, that when we find anything common to the Punjab and the rest of India in the law of succession we may infer that it has nothing Brahminical in its origin. There are further quotations, but I will read only one more. This is what Mayne says :

" In the Punjab and among the Sikhs and Jains, the rules of descent appear to be in the main those of the Mitakshara, but the doctrine of religious efficacy is wholly unknow ."

And he cites as authorities the Punjab customary law. The Council may take it, Sir, that there is absolutely nothing religious about the law in the Punjab.

[Sir Sankaran Nair.]

Now, my friend did not have the courtesy of making any reference to the opinions which came from the Punjab. The opinions are here before the Council, opinions obtained by the Select Committee.

The Chief Justice Sir Shadi Lal says that he approves of the principle of the Bill. The other impartial English Judges also agree with the principle of the Bill.

THE HONOURABLE LALA RAM SARAN DAS: They are not Hindus.

THE HONOURABLE SIR SANKARAN NAIR: Justice Shadi Lal is a Hindu and he has approved of the Bill.

Sir, I ask the Council to take this Bill into consideration.

THE HONOURABLE THE PRESIDENT: The question is:

"That the Bill to amend the Hindu law relating to exclusion from inheritance of certain classes of heirs and to remove certain doubts, as passed by the Legislative Assembly, be taken into consideration."

The motion was adopted.

THE HONOURABLE THE PRESIDENT: Clause 2.

THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY (East Bengal: Non-Mohammadan): I move as an amendment:

"That in clause 2 the words 'other than a person who is and has been from birth a lunatic or idiot' be omitted."

The object of this amendment is to remove the incapacity of persons suffering from any congenital defects from inheriting property. This amendment may be objected to from two points of view, one social and the other religious. In ancient times of unrest and misrule might was considered essential for purposes of acquiring and holding rights, so that those who were incapable could not be and as such were not considered entitled to hold property. But with the advance of civilisation and consequent state of order and peace in society and the establishment of institutions for the care of persons who are incapable, this disability does not stand in the way of persons suffering from any disability from holding property. This principle has been accepted by my Honourable friend Sir Sankaran Nair in introducing this Bill and I need not dilate upon it but I fail to understand why if such disabilities are not considered to be a bar against holding property, those who suffer through no faults of their own from congenital disabilities should be prevented from acquiring property while those who are incapacitated later on in life should be exempted As regards religious grounds, I may at the outset say that the doctrine of spiritual benefit is of no such exclusive application in Mitakshara countries as in Dayabhaga countries and a great inroad has already been made on this principle by judicial decisions inasmuch as it has been already held that property once vested cannot be divested by any subsequent disability. If spiritual benefit were the sole test, such benefit being a continuous one, it cannot be performed by an heir when any disability intervenes. If in that case the heir can continue to hold the property, why should persons suffering from any congenital disability be prevented from inheriting property from his predecessors, especially when such religious ceremonies can and are very often nowadays performed through the help of near relatives?

With these remarks, I commend my amendment to the acceptance of the House.

THE HONOURABLE SIR SANKARAN NAIR: I oppose this amendment. It is not in the Bill as finally passed by the Select Committee of the other House and at this stage I am not prepared to go further than what they have done. They have excluded lunatics and they have excluded idiots. When I asked the Council to take this Bill into consideration I pointed out that these two classes of persons stand on a different footing. I would therefore ask the Council to reject this amendment on this ground. I would however, if I may be allowed to do so, give my Honourable friend a bit of friendly advice. If the Council is against him on this occasion that will stand against him in any further attempt which he may desire to make on a future occasion to bring up this matter again. If he on the other hand withdraws his amendment the matter may receive further consideration. I hope my Honourable friend will withdraw his amendment.

THE HONOURABLE MR. NARAYAN PRASAD ASHTHANA (United Provinces Northern: Non-Muhammadan): I oppose the amendment inasmuch as the object of the Bill which is before the Council is to remove such disabilities which do not affect the intelligence of the person who is going to inherit. A person who is congenitally blind or deaf or dumb may have enough intelligence so as to look after his property that descends to him and manage it. But to say that a person who is congenitally an idiot or a lunatic can perform those religious ceremonies which are necessary for an heir to perform or look after the property inherited is a mere myth and therefore my submission is that so far as the principle of the Bill is concerned, it is quite plain. The amendment of my friend would bring in such persons into the category of heirs who cannot hold and manage property properly. Therefore I oppose the amdenment.

THE HONOURABLE LALA RAM SARAN DAS: As this Bill has been allowed to be introduced I rise to support the amendment. If other relations can get the advantage, why should not the unfortunate persons who are mentioned in this amendment inherit their share of the property?

THE HONOURABLE THE PRESIDENT: The question is:

"That in clause 2 of the Bill the words 'other than a person who is and has been from birth a lunatic or idiot' be omitted."

The Council divided:

AYES—7.

Akbar Khan, The Honourable Major Nawab Mahomed.
Khaparde, The Honourable Mr. G. S.
Mookerjee, The Honourable Srijut Rama Prosad.
Ram Saran Das, The Honourable Rai Bahadur Lala
Ray Chaudhury, The Honourable Mr. Kumar Sankar.
Singh, The Honourable Maharajadhiraja Sir Rameshwara, of Darbhanga.
Suhrawardy, The Honourable Mr. Mahmood.

NOES—13.

Ashthana, The Honourable Mr. Narayan Prasad.
Burdon, The Honourable Mr. E.
Clow, The Honourable Mr. A. G.
Dadabhoy, The Honourable Sir Maneckji.
De, The Honourable Mr. K. C.
Froom, The Honourable Sir Arthur.
Godfrey, The Honourable Sir George.
Harper, The Honourable Mr. K. B.
Jaffer, The Honourable Sir Haroon.
Macmillan, The Honourable Mr. A. M.
Rama Rau, The Honourable Rao Sahib Dr. U.
Sankaran Nair, The Honourable Sir.
Vernon, The Honourable Mr. H. A. B.

The motion was negatived.

Clauses 2 and 3 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

THE HONOURABLE SIR SANKARAN NAIR: Sir, I move that the Bill, as passed by the Legislative Assembly, be passed.

The motion was adopted.

## HINDU LAW OF INHERITANCE (AMENDMENT) BILL.

THE HONOURABLE SIR SANKARAN NAIR (Madras: Non-Muhammadan): Sir, I move that the Bill to alter the order in which heirs of a deceased Hindu dying intestate are entitled to succeed to his estate, as passed by the Legislative Assembly, be taken into consideration.

Sir, a similar Bill—and when I say 'similar' I mean a Bill for the same purpose, that is, to recognise the right of inheritance of a son's daughter, a daughter's daughter, a sister, and a sister's son and certain others—was introduced in the other House in the year 1921. Then the matter was referred for the opinion of the country generally, that is, to all the provinces. Opinions were received from all the provinces. Furthermore something was done in that matter which I have not seen done in any other case. Mr. Seshagiri Aiyar, who introduced the Bill, issued a manifesto to various persons in the country and, in his own words as he put it, "circulated it to all the newspapers, to all the Members of the Councils, Central and other, inviting them to give an opinion." I have got the manifesto here and it is a pathetic appeal to every body concerned to come forward and say what they have to say for his guidance in the Legislative Assembly. Opinions were received and the whole matter was considered by a Select Committee of which the then Home Member, Sir Malcolm Hailey, and Mr. Rangachariar, who was the advocate of the *Mathadipatis* and who appeared as such before the Government of India on certain matters relating to the *Mathadipatis*, Mr. Seshagiri Aiyar, a retired High Court Judge, and certain others were Members. They considered the whole matter, and they made considerable changes, changes of such an important character—and I have got the Bill as altered by them—that there was hardly anything left of the original Bill. The matter was then brought before the Legislative Assembly. There was again a motion for fresh circulation; that was defeated, and the Bill was passed. It was then brought before this Council by Sir Dadabhoy Naoroji (Laughter), I mean Sir Maneckji Dadabhoy and there was some objection taken that the Bill had not been adequately dealt with and it was not finally settled before the Council was dissolved. Again a Bill for this purpose, that is, for recognizing the rights of inheritance of these four classes of individuals—that is, son's daughter, daughter's daughter, sister, and sister's son—was again introduced into Legislative Assembly. Nobody thought it necessary to oppose it, considering the discussion that had taken place before, the opinions that had been received before, and the Bill was passed unanimously. Now the matter comes before this Council and I ask this Council to take the Bill into favourable consideration. Already we have had some indication of the nature of the opposition that is going to be brought forward and I shall therefore in anticipation of that objection state briefly the grounds why these four individuals should

be allowed to succeed to the property of a deceased owner as heirs, and secondly, justify the place which has been given to them by the Bill. In order to do that—I am afraid it is not an easy task for me to explain to the Council, consisting as it does of Members also other than lawyers. I shall try to put the matter as briefly as I can, avoiding all the qualifications that would be required if we were to consider it in all its details, and avoiding also all the exceptions. Now in the case of a Hindu male owner of a property, we may take it that those who are descended from him in the male line are all entitled to inherit to his property according to the decisions under the Mitakshara law. Those who are ascendants above him in the line of succession, heirs in the male line, they also are entitled to inherit to his property in the absence of nearer agnates. Now, according to some writers, if a man dies, his sons, his grandsons, his great grandsons, and after that his parents, the sons of the parents direct and collateral, and other male descendants and ascendants, may inherit up to the 14th degree. That is to say, the order is, the man himself, his descendants, his parents and male descendants, his grand parents and their male descendants, his great grandparents and their male descendants up to the 14th degree. According to others it may go not only to the 14th degree but as long as you are able to trace the lineage. Now, Honourable Members will see that they are all males who are entitled to succeed, males either in the descending line through males or in the ascending line through males. I am not now referring to the distinctions that exist between sapindas, the nearer, and samanodakas, the remote, among these which is immaterial at present to the discussion. I may say there is one exception, and that is the daughter. Leaving that aside, those are all agnates who succeed to the property of a deceased owner. After that there come those persons, relatives of the diseased male owner, who are related to him through females, the sister's son for instance, or the mother's brother's son. All these are technically called *bandhus*. You may briefly take them to mean relatives related to the deceased owner through female relatives. Now, all the male heirs in the male line put together come to 204, and all the *bandhus* put together in so far as the courts have recognized come to 128; and these two classes of heirs between them make 332 heirs. With the exception of the daughter you find no females among them at all. Females are excluded from succession. It is not a case of males being preferred to females, but of the total exclusion of females. It even comes to this, that if there are no heirs in the male or female lines as stated by me, the Government take the property by escheat to the exclusion of females. Now that is the law. What we seek to do by this Bill is to get rid of that principle and to introduce into the line of succession a few selected females whose selection is likely to find favour with the country generally, and whose selection will be a test. Afterwards the question may be raised whether others may not come in. Of course others may come in, and I make that statement now in view of certain amendments which are being moved which seek to bring in other females as well. But their case has not been considered. We have taken up at present only these 4 females. Now you will see that those 4 females under the Bill are the son's daughter—he is nearer enough to the deceased owner—the daughter's daughter—another female who is near enough to the deceased owner—the sister and sister's son. Now in the case of the first three, they are absolutely excluded; they have no rights of succession at all. We seek to bring them into the line of succession

[Sir Sankaran Nair.]

so that they may inherit. Now, the Council would naturally like to know the place which we have assigned to them. I have stated already that in the case of male agnates, heirs to a deceased owner, the principle of succession which has been adopted is this. First of all a man's own descendants, and then after them the descendants of his parents, and then the descendants of the grandparents. Now strictly speaking, according to that, these two, the son's daughter and daughter's daughter, ought to come first among these, that is, amongst the man's own descendants, before you go on to his parents' descendants. After them have to come the sister and the sister's son, as the sister and the sister's son are the descendants of one's own parents. Therefore, if one's own descendants, that is, the son's daughter and the daughter's daughter are exhausted, then they are the persons who ought to come in. But the Bill does not do that. When you read the Bill you will find it has not been logical in respect of that. The reason was this. When the Bill was referred for the opinion of the various provinces, the opinion was expressed that it is not advisable to go very far now and the Home Member, who took a leading part in the discussion of these questions, advised that we had better not go too fast or too far at present, but confine ourselves to these four persons. We had others included in the first Bill, but all those names were removed, in order to conciliate opposition, that is, those who were in charge of the Bill said that they would not insist upon giving the daughter's daughter and the son's daughter the place that is rightfully theirs, but they will bring them only after the father's father and before the father's brother. That was the suggestion which was made and was accepted by them. Now the question is that I shall have to go into a little detail after hearing the speech of the Honourable Maharaja, prematurely delivered, and state how those objections are to be met. But perhaps before doing that the Council would like to know our reasons for introducing women into the line of succession. Till now it was only the males in the male line and males in the female line as described by me who were qualified, but not the nearest relative like a sister. She had nothing to do with the line of succession. First we maintain it is not right to disinherit a person simply because of her sex. The time spirit is against it, and in no system of law is it the case now. There is no case where a woman is disinherited on account of her being a woman. All those who have written on the subject have stated that the level of civilization is determined by the position assigned to women in that state of society. If that is so, that is now generally accepted, we find that women's position is so low here that if we are to rise in the scale of civilization it is necessary and only just to recognise her right of succession. In the case of all these females moreover it is a matter of social and moral obligation for the males to maintain the females who may not be entitled to the right of succession. I say that it is only just therefore that after a man's death those persons, those women, should inherit. It is a moral obligation on the part of the deceased owner that his property should go to them for their maintenance. Look at the condition of things in this terrible world of competition, where the strongest and most cunning succeed. Primarily women have no chance against men, and I expect in course of time, when the laws of inheritance are modified, that the laws will be modified in favour of those who are helpless, and those whom the deceased was bound to maintain in his life time, and on whom they were living

and depending. It may be the case that men may have to fight for their living, but nature has imposed disabilities on women which make them unfit to enter into competition with males on equal terms, though they are now doing their level best to compete with men. But the disabilities imposed by sex are such that there is practially no chance for women. Therefore, it is only right and fair that those women who have been depending upon a deceased owner for their livelihood and their position in life should be able to succeed to the inheritance, I don't say exclusively, but along with males, in order that they may be able to get on in this world.

There is one other reason. Look all over the world, everywhere you see women are pressing forward to assert their claims on a footing of equality, and their claims are being accepted by men. Whether the men get tired of the opposition or are willing to accept in reason these women's claim, their claims are being pushed forward day by day and are being accepted everywhere, even in Muhammadan countries, in Africa and Turkey, in Arabia, also in England, China, America and elsewhere. Do the Members of this Council imagine that in India women are going to sit quiet and leave us males happy without being disturbed by them? All over India meetings are being held. You will see it every day in the newspapers. Women want their rights on an equal footing with men. They want even divorce.

In the other Council a Bill was introduced for the dissolution of marriage between Hindu men and women. Would it be wise on our part to make the question not one of reform but of revolution? How has revolution generally come? When urged in moderation, those interested always oppose any advance. They say "this will not do" and all sorts of reasons are found. Then when it becomes impossible to resist the demand, revolution comes. Everything is swept away and things are given which are never demanded and are nothing to the reforms first asked for. On this occasion it is only four claimants that have come in, whose claim is put forward. We do not give them the place that is due to them according to the rule of inheritance followed by the Mitakshara. That being the case, I say it is much better that we should yield in good season, so that we may not be worried with other claims, claims for equity and all that sort of thing.

Now there is another matter also which has to be considered. It may be selfish on the part of the Council of State, but they have to consider it. Reforms are coming now. This Bill has been passed twice by the Legislative Assembly, and I suppose nobody will deny that the Legislative Assembly is more representative of the popular interests than this House at any rate. I do not say that this House is not representative. The popular interests are better represented there than in this Council of State. (*An Honourable Member*: "Question.") My friend there questions. No doubt he imagines that he alone is the popular representative of all the people either in the Assembly or in the Council of State and that others are not. It would be the case against the Council of State before the Simon Commission, "that this Council of State is composed of reactionaries and unreasonable people. Twice the Legislative Assembly, which is a comparatively popular assembly, has passed this sort of Bill. In whose interests? In the interests of women. It is a matter which will appeal to all the civilised nations of the world. Twice they have passed it. But what have these old reactionaries done? When it

[Sir Sankaran Nair.]

goes to them, they have got their religion, their antiquated notions of things; they have not got the ideas of young men of India; they stand in the way of every reform; we must sweep them out of our path; we do not want them, because they are an obstacle to every reform; we cannot have any reform at all in the fact of these reactionaries". Now, just consider that, before you vote down this Bill which has been twice passed by the Legislative Assembly. These are the *prima facie* reasons for this Bill. Again the Government have declared the public policy in the Indian Succession Act, which gives the rights of inheritance to a man's descendants, male or female, before the inheritance property passes on to any other. If Sir Henry Mayne, who is responsible for that, had his way, the Indian Succession Act would have been made a permissible law for the whole of India. He wanted a Civil Marriage Bill for the whole of India, so that anybody who did not want to be tied down to the religious laws of the Hindus could have his own way. He wanted a law of succession for the whole of India. He was not for pressing people to follow it, but for leaving it open to the people who wanted to abandon their own law of succession as irrational. I say therefore that the claims of women are supported by what has been stated to be public policy by the Government of India.

Next I deal with the religious objection that has been brought forward. The usual practice, which seems to be followed here, is for the gentlemen who take the objection to leave it to the Honourable Members, be they Christians, Muhammadans, Parsies or anybody else, to accept their own authority that the matter in issue is a religious question. They make no attempt whatever to show how it is a religious matter. They leave the whole thing alone. I shall go into a little detail to explain the questions in issue without bringing forward technical or legal arguments. The foundation of the law, the old law—and I have bestowed some trouble on it—the foundation of the old law excluding females from succession is an old statement of the law by a venerable lawyer, Bodhayana, who says women are not entitled to property and they should have no right to succession. Other writers, you will find, go for support to that lawyer Bodhayana. It is a great name in Hindu Law. He refers to a Vedic text, and he says according to the Vedas women should not have property. This is what is stated. Sirkar translates it thus:

"Females are devoid of prowess and incompetent to inherit."

Another translation in West and Buhler is:

"A woman is not entitled to inherit. For thus says the Veda 'Females and persons deficient in an organ of sense are deemed incompetent to inherit'."

Now look at the way in which women have been tricked out of their rights. A commentator on the Vedas, Vidyanarayanaswami, who examined the matter, explains that what the Vedas say is not that they should be deprived of property, but that they should be deprived of drink. That is the meaning of the Vedic text. The right translation is this:

"Women are considered disqualified to drink the Soma juice and receive no portion of it at the sacrifice."

He continues:

"Granted that women cannot get a share, what is that that they cannot get a share of? Only of the drink, the Soma juice, not of the property."

It is on that wrong statement of Bodhayana that women have been declared disqualified to take a share of property. The text really disqualifies them from

drinking the Soma juice. It is relying on that passage that Bodhayana says that women are disqualified to inherit. Now, you may ask, is this translation of Vidyanarayanaswami accepted ? It is accepted by everybody. Even the Judges of the Calcutta High Court, who declare against the rights of women, accept that translation. Nevertheless we have to recognise the authority of Bodhayana, though his authority does not support him and some commentators follow him. The answer to that is this. There are others whose names are equally venerable who contradict it and say just the other way. I will only quote two names. Badarayana and Jaimini say :

" Women could perform sacrifices and study the Vedas. They have proprietary rights *equal* to those of men."

This is what these two writers say. Now, I do not ask this Council to decide this question between these conflicting interpretations. We are incompetent ; we cannot decide. If the question is forced on a Judge, he will have to decide, but this Council cannot decide. But I am entitled to tell this Council this. If you have sacred writers of law, like Bhodayana, saying one way, there are others whose names are equally sacred and who are equally venerable who say the other way and maintain that according to the sacred texts women are not disqualified. If we say therefore women should have equal rights with men it would be strictly in accordance with a good number of eminent sacred writers. Therefore, the statement that religion is against our giving rights to women without any qualification whatever is not true. I shall briefly give you the purport of the Smritis. The construction put by the courts upon the writings of Manu, Yagnavalkya and Mitakshara is, those alone who belong to the family technically called the *gotra* are heirs under the Hindu law. You see that the result of that would be that women are gone because women are married and they go away to another family. They then belong to another *gotra*. Therefore, they are not entitled to succeed to the property. That is the ground on which the women's rights are got rid of. Furthermore, the commentators say that women cannot study, perform scarifices and therefore they are not entitled to succeed. That is the view that is followed both by the Allahabad and by the Bengal Courts. Just the contrary is the opinion of commentators both in Madras and in Bombay. They say it is not necessary that you should belong to the family. It is enough if you are born in the family. If you are born in the family, then you would be entitled to succeed. That brings me at once to the brother's daughter and the sister's daughter. They are born in the family. Another ground which is always put forward and which was maintained by the Madras lawyers is this—that according to the rules of *Panini* the word in the Yagnavalkya and Mitakshara which gives the right of inheritance to the male includes also the female. That word applies not only to the brother but also to the sister. That interpretation is accepted by some judges. It is accepted in Bombay in the case of some relatives. It is not accepted in the case of others.

Thus you have got this divergence. In all parts of Northern India that were under the old jurisdiction of the Allahabad and Calcutta Courts, they exclude women from inheritance. In Bombay and Madras, it is held just the other way. Now, as a Legislative Council, I ask you, what is the line that we should adopt ? It is one thing for a court to say, " I come to such and such a conclusion on these

[Sir Sankaran Nair.]

texts." They cannot go beyond it. They may consider it irrational but they must abide by the texts under the Hindu law. They have to confine themselves to that. On the other hand, when we as a Legislative Council have to deal with a question like that, I have no hesitation in asking you to discard all the reactionary proposals and adopt those which will conduce to the progress of the nation. What did Christian reformers and Islamic reformers do? What is the Queen of Afghanistan doing now? She has discarded the *purdah*.

THE HONOURABLE MAJOR NAWAB MAHOMED AKBAR KHAN (North-West Frontier Province: Nominated Non-Official): In Afghanistan, they do not give the female the right of succession.

THE HONOURABLE SIR SANKARAN NAIR: Under Muhammadan law women share with men. The Queen of Afghanistan says, the Koran does not require or justify *purdah* and she says "You must cast off the *purdah*". That is the way of all reform. Go back to the salutary rules of religion. Remove all the corruptions which have come in later. You may take it that God Almighty is not likely to have done anything which is against justice and the weak. You may take it that the Prophet of Islam and the great Rishis of India and the Christian saints are not likely to have done anything which is not for human happiness. So, the principle on which all religions are proceeding is this: discard what is not useful and discard what you do not want. Go back to what is for your interest and what conduces to the welfare of the country. Maharajas may be against us and orthodox people may be against us. Now, why should I ask you to adopt the Bombay and Southern India view in preference to the Northern India view? Bombay passed those laws at a time when the Mahrattas were free, were advancing from success to success. Such laws conduced to their benefit and progress. That is a good reason why we should accept that rule. In Southern India the man who enacted this law said, "the whole thing is wrong". He was the Prime Minister of the State, and his position differed from that of others in that he was the Prime Minister of the Vijianagram kingdom, the last great Hindu kingdom. Being Prime Minister of that kingdom, he was in a position to enforce the rules. He called all the great Sanskrit Pandits of the time. He with his brother was the commentator of the Rig Veda, and that man was in a position to enforce that law. Therefore, you have the laws in South India, the commentators in Southern India and the commentators in Western India, at a time when the Hindu religion was in its glory and the Hindus were free and prosperous. But North India was then under the Muhammadans and the Hindus had to preserve themselves against the democratic and iconoclastic tendencies of Muhammadanism. Therefore the rules which were enacted in Northern India were rules intended to preserve Hinduism, not intended for advance or for a very progressive nation. This explains the rules which were enacted by these Northern India commentators, and by the Mahratta and Southern India commentators. What is the result? If you meet a Marathi woman, she speaks to you face to face. Go to Northern India, the lady speaks to you behind a *purdah*. So I say there can be little doubt that we should adopt the laws which were adopted by Hindus at the time of their glory. Now one more argument,

and I shall have done. Sir, women were declared disentitled to inheritance by these writers because they could not study the Vedas and thus they were not entitled to perform sacrifices. Sir, women now take honours in Sanskrit and in Vedic studies and get scholarships. For all these reasons, I say the existing law is against our interests; it would stamp us as men of low culture, because where the women are not advanced, there the civilization is taken to be of a low standard and according to this test Hinduism would be taken by others to be of a low culture. For all these reasons I maintain that we should get rid of the disqualifications for women. Sir, I commend the Bil to your favour.

THE HONOURABLE THE PRESIDENT: The question is:

"That the Bill to alter the order in which heirs of a deceased Hindu dying intestate are entitled to succeed to his estate, as passed by the Legislative Assembly, be taken into consideration."

To that motion there are two amendments on the paper: and I think I may say at once that the first motion for the circulation of the Bill standing in the name of the Honourable Mr. Rama Prasad Mookerjee is not in order. I have explained to the Council on more than one occasion previously why it is not so. The rules do not contemplate a motion of that kind in connection with a Bill passed by the other House and laid on the table here. The rules may be right or wrong, reasonable or unreasonable, but I am bound by them. The point is so abundantly clear that I do not propose to invite discussion. I therefore call upon the Honourable Mr. Ramadas Puntulu to move the amendment standing in his name.

THE HONOURABLE MR. V. RAMADAS PANTULU (Madras: Non-Muhammadan): Sir, I move that the Bill be referred to a Select Committee. In doing so I wish to make it very clear to this House that I am in entire sympathy with the principles of this Bill. The idea of giving a legitimate place in the order of succession to the female relations of a deceased Hindu is not new, and the claims of persons selected for preference are such as cannot provoke any opposition. My friend, the Honourable Sir Sankaran Nair, has placed before this House the case for the Bill in a very able manner and I associate myself entirely with all that he has said with regard to the main principles of this Bill. If any further reasons are necessary, I will add one more. Now that in every country women are enfranchised, and the latest attempt at constitution in this country says that there should be adult franchise both for men and women, I do not think we should tolerate a state of society in which women are disinherited. The Married Women's Property Acts and other Statutes to remove disabilities of women to own properties preceded, in England and elsewhere, attempts to enfranchise women; therefore it would be anomalous to give political power to women and at the same time disinherit them. I was trying only the other day to find out what the position would be of the voters in England after the enfranchisement of all women and I found from statistics that at the next general election 14 million women will take part as against 12 million men who will take part; and if we place any faith in the constitutional theory that political power is entrenched behind the vote, then the political power in England will be entrenched behind the superior number of women's votes; and if India adopts the Nehru Report, there will be many more women voting than men.

[Mr. V. Ramadas Pantulu.]

Therefore I do not contemplate a state of society in which women who are to be enfranchised will be disinherited under the Indian laws. Therefore, I make this addition to the arguments of Sir Sankaran Nair in favour of the proposed Bill. If I am moving for reference to a Select Committee, I do so not in a spirit of obstruction or for causing delay or defeating this legislation. I shall be content with three days time for the Select Committee to report, and for my part I shall not claim seven days under paragraph 78 of the Manual of Business, after the Select Committee's Report is laid on the table. With your permission, Sir, that rule can be waived, and I am quite willing that the Bill with the Select Committee's report should come back as quickly as possible for the consideration of this Council. (*An Honourable Member*: "It is quite open to others to claim it ?") It is open to the President to dispense with it.

I shall proceed to explain very briefly the reasons for my making this motion, after making it abundantly clear that I am entirely in favour of the principle of the Bill. The Bill as it stands is very defective in its wording. Those who are in favour of this legislation ought not to bring in a measure which will give rise to considerable difficulty both in its interpretation as also in its application. Without occupying the attention of the House for any length of time I will refer only to half a dozen defects which in my opinion require attention. First of all in clause 2 it is said the Bill applies to persons subject to the law of the "Mitakshara country". I have never heard of the expression "Mitakshara country". There is in India no such country. If my friend means provinces like Madras, the United Provinces and Bombay where the people are under the Mitakshara law, then he will exclude families who are governed by the Mitakshara law who are living in other provinces like Bengal where the Dayabhaga law prevails. There are many people from Madras, the United Provinces and Bombay living in Bengal, and though they may own properties in their own provinces and be subject to the Mitakshara law, they will be excluded from the benefits of the Bill because Bengal is not a "Mitakshara country". Therefore I take serious exception to excluding people who are living in parts of India which cannot appropriately be called "Mitakshara country".

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces: Nominated Non-Official): Is not the term "country" synonymous with the term "school" ?

THE HONOURABLE MR. V. RAMADAS PANTULU: Unfortunately not. Therefore I urge that you ought to say "Mitakshara school"; "the law of the Mitakshara country" is not a proper expression. Then, Sir, there are words in clause 2 "whether as a paramount authority or not". That, Sir, involves a very serious question of Hindu law. If the intention of this legislation is to touch the Mayukha law also, which governs Bombay and which is really a sub-school of Mitakshara, then the sister who now takes the 13th rank in succession under Mayukha will take the 35th rank according to this Bill. I do not know whether my friend intended not only to help some women but to do a disservice to others. But if this Bill becomes law a female heir now placed

13th will occupy the 35th place. Therefore the words " whether as a paramount authority or not " ought to go. Another point is about the date from which this Bill is to come into operation. My friend puts it as the 31st day of July 1928. That will lead to certain very grave consequences for it makes the Bill partially retrospective in its application. To make this aspect clear it will take some time for me to explain the legal position and I do not want to do so at this stage. I will only give a very simple illustration. Till the passing of this Bill the father's brother will be a reversioner higher in rank than sister's son. The Bill seeks to make the sister's son a preferable heir to the father's brother. Therefore a man who has been an expectant reversioner, say, for the last 20 years since the death of a Hindu propositus is suddenly shunted down very many degrees and another new heir, the sister's son, is brought over him. It may be said that both of these were expectant reversioners and there was no question of divesting an estate vested in anybody. But that is not the point. Many things are built upon expectancies. A man may have incurred liabilities or purchasd properties on the expectation of falling in of reversions. But just about the time he expects to get the property he will be put out of court. I think it is absolutely unjust and it is opposed to sound principles of legislation to make such retrospective changes in the order of succession. There are other anomalous consequences which will follow if this date is accepted. The Bill ought not to apply to inheritance to Hindus who died before the passing of this Bill. That is an essential point. Then, Sir, there is the question of the definition of " Hindu ". That is very defective in my opinion. In the first place it is unnecessary, and, if it is necessary, it is not rightly worded. It speaks of Hindu as " a person of the male sex ". It is well known to Members of this House that certain women have absolute rights in property called Stridhana property, the succession to which is regulated in the same manner as in the case of a man. Succession to absolute property to women will follow the archaic rules while succession to men is changed by this definition. Then in clause 2 (c) there is a very curious definition of " adopted son ". It says :

" ' Son ' includes an adopted son, provided that, in the case of the adoption of a son to a sister's husband, the adoption has been made with the consent of that sister during her lifetime."

Even after a sister's husband dies the sister can make an adoption, and the adoption is made to her husband. Therefore, in the case of adoption made to a sister's husband, by a sister with the consent of her deceased husband, such a son would not be an adopted son under the definition. Probably the intention was to exclude a son adopted by a sister's husband after the sister's death. But the intention is not at all correctly expressed and probably the word " to " is a mistake for the word " by ". In clause 3 also I think that one or two more female heirs ought to be brought in. Sir Sankaran Nair has said that there are many others who may be brought later ; their case was not considered and that we ought to consider only the cases of the four individuals included in clause 3. But in the matter of succession it will be opposed to recognized principles of legislation to be frequently changing it. In my opinion the son's widow has got a preferential claim to the son's daughter. Balambhatta says so expressly. Under Hindu law the widow has precedence of the daughter Therefore in clause 3 I think some other females should be brought in. It is a very mischievous principle in social legislation to be frequently irritating people and changing frequently the Hindu law texts regulating the order of

[Mr. V. Ramadas Pantulu.]

succession. I quite understand that it will be possible to add other people later on, but if a person occupies one place to-day in the order of succession and to-morrow you come along and put another person over him or put the same person below somebody else, it will unsettle rights to an extent that is not warranted by sound principles of legislation. There are other objections which I do not want to go into at this stage very minutely. The Bill does require consideration both in drafting and in substance.

With regard to Sir Sankaran Nair's statement that it was well considered by the other House and circulated for opinions I beg very seriously to differ from him. On both the occasions when it was brought, in 1923 and in 1928, it was hurried through at the fag end of the Session and adequate consideration was not given to the Bill. I will only refer to one small speech of four lines made by an Honourable Member who opposed the passing of the Bill in 1923.

"I oppose this motion. My submission is that this is a matter which will have very far-reaching consequences and at the fag end of the Session, when the House is very thin and when a large number of Honourable Members have left the station and some of them are packing their luggage and phoning to the station master to reserve their berths, I submit that it would not be proper for us in the absence of our other Honourable colleagues to consider this motion and pass it."

Then Mr. J. N. Mukherjee said:

"We are all packing up and most of us are half in the station."

The circulation that was said to have taken place was not to public bodies but to provinces. The public had no opportunity of giving an opinion on it. On the last occasion there was a very thin House, and the whole debate covers about 15 lines. I find there are no speeches and no consideration. It is not, therefore, in a spirit of delay that I make this proposal but in the interests of the persons whose rights we are here to protect.

With these words I beg to move my motion that this Bill be referred to Select Committee. I hope Honourable Members will see that I have no intention of defeating this Bill, and I beg of them to vote for my motion.

THE HONOURABLE THE PRESIDENT: The amendment moved is:

"That the Bill be referred to Select Committee."

I ask Honourable Members who desire to speak on this motion to confine themselves strictly to that amendment, that is to say, to the question whether the Bill should be referred to a Select Committee or not.

THE HONOURABLE SIR ARTHUR FROOM (Bombay Chamber of Commerce): Sir, when I first read the motion standing in the name of the Honourable Mr. Ramadas Pantulu, it appeared to me that it was a dilatory motion, because I understand the original Bill had been considered by a Select Committee in the other House, and I believe I am correct in saying so. (*Several Honourable Members*: "No, it was not".) The original Bill was considered by a Select Committee of the other House. (*An Honourable Member*: "That Bill died.") That being so, I thought that my Honourable friend, Mr. Pantulu, had taken advantage of a fortuitous circumstance that this Bill, although exactly similar, was not the original Bill so that this Bill before us had not been considered by a Select Committee, and therefore his motion was in order. I listened with considerable attention to the speech made by the Honourable Sir Sankaran Nair and also to the speech made by the Honourable Mr.

Ramadas Pantulu, and have come to the conclusion that there was a good deal in what the Honourable Mr. Pantulu said. He has declared that his motion is not in any way intended to be a dilatory one; that he supports the Bill but that he thinks that a Select Committee of this House should approve it. I support his motion that the Bill be referred to a Select Committee of this House, and I heartily support the Honourable Mr. Pantulu's statement that he would like the report of the Select Committee made at an early date as possible, in support of his contention that he is not trying to block this Bill in any way.

THE HONOURABLE SIR SANKARAN NAIR: My Honourable friends have declared their love for this Bill and what they say is that they want to improve the Bill and not to see it thrown out. But the Standing Order says that if a Bill is to be taken into consideration the Report must be made available for the use of Members for seven days before it comes on for consideration, unless the President in the exercise of his power suspends the Standing Order. The result of this motion is that, if the Bill be referred to Select Committee and say they report on it after two or three days, you will have to wait for seven days before the Bill is taken into consideration. That gets rid of the Bill during this Session.

THE HONOURABLE SIR ARTHUR FROOM: The President may suspend the Standing Order.

THE HONOURABLE SIR SANKARAN NAIR: You can assume that. Whether he suspends it or not depends on the questions before him and the nature of the Report. It is only at that time he can make up his mind. Of course if he says now he will suspend the Rule it is a different matter. I would agree that the Select Committee should be asked to report in two days. Now one question is whether the son's widow should come before the others. The question has not been considered by the Legislative Assembly Committee. It is a new question that has come up here and whatever the Report may be— (*An Honourable Member*: "It was raised in the Assembly also.") it is not in the papers that I have—if a Member says, I want to move amendments, the President might hesitate as he did when I requested to him in this very matter to suspend the three days' rule. It depends upon circumstances as to what he is going to decide upon. So that I submit there is no doubt that what my friend wants is calculated to get rid of the Bill, and therefore I say it is intended to get rid of the Bill. What are the amendments which are now sought to be brought forward? Some are verbal amendments. They are all questions for the Law Department. We will accept whatever the Law Member says, except, of course, my Congress friends. They are not likely to accept the Law Member's opinion as to what those verbal alterations should be.

Then we will turn to the next question. Apart from the verbal amendments, there are other questions of great importance, that is, the right of the brother's widow, the sister's son. They are all going to be decided by this Council. How can the Select Committee decide it? It is not a question to be decided in Select Committee. The Select Committee is intended to deal primarily with those cases where we have circulated for opinions. That is why it is said when a Bill had been referred to a Select Committee in the Legislative Assembly, we cannot refer it to a Select Committee.

[Sir Sankaran Nair.]

As I told you, not one but many opinions were received. One of the questions which my friend has raised is whether the brother's widow should come in or not. It cannot be decided without the representative of the Government and without knowing what attitude he will take with reference to the right of the Government. The man who opposed the Bill tooth and nail was there, Mr. Rangachariar; then the author of the Bill was there. We have not got the assistance of any one of them in the Select Committee. The original Bill has been completely altered by the Select Committee. Every sentence has been modified. I will not say every word has been altered because I find there are only half a dozen words left. All the rest of the Bill has been modified. The Select Committee of the Assembly has bestowed careful consideration to all the matters. And is the Select Committee sitting here for two days going to deal with these important questions brought forward by my friend? Those questions have not been discussed, so far as I can see, anywhere, because they could not come within the scope of the Bill at all. They are all questions which are eminently fit for discussion on the floor of this Council, except the verbal amendments. My friends say, "We are fond of this Bill; we want this Bill. The Bill is one that is absolutely wanted, but at the same time I want a small thing which will have the effect of putting it off this Session. I am therefore against it."

THE HONOURABLE MR. NARAYAN PRASAD ASHTHANA (United Provinces Northern: Non-Muhammadan): Sir, I rise to oppose the amendment that has been moved, and my grounds are that the Select Committee might improve it, but it will improve this Bill out of sight altogether. My reason for saying so is that the amendments made in the Bill will necessitate its going back to the Legislative Assembly and being considered there and this I do not think can be done during this Session. Even if the words "31st day of July 1928" are omitted, under the rules, this Bill must go to the Legislative Assembly for the purpose of ratification or for the purpose of agreeing with the amendment made by this House. Now this means that the Bill must go to the Legislative Assembly again, and we do not know when it will be considered by that body and when this Bill can be put on the Statute-book. They may not agree altogether and the Bill might be shelved again, and therefore I submit that the effect of committing this Bill to the Select Committee for improving it in any respect would be now to shelve the Bill altogether. If any improvement is going to be made and if any improvement is contemplated, that can be made by an amending Act afterwards. If my friends who have moved for the appointment of a Select Committee consider that the principle of the Bill is sound, that these heirs must come in, and that their case is so obviously just, then they should agree to the Bill being passed as it stands, so that it may not be necessary to send this back to the Legislative Assembly, and when it is put on the Statute-book then they may bring forward an amending Act for the purpose of improving it, so that the son's widow, and all other persons whom they want to include among the list of heirs might be included. Therefore my submission is that the committing of this Bill to the Select Committee means shelving it and shelving it for an indefinite time, rather killing it, and therefore I oppose this motion.

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces: Nominated Non-Official): Sir, I cannot share the apprehensions which have been advanced in this House both by Sir Sankaran Nair and my friend there in support of their opposition to the very reasonable amendment of my friend Mr. Ramadas Pantulu. I had myself sponsored this Bill in this Council in 1923 and I am to-day, as I was then, entirely in favour of the principles embodied in this Bill. But we cannot lose sight of the fact that this law contemplates very radical changes in the law of succession prevailing among the Hindus for over several centuries. This is a most important piece of legislation and there may be differences of opinion, reasonable differences of opinion, on some matters connected with it. Personally I do not think it is fair to the other Members of this House who are opposed to this Bill to deal with it in a hasty manner. I do not see any serious objection to this Bill going to the Select Committee for the purpose of being fully considered and also for examining the agruments of some of our friends on the opposite side who are not in support of the Bill. In a matter of this character, where the law of succession which has prevailed for many years and administered by our courts for over 70 years, what difference will it make if the consideration of the Bill is adjourned for 7 days or so, even if the full time is claimed after it comes back into this House? I even go further and say that even if there be no time to consider this Bill—which I do not believe, I think we are likely to sit this Session till the end of this month—even if it comes for discussion at the fag end of this Session or at a later Session, a little delay does make very little difference in such a serious matter where radical changes in the law of succession are to be made. I think every respect should be shown to the opposite view and I do not think the interests of the mover of the Bill will in any way suffer. Our friend there urged that this Bill will have to go back, in case further amendments are made, to the Legislative Assembly. Perhaps such a course may even be possible. The Legislative Assembly is not going to become extinct by efflux of time till 1930; and even if this Bill is to go back to the Legislative Assembly and considered at the next Session, I do not think anything will be lost by such delay. I think it is only right and fair that we should not hastily pass this Bill. We should consider the other side of the question too and give our friends every opportunity of arguing their case and placing it before the Select Committee. For these reasons, I support the motion to refer the matter to a Select Committee.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE (West Bengal: Non-Muhammadan): Sir, it has been pointed out by the Honourable mover that there was a Select Committee when the old Bill was before the Legislative Assembly and that public opinion was invited on that Bill. But, Sir, the original Bill which was placed before the Legislative Assembly was not the Bill as it emerged out of the Legislative Assembly in 1923 and it is not the identical Bill which has now been sponsored by Sir Hari Singh Gour. The Bill was not circulated for eliciting public opinion but it was circulated by the Government of India to the heads of the different provinces for the purpose of having their official opinion and the opinions of such other bodies as they would like to have. Through the courtesy of the Legislative Department I have got a copy of the opinions that they got at that time. I find that at that time the majority of the provinces did not declare them-

[Srijut Rama Prasad Mookerjee.]

selves to be in favour of this Bill in the sense that many of the provinces that were not affected by the original Bill as drafted did not express any opinion ; and as regards the provinces which were affected, there also the opinions were so divergent that the Government in each place asked the Government of India to maintain a position of strict neutrality and also to get the opinion of the Hindu public before this Bill was passed into law. When the matter went before the Select Committee at that stage any member who cares to read the proceedings will find that notices were not properly issued, the members did not meet when the meetings had been called and the report had not been signed by all the members of the Select Committee. This was the situation in the old Council. The Bill on that occasion came before the Legislative Assembly at the fag end of the Session—I think on the very last day. Although objection was taken by some Members, that objection went unheeded. The Bill has been brought in this time by Sir Hari Singh Gour and, as was pointed out by my Honourable friend Mr. Pantulu, it was passed by the Legislative Assembly in the course of a few minutes. Many of the Hindu Members were not in the Assembly at that time. These facts show conclusively that this Council should ponder deeply on this Bill and not allow it to pass lightly in a reforming mood and attempt to remedy an alleged defect which has been in the Hindu law for centuries past. The females ought to have larger and larger rights. Nobody is against that ; coming from Bengal where females have certainly higher rights than in many parts of Northern India I would not stand in the way of females getting larger and larger rights, but I would certainly not agree to any proposal which affects millions of the Hindu population before we have pondered over the Bill and taken into consideration the effect that will be produced on other portions of Hindu law. I would not go into details at this stage. There are other provisions in the Hindu law which have not been taken into account by the Honourable Mover of this Bill. The effects that would be produced on other portions of the Hindu law by the passing of this measure have to be taken into consideration. You will find, Sir, that in the Bill as drafted and as passed by the Legislative Assembly, steps are being proposed to be taken only for changing the order of succession for inheritance to property from males, but no word is mentioned about succession to property from females. Broadly speaking, succession to *Stridhan* property is regulated, where the marriage is in one of the approved forms, according to the order of succession in the husband's family. Thus an anomalous position would arise by passing this Bill—one member of the family would get the property from the husband and another member from the wife. That point of view has to be taken into consideration by the Select Committee and that is a matter which cannot be gone into by the full House. It may be necessary for the Select Committee to go very carefully into the question about the date from which the Bill is to be givelleffect to, and that is most important. It is proposed to give this Bi retrospective effect from the 31st July 1928. That is a very serious matter. That date has probably been taken from the previous Bill which had been introduced in the Legislative Assembly by Mr. Seshagiri Aiyar. In the earlier Bills, the date mentioned was 31st July 1923 or 1924. The year only was changed by the sponsor of the Bill and the time that would be taken in passing the Bill through

both the Chambers of the Legislature and for getting the assent of the Governor General was not taken into consideration. I would therefore strongly impress upon the Members of this Council to send the Bill to the Select Committee so that there may be free discussion among the members, and after the Bill comes back from the Select Committee it will be open to the Council either to accept or to reject this measure. There is no question of hurry. The present state of things has been in existence for centuries and even if the Bill is passed in January next that would not upset Hindu Society. Speaking for myself I do not know that there has been any demand from the Hindu public for a change of this character. This is a change which was first put forward by Mr. Bashyam Iyengar in the early nineties. Then it was dropped. Then it was brought up by Mr. Seshagiri Aiyar. Again it was dropped. Now it has been taken up again by Sir Hari Singh Gour. It is certainly possible to dispose of this measure before the life of the Council comes to an end and my friend the Honourable Mr. Pantulu has pointed out that it is not by way of a dilatory motion that he has brought forward this proposal. He wants the Bill to be brought up before this Council before the end of the Session. Judging from what is happening in the Assembly, it seems quite likely that we may be sitting for another two weeks and there will be sufficient time for all these matters being gone into. I would therefore suggest that the proposition made by the Honourable Mr. Pantulu should be accepted.

THE HONOURABLE MR. MAHENDRA PRASAD (Bihar and Orissa : Non-Muhammadan) : I cannot understand the solicitude of my friends Sir Sankaran Nair and Mr. Ashthana that this Bill should be rushed through this Session at Simla. The Bill that is before the House is the one that emerged from the Select Committee in 1923, but it still is full of defects as has been categorically stated by the Honourable Mr. Ramadas Pantulu and to which list of defects I could myself add, but I do not want to do so. That alone should have satisfied my friends over there that this Bill should be referred to a Select Committee. Sir Sankaran Nair suggested that some people say things in favour of the Bill and in the end want to shelve it. It is a most unjust criticism against the Leader of my Party. He has made his position absolutely clear that he agrees with the principle of the Bill and that he wants it to be properly looked after by people who are interested in it. I think it is absolutely unfair to try to rush this Bill through and I hope that the House will agree to send the Bill to the Select Committee. The Honourable Mr. Narayan Prasad Ashthana has said that if any amendment is made the Bill will have to go to Assembly. I cannot understand what harm there will be if it has to go to the Assembly. It may be, it may not be passed this Session, but that should not be a reason for rushing through such legislation. Even if it does not come up before this Session it will certainly come up in the Delhi Session and much harm will not be done to the Hindu society during the interval. I therefore strongly support the motion that has been brought by my leader, Mr. Ramadas Pantulu.

THE HONOURABLE MR. G. S. KHAPARDE (Berar Representative) : Sir, I have always opposed these attempts at piecemeal improvements of the Hindu law of my friend, Sir Hari Singh Gour, who has been continually bringing in these small things by way of improvement of the Hindu law. Now the Hindu law is a system and if you want to alter a system, you must take all parts of the system into consideration before introducing all kinds of improvements. As it

[Mr. G. S. Khaparde.]

is, Hindu law is being improved out of existence. Marriages are sought to be reduced to the form of Gandharva marriages, and the system of divorce, corresponding to the Muhammadan form of *Talakh*, is sought to be introduced. Similarly in the present case it is admitted that there are many defects, and yet it is argued that if these defects and difficulties are sought to be removed that would cause great delay; therefore this imperfect legislation ought to pass. I say, "Why this indecent haste?" The laws of inheritance have been in existence for centuries, and why should a delay of a few months frighten people and make them so very anxious to pass the present Bill with all its defects and faults? My friend over there said, "Oh, you can bring in a supplementary Bill." Sir, that reminds me of an old story of a woman who went to a neighbour and said, "My husband has been working the whole day and without food, therefore would you give me some food for him". The neighbouring woman said, "What shall I give to my husband who will return very hungry?" "I shall provide medicine for him", said the woman. The neighbour replied "Why don't you give medicine to your own husband, let my husband have his meal as usual." Now in the same way, with regard to this imperfect Bill, my Honourable friend says, "Well, let my Bill pass and you bring a fresh Bill to improve it. I ask, "Why this impatience? Let me improve your Bill now." I remember in England there was a proposal that a person should be permitted to marry his deceased wife's sister. I remember in my time it took 40 years for that Bill to be passed through the House of Commons.

AN HONOURABLE MEMBER: More than that.

THE HONOURABLE MR. G. S. KHAPARDE: And here, with regard to the laws of inheritance they are sought to be amended at once, on the ground that it would otherwise cause too much delay. I do not understand this argument. I object to carrying out piecemeal legislation to improve the Hindu law out of its existence. Such a step to my mind is very undesirable. I therefore strongly support my friend, the Honourable Mr. Pantulu's proposition, that it should go to a Select Committee.

THE HONOURABLE THE PRESIDENT: The original question was:

"That the Bill to alter the order in which heirs of a deceased Hindu dying intestate are entitled to succeed to his estate, as passed by the Legislative Assembly, be taken into consideration."

Since which an amendment has been moved:

"That the Bill be referred to a Select Committee."

The question is that the Bill be referred to a Select Committee.

The motion was adopted.

THE HONOURABLE MR. V. RAMADAS PANTULU: Sir, I move that the Select Committee do consist of the Honourable Sir Sankaran Nair, the Honourable Srijut Rama Prasad Mookerjee, the Honourable Mr. Anugraha Narayan Sinha, the Honourable Rai Bahadur Lala Ram Saran Das—and may I sustitute the name of the Honourable Mr. Narayan Prasad Ashthana for that of the Honourable Raja Moti Chand who has not come, because I want the United Provinces to be represented on the Committee?—the Honourable Mr. Haig, the Honourable the Law Member and the Mover—if I have your permission, I should like to add two more names, those of the Honourable Sir Maneckji Dadabhoy and of the Honourable Mr. Khaparde—and that the number of members whose presence shall be necessary to constitute a meeting of the Committee, shall be five.

THE HONOURABLE THE PRESIDENT : The question is :

"That the Select Committee to which the Bill has been referred shall consist of the Honourable Sir Sankaran Nair, the Honourable Srijut Rama Prasad Mookerjee, the Honourable Mr. Anugraha Narayan Sinha, the Honourable Rai Bahadur Lala Ram Saran Das, the Honourable Mr. Narayan Prasad Ashthana, the Honourable Mr. Haig, the Honourable Sir Maneckji Dadabhoy, the Honourable Mr. Khaparde, the Honourable the Law Member and the Honourble Mr. Ramadas Pantulu, and that the number of Members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

The motion was adopted.

THE HONOURABLE MR. V. RAMADAS PANTULU : I request you, Sir, to direct that the Report may be made ready in three days.

THE HONOURABLE THE PRESIDENT : That is a point for the Council to direct. There is nothing to prevent in this particular case the Report being submitted to the Council at as early a date as possible because it must be more than three months since this Bill was first published in the Gazette. But without a motion being moved and the decision of the Council, I am not able to direct anything with regard to the presentation of the Select Committee's Report.

THE HONOURABLE MR. V. RAMADAS PANTULU : Then, with your leave, Sir, I move that the Report of the Select Committee be presented within three days.

THE HONOURABLE MR. G. S. KHAPARDE : Sir, I oppose that motion. I do not think the matter can be ready in three days. The law has gone on for centuries. It cannot be amended in half an hour or two days or three days ; matters cannot be advanced in that manner.

THE HONOURABLE THE PRESIDENT : The question is :

"That a direction should be given to the Select Committee to report within three days."

The motion was adopted.

The Council then adjourned till Eleven of the Clock on Tuesday, the 18th September, 1928.

# COUNCIL OF STATE.

*Tuesday, 18th September, 1928.*

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

## BILLS PASSED BY THE LEGISLATIVE ASSEMBLY LAID ON THE TABLE.

SECRETARY OF THE COUNCIL: Sir, in accordance with Rule 25 of the Indian Legislative Rules, I lay on the table copies of the following Bills which were passed by the Legislative Assembly at its meeting held on the 17th September, 1928:—

A Bill further to amend the Madras Salt Act, 1889, for a certain purpose.

A Bill further to amend the Indian Income-tax Act, 1922, for a certain purpose.

A Bill to amend certain enactments and to repeal certain other enactments.

A Bill further to amend the Indian Succession Act, 1925, for a certain purpose.

A Bill to amend the Indian Trade Unions Act, 1926, for a certain purpose.

A Bill further to amend the Indian Life Assurance Companies Act, 1912, for certain purposes, and to provide for the collection of statistical information in respect of insurance business other than life assurance business.

A Bill to provide for the protection of the match industry.

## ELECTION OF MEMBERS OF THE COUNCIL OF STATE TO SIT WITH THE INDIAN STATUTORY COMMISSION.

THE HONOURABLE KHAN BAHADUR SIR MUHAMMAD HABIBULLAH (Member for Education, Health and Lands): Sir, I beg to move the following motion which stands in my name:—

"That in pursuance of the Resolution adopted by this Council on the 22nd February, 1928, the Council do proceed, by such method as the Honourable the President may direct, to elect three of its Members to the Central Committee to sit with the Indian Statutory Commission."

Sir, in doing so, I have to say very few words.....

THE HONOURABLE MR. V. RAMADAS PANTULU (Madras: Non-Muhammadan): Sir, I rise to a point of order. The motion that is just now

[Mr. V. Ramadas Pantulu.]

made purports to be made in pursuance of the Resolution adopted by this Council on the 22nd February, 1928. Sir, the Resolution that was adopted by the Council on that date runs as follows :—

"This Council recommends to the Governor General in Council to take steps for the election of representatives from the Council of State to participate in the Joint Conference according to the procedure set out by the Chairman of the Indian Statutory Commission in his letter of the 6th February, 1928, addressed to His Excellency the Viceroy and Governor General and his letter, dated the 10th February, to the Honourable Sir Sankaran Nair."

Sir, I do not wish to repeat the contents of these communications and the substance of the procedure laid down by Sir John Simon, the Chairman of the Indian Statutory Commission, for this House is now familiar with them. It clearly contemplated the election of a Central Committee by both Chambers of the Central Legislature to sit with the Statutory Commission. Now, Sir, the Resolution clearly laid down that the Council of State should proceed to elect representatives only in accordance with the procedure laid down by Sir John Simon, which is that of election by both Houses. I submit, Sir, now that the Legislative Assembly has decided not to co-operate with the Indian Statutory Commission, and no motion having been brought there, so far as I know, fc ' e election of the quota of its representatives—and it is a matter of public owledge that no such motion is contemplated either by the Government or by the non-official Members in that House—I submit that the motion made by the Honourable the Leader of the House here is directly in contravention of the Resolution adopted by this House, and is not made in pursuance of it. I will only add one word. A motion such as this is, in the technical language of the lawyers, said to be a fraud upon the intention of the original text of the Resolution. It was never contemplated that this Council only should elect its quota, and the rest of the Members should be nominated by the Government. Therefore, I submit, Sir, this would amount, in spirit as well as in letter, to a fraud upon the intention of the original Resolution adopted by this Council, and hence it is clearly out of order in my humble opinion.

THE HONOURABLE THE PRESIDENT : The point of order raised by the Honourable Member is hardly what I anticipated when this morning he very courteously gave me notice that he intended to raise one as to the admissibility of the motion of the Honourable the Leader of the House. His point briefly put appears to be that, because at the time the Resolution was adopted by this Council in February, it was contemplated that there should be a joint conference or a joint committee, consisting of Members elected partly by this House and partly by the Legislative Assembly, and whereas the Legislative Assembly has refused to elect its quota, therefore this Council is barred from proceeding any further in the matter. He is relying to some extent on the exact wording of the Resolution adopted on the 22nd February, 1928, which I should like to read to the Council. I read only the relevant portions :—

"This Council recommends to the Governor General in Council to take steps for the election of representatives from the Council of State to participate in the Joint Conference....."

For the moment, I stop there. It is no more than asking the Government to secure that the representatives from this House should be elected by the House. In so far as the Resolution goes on to say :—

"according to the procedure set out by the Chairman of the Indian Statutory Commission....."

That, I take it—and I never took it otherwise—refers to the procedure for participation in the Joint Conference and not to the election. That is to say, that the Resolution merely defined what would be the function of the Members of this Council elected to the Committee after they had been elected.

I see no more in the point of order than that. If it is argued—I was not quite sure whether it was argued or not—that because one course of action has been taken in another place, therefore this House is bound to that same course of action. I only have to repeat what I have said often before, that this House has its own rules, it can only follow its own procedure, and is in no sense bound by what takes place elsewhere. Therefore, the motion which is on the paper to-day in its terms merely intends to take one step further the action which was decided upon by the Council in February last. It appears to me to raise two points only, that is to say, how many Members in this Council shall sit on the Joint Committee and by what method they should be elected. I considered the point very carefully beforehand and I have no doubt in my mind that the motion is strictly in order.

THE HONOURABLE KHAN BAHADUR SIR MUHAMMAD HABIBULLAH : Sir, I was saying that on this motion I have to say very few words. It will be within the recollection of the House that at its meeting held on the 22nd February last the Council passed the following Resolution :—

"This Council recommends to the Governor General in Council to take steps for the election of representatives from the Council of State to participate in the Joint Conference according to the procedure set out by the Chairman of the Indian Statutory Commission in his letter of the 6th February, 1928, addressed to His Excellency the Viceroy and Governor General and his letter, dated the 10th February, to the Honourable Sir Sankaran Nair."

Sir, at the time this Resolution was passed by the House there was no immediate need to take action on it. The first visit to the country of the Statutory Commission was purely preliminary. As the Chairman stated in his letter to His Excellency the Viceroy and Governor General, dated the 6th February, 1928, the sittings of the Joint Conference suggested in that letter would not commence until October next. In a telegram, dated the 10th September, 1928, which has been published, Sir John Simon has requested His Excellency the Viceroy to invite the Council of State to elect its proportion of the Central Committee. The motion which stands in my name and which I have now moved is the logical and inevitable outcome of the decision recommended to the Governor General in Council to take steps for the election of representatives from this House. The only two points touched upon therein are the number of Members to be elected by this House and the method of election to be adopted. As regards the latter you will, I think, Sir, give the necessary directions.

Sir, I move.

THE HONOURABLE SETH GOVIND DAS (Central Provinces : General) : Sir, as you have already given your ruling that the motion before the House

[Seth Govind Das.]

is in order, I am not going to oppose it on technical grounds. I oppose it on general grounds on behalf of the Congress Party. I am really sorry that I have to oppose a motion moved by my Honourable friend Sir Muhammad Habibullah, for whom I have great respect. I am sure, Sir, that if my Honourable friend had not been where he is to-day, had he been a non-official Member of this House, he would have been with us to oppose this motion. His views in this respect are an open secret. Pandit Madan Mohan Malaviya, speaking on the Statutory Commission in the other place, is reported to have said :—

"It deeply pains me to say that the sorriest feature in this affair is that there are Indian members of the Executive Council of the Viceroy who lent their support to the proposal for a purely Parliamentary Commission which would exclude Indians from it. The common belief is that the Law Member lent his full support to this proposal. At the same time I am glad to say that the common belief also is that Sir Muhammad Habibullah opposed the proposal and predicted that it would lead to the boycott of the Commission. I should like anybody to deny these facts if he can."

The challenge which was thrown out by the Honourable Pandit in the other place has not been accepted and, Sir, till now nobody has contradicted the statement that Sir Muhammad Habibullah was opposed to a purely Parliamentary Commission. Besides, I am quite sure that if the term of office of Sir Muhammad Habibullah had come to a close before the Commission left India, he would have been with us to boycott the Commission like Sir C. P. Ramaswami Iyer who declared himself for the boycott as soon as he came out of the Executive Council of the Government of Madras.

Now, Sir, I enter into the merits of the question. The Committee on which the Members of this House are to sit cannot be called a Committee of the Central Legislature until the Members of the Assembly are also elected to it. According to the Government of India Act the Central Legislature consists of both the Houses. When the popular Chamber has in clear terms declared itself for a non-co-operation with the Commission, I cannot understand how this Committee, which is partly to be elected and partly to be nominated, can be called a Committee of the Central Legislature. Sir John Simon himself wrote to His Excellency the Viceroy on the 6th February :

"We suggest"—

he said in that letter—

"that the two Houses of the Central Legislature should in due course be invited to choose from their own non-official Members a Joint Committee which might conveniently be seven in number."

He further said :—

"We have no wish to dictate the composition of the Indian wing of the Conference in more detail and we should greatly prefer that the precise scheme should be reached by agreement between the different elements in India itself."

It passes my comprehension, Sir, how Sir John Simon, one of the acutest legal brains of England, can now suggest this course to His Excellency the Viceroy and say : "Your Excellency should complete the composition of the Committee in such manner as may seem to you most appropriate". I am really surprised to see the change in Sir John Simon. More surprised am I

to find that His Excellency the Viceroy, who is well known for his great sincerity, has accepted this suggestion. There were two straightforward courses open to His Excellency the Viceroy. One was to write clearly to Sir John Simon saying that, as the popular House has definitely refused to co-operate with the Commission, a Committee of the Central Legislature could not be constituted. The other course was to dissolve both the Houses, as has been demanded by the majority of the elected Members of the other House. I am sure, Sir, if new elections take place, an overwhelming majority of boycotters will be returned to the other House, and even in this House their number is bound to increase, as has been made clear by the last bye-election in Bengal resulting in the election of my friend Mr. Mookerjee to this House in spite of the opposition of a Raj Bahadur. The course which His Excellency the Viceroy has adopted is, to say the least, absolutely unconstitutional. His Excellency, Sir, is very anxious to establish conventions. In his speech delivered in January, 1927, while opening the third Legislative Assembly, he said that he wanted India to achieve Swaraj by conventions. May I ask if this is the way to establish conventions ? Sir, it would have given me immense pleasure if His Excellency had taken a strong attitude in this matter. India has known a Viceroy who, though subject to a masterful Secretary of State in England, refused to be dictated to by him in the matter of reforms. Sir, I am sorry that His Excellency has willingly made a surrender. He said speaking in the other place on 24th January 1927 :—

" As long as the final control of Indian policy is constitutionally vested in the Secretary of State on behalf of the Parliament, it is the duty of the Governor General in Council, while he holds office, to guide his conduct in conformity with the general policy approved by the Imperial Government."

But, Sir, despite this statement, His Excellency can even now assert himself as far as the composition of this Committee is concerned, because His Excellency's position is not in any way subordinate to that of Sir John Simon.

Now, Sir, as regards the Simon Commission, it may be said by some Members of this House that the spirit of the boycott was dying out. They will say that many provincial Legislatures have elected Committees to co-operate with the Simon Commission. It is true, Sir, that several provincial Legislatures have elected Committees to co-operate with the Simon Commission ; but that does not prove India's willingness to co-operate. If we exclude the official Members of those Councils, if we exclude the nominated Members of those Councils, what do we find ? We find that the elected majority of every provincial Legislature and even of this Council is against the Simon Commission. It will be further said, Sir.....

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces : Nominated Non-Official) : Sir, I rise to a point of order. I want your ruling as to whether we are entitled in connection with this motion to traverse the whole ground of the original motion and re-argue the same proposition which was argued in February last in this Council, or whether we are strictly confined to the Resolution now before the Council for the selection of three Honourable Members according to the rules laid down in the Manual of Business and Procedure.

THE HONOURABLE MR. V. RAMADAS PANTULU: Can we not give our reasons against the motion?

THE HONOURABLE THE PRESIDENT: I had hoped, as apparently the Honourable Sir Maneckji Dadabhoy had hoped, that the discussion to-day would more or less confine itself to the two substantial points raised by the motion of the Honourable the Leader of the House. However, as he has asked me whether Honourable Members are entitled to go over the whole ground again, I am afraid I have to admit that they are so entitled. The Standing Order which bars the repetition of a Resolution within one year does not apply here because we are dealing with a motion and not with a Resolution; and the Standing Order which bars repetition of motions does not apply because that only remains in operation during one Session; we are now in another Session.

THE HONOURABLE SETH GOVIND DAS: I thank you very much, Sir. What I was going to say was that many Members of this House will say that, since this motion has been brought before this House and many provincial Councils have formed Committees, the boycott is dying out. One thing that they will say in proof of this assertion I have already anticipated and contradicted. The other thing that they might say is that many institutions in this country have declared themselves for co-operation with the Simon Commission. Now, there is no doubt that a few institutions here and a few institutions there have declared their readiness to co-operate with the Commission. But, Sir, if we endeavour to see how old these institutions are, we find that many of them are not even as old as the Simon Commission itself. As regards their status I will give only two instances. There are two institutions in Madras; one an association of liquor sellers and another of leather manufacturers. Both these institutions have declared themselves for co-operation. The ground for co-operation with which the Liquor Sellers' Association has favoured us is a strange ground. It is this: If India gets provincial autonomy, many provinces will become dry, and therefore it is better for us to co-operate with the Commission. Sir, this is the kind of institutions which are co-operating and which have declared themselves for co-operation with the Simon Commission.

The All-Parties Conference which met at Lucknow has decided to call a convention next December in Calcutta to consider the constitution adopted by the Conference. It has been thought advisable to invite only those institutions which are at least two years old. But the Simon Commission in its anxiety to get as much support as possible has made no such distinction. I may be excused if I say that most of these institutions which have declared themselves for co-operation with the Commission can be called associations and institutions only by courtesy, and if Sir John Simon and his colleagues are satisfied with their co-operation, I have nothing more to say on this point.

Before I resume my seat I will state my opinion that the boycotters are stronger to-day than they have ever been. To-day we have our own constitution accepted by the All-Parties Conference at Lucknow—the most representative Committee that has ever met in this country.....

THE HONOURABLE MAJOR NAWAB MAHOMED AKBAR KHAN (North-West Frontier Province; Nominated Non-Official): What about the Muhammadans?

THE HONOURABLE SETH GOVIND DAS: There is some opposition on behalf of Muhammadans no doubt; but most of the Muhammadans have agreed. Leading Muhammadans like Dr. Ansari, Maulana Abul Kalam Azad, the Maharaja of Mahmudabad and Sir Ali Imam were present at Lucknow and endorsed the Report in very very clear terms.

THE HONOURABLE MAJOR NAWAB MAHOMED AKBAR KHAN: They are in a minority.

THE HONOURABLE SETH GOVIND DAS: No; I would say they are in a majority. Even in the Punjab, I would point out to my friend, Major Nawab Akbar Khan, the majority of Muhammadans are with us as is clear from the meetings which have been held there. He must have seen their reports in the *Tribune*. The successful meeting was the one which resolved to support the Nehru Report. The other meeting which wanted to oppose it ended in chaos and confusion.

THE HONOURABLE MAJOR NAWAB MOHAMED AKBAR KHAN: The Muslim League is definitely opposed to it.

THE HONOURABLE SETH GOVIND DAS: We are not talking of the Muhammadans between whom and the Government there is very little difference. We are talking of the nationalist Muhammadans of this country, and I want to say that the nationalist Muhammadans of this country are with us.

Now, Sir, I will address a few words to my Honourable friend, Nawab Sir Umar Hayat Khan. I was grieved to read his speech delivered on the Statutory Commission.

He said:

"We are going to ask for our rights. The untouchables are going to ask for theirs and other communities also are going to ask for them. Where will those rights come from? They will come out of the hands of the oligarchy which is now in power. They in turn want to snatch more and more power from the hands of the present Government. That party in fact wants a Raj of their own. We have to decide whether we are going to be under their Raj or the present Raj. I may tell my Muhammadan friends that they have been enjoined by our religion, which is in our book, that the Christians will be our greatest friends, and that is why the Prophet sent the best of his relations to Africa under a Christian King of Abyssinia."

This is, Sir, what my friend Sir Umar Hayat Khan said when the debate on the Statutory Commission took place in this House. Well, Sir, I do not want to quarrel with him for his abundant faith in Christians. What I do want to tell him is this, that he should try to see whether Christians have even one-hundredth part of the faith in Muhammadans which my friend has in Christians. In this connection I should like to read to the House a letter which Lord Clive wrote to William Pitt in the year 1759. Lord Clive, Sir, is the founder of the Indian British Empire which my friend Sir Umar is out to support, and this is what he wrote:

"The reigning Subah, whom the victory at Plassey invested with the sovereignty of these provinces, still, it is true, retains his attachment to us, and probably, while he has no other support, will continue to do so."

This is what my friend should hear carefully.

"but Mussalmans are so little influenced by gratitude, that should he ever think it his interest to break with us, the obligations he owes us would prove no restraint."

But to take an up-to-date example, Sir, the Muhammadans ought to know what the British Government did at the time of the Treaty with Turkey

[Seth Govind Das.]

after the last Great War. In spite of all this, if my Honourable friend wants to retain his confidence in the British Government more than he should in Hindus, I have no reason to quarrel with him. Sir, I am a firm believer not only in Hindu-Muslim unity, but in the unity of Hindus, Muhammadans, Parsis, Sikhs and Christians. I say, Sir, that no foreigner can do any good either to Hindus or to Muhammadans or even I say to Indian Christians. I am firmly convinced that the salvation of India lies in our united stand and not in distrusting each other.

In conclusion, Sir, I would tell the Government that one thousand and one Commissions and one thousand and one Committees to co-operate with this Commission will not solve the Indian problem. If they really want to solve the Indian problem, the best course for them is to give up their obstinacy and false notions of prestige, and to come forward and call a round table conference to reconsider the whole question. Sir, I oppose the motion moved by my Honourable friend Sir Muhammad Habibullah.

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN (Punjab Nominated Non-Official): Sir, as reference has been made to the speech which I made on the last occasion, I feel it my duty to make a few observations. The Punjab is a province which knows very well what had happened to it during the reign of the various Kings before the British came to this country. There had been inroads from the North-West, and every time they plundered us, and since the advent of this rule, we find peace and security; we have begun to understand the blessings of British rule under which we live without much fear and in prosperity. Sir, I endorse every word of what I said on the last occasion, because I think the House knows that I have never been inconsistent. I know the Punjab Muhammadans very well. They are all in favour of co-operating with the Simon Commission, because Honourable Members will probably remember that it was the first province in India which came forward and offered to co-operate with the Simon Commission. Generally speaking, those who are elected to the local Councils know the minds of the people of their constituencies, and if a few Members of the local Councils voted against co-operation, I do not think they have interpreted the wishes of the Muslim community correctly. When there was a split in the Muslim League what happened? Most of the Punjabis held their own conferences and their own League, and they passed resolutions agreeing to co-operate with the Simon Commission, and only those who were against the Government owing to private affairs went to Lucknow.

THE HONOURABLE SETH GOVIND DAS: Question?

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN: Just hear me, please.

THE HONOURABLE MAJOR NAWAB MAHOMED AKBAR KHAN: Those resolutions were passed by an overwhelming majority.....

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN: Leave the Punjab alone for the moment. Every province has now passed resolutions to co-operate with the Simon Commission and in fact have elected Committees. In the local Councils they have elected Committees already to co-operate with

the Simon Commission. If there are more provinces willing to co-operate and if they are taken as voting units there will be more votes in favour of the Commission. One difficulty we have always had is about the composition of the local Councils as well as the Central Legislature here. Most of the big cities like Kalpi, etc., are regarded as villages. If a big city has not got so many voters and only one polling booth in that city, naturally the rural people who are spread over a number of villages will not care to come in such large numbers to vote, and the difficulty is that some lawyer or a professional politician stands for election from the city and invariably comes out successful in the election. And what do we find ? A collection of prepondering majority of lawyers and politicians in our Councils with the result that they carry things against the wishes of the whole population of the country.

Then, Sir, I have read something about my religion and also something of Christianity. I have also on many occasions held discourses on our religion in the presence of Christians, and they do agree that both religions are very much alike with very few differences. If I were to enter into a discussion of this matter, I fear I may be ruled out as being irrelevant and it may also take more time of the House, and I do not propose to take up the time of the House now as I know there are many Members who are anxious to speak to-day on this motion. But I will only say this much, that when a Committee has to be chosen from the Central Legislature, naturally the House which passed by a majority that it would not co-operate could not certainly be expected to take part in the election of a Committee, nor would it be fair for us to force its Members to come forward and take part in the elections. For instance, if the Mother of Parliaments had decided anything like that, well, I do not think anybody would venture to go against its decision. So we all felt that when one House does not co-operate, its mandate binds all Members and Government would have no better way out of this *impasse* than this, that from the House which does co-operate all the Members should be elected out of that House only. If you want Members to sit in Joint Conference with the Indian Statutory Commission, you get all the Members from the willing House. But that course is not being adopted. Up to that extent, no doubt, I would agree with the Honourable Seth Govind Das. On the other hand if there is a motion like this, then this House has to abide by its own decision and if the Members are chosen as the Honourable the Leader of the House has proposed, I think that will be quite all right. So, I really do not oppose, nor do I say anything against the motion. All that I have said till now has only been by way of observation. I know, Sir, that a great many men whom the Honourable Seth Govind Das has described as representatives of the country have gone to jail (Hear, hear) and naturally they would not co-operate with any one. There are others who are weather-cocks. When there was the Khilafat agitation, they constituted themselves into a Khilafat Committee and they were its leaders. They gave up their practice at the Bar, they grew beards and became great martyrs. What do I see now ? Their beards are gone and they have resumed their practice in the courts and now perhaps they are doing better than what they did before they became non-co-operators. Now, they repent of their folly and I have heard many of them say : " We were fools, we were carried away at the time by the gust of non-co-operation ". Well, if such members now go and sign the report, I do not want to say much about them.

THE HONOURABLE MR. MAHENDRA PRASAD. (Bihar and Orissa : Non-Muhammadan) : Is Sir Ali Imam one of them and the Raja of Mahmudabad ?

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN : I do know several names, Sir, but I do not want to bring in any of those names. But when any name is brought in, it is not my fault. That gentleman had his own grievance. He wanted something, but he did not get it. As regards the name of the Honourable gentleman whose name has been mentioned just now, I will only say that they are closely allied. I think the daughter of the one has been married or is about to be married to the son of the other. That is the sort of alliance. That is why, I say, Sir, that this conference which has been much talked of was more or less a packed one in which nobody who was against its proposition was allowed.

THE HONOURABLE SHAH MUHAMMAD ZUBAIR (Bihar and Orissa : Muhammadan) : Why did you not go there ?

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN : Nobody else was allowed at the Conference. It was a packed one as I already said. My Honourable friend has read certain papers. I have not brought any of them. But I would tell the House about the letter written by Maulana Shaukat Ali. You will see from an overwhelming majority of Indian papers, specially the Punjab papers, that the treatment which was meted out to the members who opposed the Conference was simply absurd. Only those persons whom the organisers of the Conference thought would abide by their decisions were allowed to enter the precincts of the Conference and others were left out. A report drafted by such a Conference surely cannot be called a unanimous report. Well, Sir, we all have said many times here and elsewhere that if Muhammadans do not choose their own representatives in separate electorates, they could not send proper representatives. I know about this so far as the Punjab is concerned, and I believe the same is the case in other provinces. The poor peasants in the Punjab are heavily indebted to the *banyas*, they are so much indebted that they cannot get out of their clutches. Now, if there were joint electorates, who will be returned as representatives of the Muhammadans ? All those who are heavily in debt up to their noses will be put up as the Muhammadan representatives at the bidding of the *banyas*. Only such Muhammadans as are willing to abide by the mandate of other classes will be returned to the Councils. Now this will be the effect of the Report of the Nehru Committee. On one side Nehru and company say they are non-co-operators. At the same time, they sit down and write this Report of theirs for the Simon Commission.

THE HONOURABLE SETH GOVIND DAS : No.

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN : If it is not for the Simon Commission, why on earth did they write this Report at all. Thus they come forward to co-operate. That is the best co-operation that they can give. They have written what the Simon Commission should do, but in their Report they have endeavoured to do as much against the Muhammadans as they possibly could. If that Report were adopted, the whole Muhammadan population would much rather prefer not to be in India at all.

THE HONOURABLE SETH GOVIND DAS: Question ?

THE HONOURABLE COLONEL SIR UMAR HAYAT KHAN: That Report has done the greatest injustice to the Muhammadans and all who have read that Report are of the same opinion. The other day I presided over a meeting of the Muhammadans at Simla, and I think they are also going to put forward their protest against the Nehru Report. As is well known, the Muhammadans who come to Simla are of a very representative character. They come from all parts of India, either to seek employment under Government or for the purpose of their health or trade, etc. At that meeting there was a representative gathering of Muhammadans and they all protested against the Nehru Report.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE (West Bengal: Non-Muhammadan): Which is of a more representative character ?

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN: I can tell you that the meeting at Simla was of a very representative character. .....

THE HONOURABLE THE PRESIDENT: Will the Honourable Member kindly address the Chair and get on with his speech ?

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN: I will address you, Sir. It is well known, Sir, that the best leaders of the country who know the minds of their constituents have all voted for the Commission. An overwhelming majority is in favour of co-operation with the Simon Commission. I will say, Sir, if a House had been properly constituted and if a House should consist of proper representatives of the rural masses, who form about 90 per cent. of the population, then, I say, Sir, the majority of the population will be on the side of co-operation.

THE HONOURABLE SHAH MUHAMMAD ZUBAIR: Let us have fresh elections.

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN: I am not going to waste my time by replying to you. I must address the Chair.

THE HONOURABLE THE PRESIDENT: The Honourable Member is not doing that. (Laughter).

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN: Well, Sir, the Muhammadans as a whole are very much offended by this Report. It is said to be a unanimous Report. But we have got faith only in that Government which has saved us from many inroads and we want to contribute to its stability. That is why we do not want to hurry things. We want the Reforms to be given to us gradually. That is why I say I like that certain rural people should be put on the Committee. Because it is only the rural representatives who would know the minds of the rural population and not those who represent urban interests. The urban people are absolutely cut off from the rural population. The urban people have got a world of their own. The urban people are more educated and they have not got sufficient appointments. That is why the majority of the educated people

[Sir Umar Hayat Khan.]

are against the Government. They should not form the bulk of the members of the Committee. The opinions of those who are offended against the Government are naturally against the Government and their opinions should not weigh with the Government. Therefore, I hope, they would not be given a preponderance. With these few words, I heartily support the motion before the House and I think it should be carried.

THE HONOURABLE SIR MANECKJI DADABHOY: May I know, Sir, if the usual time limit applies to this motion.

THE HONOURABLE THE PRESIDENT: I regret to say that the rules provide no time limit.

THE HONOURABLE SIR PHIROZE SETHNA (Bombay: Non-Muhammadan): Sir, I rise to oppose this motion. My submission is that having regard to the development of events that has taken place, it is not possible to constitute a Committee in compliance with the procedure set out by the Chairman in his letter to His Excellency the Viceroy, dated the 6th February 1928. This House has passed a Resolution recommending Government to take steps for the election of representatives from this Council according to that procedure. Now, the House is aware, the Legislative Assembly has passed just a contrary Resolution, *viz.*, that it will have nothing to do with the Commission at any stage and in any form. This action of the Legislative Assembly has rendered it impossible that a Committee can be elected or constituted in the manner required. We may approve of the decision of the Legislative Assembly or we may not, but the fact has got to be recognised that the Legislative Assembly has decided to let the Commission severely alone. The result of this is that there will be no elected representatives of the Legislative Assembly on the Committee which Sir John originally desired or required, and from this it obviously follows that we cannot have a Committee in accordance with the procedure as originally laid down. The decision of the Legislative Assembly not to participate in the Joint Free Conference by means of a Joint Committee of the Central Legislature has, in fact, rendered nugatory the Resolution passed by this House in this matter. It is important in this connection for the House to bear in mind what was the precise nature of the Committee proposed by Sir John Simon. Let me read what he says in his letter:

"We suggest that the two Houses of the Legislature should in due course be invited to choose from their non-official members a joint Committee which might conveniently be seven in number".

He further says:

"We assume of course that just as we ourselves are a body selected from all British parties and both Houses of Parliament, so our Indian counterpart would be, so far as may be, truly representative."

In other words the proposal of Sir John Simon is threefold: (1) that there should be a Joint Elected Committee of both Chambers of the Indian Legislature, (2) that the Committee should conveniently consist of seven members, and (3) that the members should, so far as may be, be truly representative of all the parties in the Indian Legislature. It may be argued that Sir John Simon has not barred some latitude with regard to the number of members of the Joint Committee and the representation of all the parties in both the Houses, I agree

that the number may be a little more or a little less than seven. I further agree that having regard to the smallness of the number proposed and the considerable number of parties and interests in the Legislature, it will be practically impossible to provide for the representation of all parties and interests on such a small Committee. It is quite true that with regard to both these points, Sir John Simon has not laid down hard and fast rules. But with regard to the first point, *viz.*, that the Committee should be a Joint elected Committee of both the Houses, his proposal till only within the last ten days was absolute. He had laid this down as a hard and fast rule.

When Sir John Simon found it was hopeless to get a Joint elected Committee to meet the altered situation he has by his telegram to His Excellency the Viceroy, dated the 8th instant, asked Lord Irwin to complete the composition of the Committee in such manner as he may think most appropriate. This is so different from the emphatic attitude in his letter of 6th February insisting upon an elected Joint Committee of the two Houses. Both Government and Sir John Simon are defeated in their original purpose and rightly so for going counter to the wishes of the people. The telegram of 8th September enables the Viceroy to take steps for the election of a Committee of this House only and this is proposed to be done by means of the motion that we are now considering. And, mark you, this telegram now permits His Excellency the Viceroy even to elect outsiders if he chooses to do so—something to which Sir John Simon and his colleagues and the Government were dead opposed at one time.

THE HONOURABLE SIR MANECKJI DADABHOY: No, no?

THE HONOURABLE SIR PHIROZE SETHNA: I stand corrected if you can show it to me.

THE HONOURABLE SIR MANECKJI DADABHOY: Will you show me chapter and verse for your statement?

THE HONOURABLE SIR PHIROZE SETHNA: I am sorry I have not got my library here, but I think I am right in saying so.

THE HONOURABLE MR. S. R. DAS (Law Member): On the contrary, Mr. Baldwin expressly stated.....

THE HONOURABLE SIR MANECKJI DADABHOY: Of course he did.

THE HONOURABLE SIR PHIROZE SETHNA: You may tell us in your speech what he said.

Now, Sir, I hold it will not be in keeping with the dignity of this House to agree to the course suggested by the Leader of the House in the motion. The Legislative Assembly has resolved not to co-operate with the Commission and the Resolution was passed by a large majority of elected Members. Indian opinion, as expressed by elected Members in the Assembly, is decisively and overwhelmingly in favour of withholding co-operation from the Commission. On a vital matter like this which involves important national issues, it will not be proper for this Council to set at naught the considered decision of the popular Chamber and resort to what will naturally and rightly be considered as an open conflict with a House whose decisions on national questions of this kind ought not to be lightly ignored but ought to have a final and determining authority.

[Sir Phiroze Sethna.]

Some provincial Councils, with the help of the official block have, no doubt, gone through the farce of deciding in favour of co-operation with the Commission as we have done in this Council. I can call it by no other name. At the time this matter was considered in the House of Commons those in authority gave the assurance that every possible point that would be put before them would be considered, and considered sympathetically. One of such points, if I remember rightly, was the exclusion of the official blocks in all Councils from voting on the question of co-operating or not with the Commission. Whether the point was so put or not, trusting to memory, I think it was a Labour Member, either Mr. Ramsay Macdonald or Mr. Lansbury who suggested that officials should not be allowed to vote at the elections of members to the Committee.

Will any one dare to say this was not a fair demand to make ? and yet neither the Government here nor the Government at home have told us that they have even considered the matter. Officials voted both in the Central Legislature and in the Provincial Councils with the results we know. Would Government have dared to leave the decision exclusively to the vote of the elected Members or, to the combined votes of the elected and even the nominated Members ? Either one of these two courses was the right, proper and legitimate course to adopt, but in that event they would of course have courted certain failure. The decisions of the Council of State and of several of the Provincial Councils cannot therefore be regarded as giving correct indications of the wishes of the people.

In reply to Sir John Simon's telegram the elected Members of the Assembly have thrown an open challenge and have asked His Excel-
12 NOON. lency the Viceroy to dissolve the Assembly and order fresh elections " on the issue involved in the Resolution of the Assembly." The official blocks will not have a chance to play their role in such elections, and such elections will be the only means of ascertaining unmistakably public sentiment in the country on the boycott issue.

The Government of India want to make out a case both in England and throughout the world, and particularly in America, because they know very well that much attention is now devoted to Indian questions in that country. My friend (the Honourable Mr. Vernon) may laugh, but if he reads newspaper articles and the number of books that are now written there, he will find that I am certainly in the right.....

THE HONOURABLE MR. H. A. B. VERNON (Madras : Nominated Official) : I was thinking of Miss Mayo's book.

THE HONOURABLE SIR PHIROZE SETHNA : I was not referring to that book at all. I do not regard Miss Mayo as an authority at all. I say that the Government of India are out to convince the world that the boycott is a nine days' wonder and that it is dead or dying. We say it is as strong as ever and hence the challenge ; but we know too well, Government will never have the courage to take it up, for in that case they must regard their defeat as a *fait accompli*.

**The decision of the Legislative Assembly expresses not only its own considered judgment but also the general opinion and feeling of the people at large. Such being the case will it be right for this Council to run counter to the views,**

wishes and feelings of the popular House and of the great majority of the thinking people in this country ? Only yesterday our veteran colleague, the Honourable Sir Sankaran Nair, in moving the Bill to alter the order in which certain Hindu heirs are entitled to succeed, warned this House that if we did not pass the Bill, its Members will be regarded as old reactionaries, as obstructionists and therefore recommendations might be made to the Statutory Commission to do away with the Upper House. Sir Sankaran, who is all in favour of co-operating with the Simon Commission, told us distinctly yesterday and I am repeating his exact words which I took down at the time that "the popular interests are better represented in the Assembly." This fell from the Honourable Sir C. Sankaran Nair who, we know, is out and out in favour of co-operating with the Simon Commission.

THE HONOURABLE MR. G. S. KHAPARDE : I say "question" to it.

THE HONOURABLE SIR PHIROZE SETHNA : Sir, I have faith in the second Chamber. I am one of those who believe that a second Chamber is necessary for a sound and well ordered polity. If the second Chamber is well constituted and if it keeps within its proper limits without provoking, or coming into open conflict with the popular Chamber, it will not fail to play an important and useful part in the national order. I therefore earnestly appeal to this Chamber not to allow its good name to be sullied, and its influence to be weakened, by an act of open hostility to the will of the popular Chamber and thereby the voice of the nation, as will surely be the case if we elect members to the Committee as we are asked to do by this motion.

THE HONOURABLE SIR MANECKJI DADABHOY : Sir, I am not at all surprised to-day to hear the speeches of my Honourable friends, Seth Govind Das and Sir Phiroze Sethna. I fully expected opposition to the motion from these two Honourable Members. The reason for that is very obvious and will appear to any thinking man without much trouble. This opposition to-day forms a part of the policy of certain obstructionists who have been defeated and discomfited in the country and are now opposing this motion for the purpose of whitewashing the faces of their leaders and their party men. (*Honourable Members* : "No.")

THE HONOURABLE SETH GOVIND DAS : Sir Phiroze Sethna is not an obstructionist, Sir.

THE HONOURABLE SIR MANECKJI DADABHOY : Sir, the judgment of the country has been absolutely unambiguous. (*Honourable Members:* "Question"?) The judgment has been a determined one ; and smarting under the stings of defeat, this opposition has been set forth in this House for the purpose of diverting attention from the main issue.

THE HONOURABLE MR. MAHENDRA PRASAD : It is therefore that we want to go to the country, Sir.

THE HONOURABLE SIR MANECKJI DADABHOY : My friends on the opposite side have said "Question", when I said that the judgment has been a determined one. Look at the decisions of the seven Provincial Legislative Councils in India. Except two provinces, the whole country which is represented by these Councils has expressed in an unequivocal manner its willingness, its desire and its readiness to sympathise and to co-operate with the Simon Commission wholeheartedly.

THE HONOURABLE SIR PHIROZE SETHNA : With the help of the official vote.

THE HONOURABLE SIR MANECKJI DADABHOY : No. Take the instance of your province, Sir ; take the Bombay Legislative Council. By a preponderating majority it was decided to co-operate with the Commission ; and even if you exclude all the official votes, which I understand were about twenty, there was still a non-official majority in the Bombay Council...

THE HONOURABLE SIR PHIROZE SETHNA : What about the votes of nominated Members ? You cannot rely on their votes as on those of the elected Members.

THE HONOURABLE SIR MANECKJI DADABHOY : Not a bit.

THE HONOURABLE SIR PHIROZE SETHNA : Absolutely.

THE HONOURABLE SIR MANECKJI DADABHOY : Absolutely not. So long as the constitution of the country is what it is to-day, the nominated Members have the same rights and privileges as the elected Members and form part of the Councils ; and you cannot possibly with any show of logic or reason make any distinction between nominated and elected Members.

THE HONOURABLE MR. MAHENDRA PRASAD : The misfortune is that the Members who cannot come in by election, even they are nominated.

THE HONOURABLE SIR MANECKJI DADABHOY : That is your misfortune. Sir, the decision of the Madras Council has also been explicit. All the provinces in India have done the same and co-operation has been readily and tacitly extended. There has not been any solid, tangible opposition displayed in the country during the last six months or even any show of apathy towards the Simon Commission. On the other hand, the leaders of the parties to have sat quite quiet during the last few months finding to their mortification that it was now a helpless and hopeless task to rouse the feelings in the country and rouse any opposition against the Simon Commission. So, so far as the judgment of the country is concerned, it has given support to the Government of India as well as to the Commission.

Then, Sir, my friend, Sir Phiroze Sethna referred to the decision of the Legislative Assembly—probably the only weapon which he could use with any reason in this Council—to support his argument. And what is his argument, Sir ? His argument is that the Assembly has by a majority passed a Resolution of non-co-operation with the Simon Commission, and therefore this Council should follow suit and not go against the decision of that body.

Is there any sense or soundness in an argument of this nature, especially when most of the provinces have supported the Council of State Resolution to co-operate with the Simon Commission ? Merely because a certain legislative body composed as it is of a large body of members of a certain party were determined to obstruct and overthrow the good administration of this country and many of them, though they profess to trade under different party labels, are in their heart of hearts no more than Swarajists, are we to follow their lead in this Council ? Sir, we are a revising, a correcting Chamber. Merely because the Legislative Assembly falls into a childish error and is out to set its face against a policy of co-operation which in our opinion is going to result in the

prosperity of this country, are we to follow their lead ? Again, is the knowledge and wisdom of the world to be exclusively found in the Legislative Assembly ? I submit, Sir, arguments of this character will count very little with a legislative body like the Council of State in which not only statesmanship, intelligence, aristocracy, sound judgment, position and influence are fully represented, but we at least can pride ourselves on the ground that this body always takes views upon important questions in a proper and rational manner and with sanity and reason.

Then my Honourable friend Sir Phiroze Sethna attacked the earlier announcement of Sir John Simon, and stated that Sir John Simon's original letter to the Viceroy was of a definite character and that there has now been a change in the position then taken up by the Simon Commission. I think, Sir, my Honourable friend is entirely wrong in making that statement. It is no use my offering you an explanation of that declaration. I shall only read Sir John Simon's recent cablegram to the Viceroy which makes the Commission's position absolutely clear and free from doubt or ambiguity. This is how it reads :

" As regards the proposed Central Committee, Your Excellency will remember that in our letter of the 6th February which contemplated a Committee chosen by both Houses of the Indian Legislature we laid stress on the fact that we had no wish to dictate its precise composition."

My friend Sir Phiroze Sethna will mark that—

" We had no wish to dictate its precise composition "—,

that is to say, they had no wish at any time even in February to dictate the precise composition of the Committee, nor even have they now any desire to do so, but all that they were concerned about was that :

" the Committee should not be very unwiedly and should as far as may be representative of British India as a whole."

I submit, Sir, that this cablegram to His Excellency the Viceroy is absolutely consistent and wholly compatible with the previous action and the position taken up by the Simon Commission, and to attempt to divert the vote of this Council on such a flimsy ground would mean want of sanity and judgment on the part of our opponents.

Sir, I will not detain the House much longer, as I know there are many Members anxious to speak on this occasion. All that I will say is that no case has been made out for any reasoned opposition to this motion or for asking this Council to deviate from the Resolution which they had passed by a large majority only in February last. No case is made out. (*An Honourable Member* : " Question ".) I say with emphasis that no case of any kind is made out for opposing this motion. On the other hand, there are signs that better counsels even at such a late stage have prevailed among the Swarajists, because the other day my friend Pandit Motilal Nehru made a statement in the Assembly asking for the dissolution of the Assembly for an expression of the country's opinion whether they should join the proposed Committee or not. In ordinary plain English what does it mean ? What is the obvious inference ! It means that they have not got the moral courage now to join the Simon Commission, but they want to take this pretext of going back to the country and then say that in obedience to the country's mandate they wish to co-operate with the Commission.

THE HONOURABLE SIR PHIROZE SETHNA : No, no.

THE HONOURABLE SIR MANECKJI DADABHOY : That is the simple and true explanation. The leaders there have not the moral courage to admit their mistake when they have found themselves in a wrong position. When they find that they have not been supported in the country and by the representatives of the Provinces they have not the moral courage to face the consequences of their defeat. Such are their difficulties and drawbacks. Therefore, I feel certain that even among their leaders there is a strong feeling to go back to the country. They cannot find a *modus operandi* for the purpose, which will save their faces and save their reputation and their prestige and position with their electorates.

THE HONOURABLE SIR PHIROZE SETHNA : Because they are sure of the support of the majority of their countrymen if there are fresh elections.

THE HONOURABLE SIR MANECKJI DADABHOY : Sir, I have very great admiration and respect for many of my Hindu colleagues here. I know they have always and on all supreme occasions acted with sanity and judgment. But I will tell the House to-day that this is a most critical ordeal. Do not stultify what you have done in the past. Do not go back on your word and the Resolution you have deliberately passed ; because you will not be able to show your face to the world, you will be charged with inconsistency and accused of change of policy. I have absolute faith in the judgments of my Honourable friends here. I know the majority of them will support this motion, because our object is to send our elected representatives to this Committee or the purpose of placing our case before the Simon Commission, for the purpose of fighting our good cause. We will not allow judgment to go by default. We will not allow ourselves to be remiss in a manner which will bring discredit and opprobrium on us from a large majority of our countrymen. We must therefore take our legitimate and bold stand in this matter and support the motion that is before the House, and I have no doubt that this Council will be guided by sanity, prudence and judgment on this occasion.

THE HONOURABLE SARDAR BAHADUR SHIVDEV SINGH UBEROI (Punjab : Sikh) : Sir, I rise to make a few observations in support of the motion which has been moved by the Honourable the Leader of the House. I do not think that I need give very many reasons in support of the principle of co-operating with the Statutory Commission at this stage, because this point has very well been threshed out in the meeting of the Council held on the 22nd of February last in Delhi.

But I think I should make a few observations to describe to the House the improvements which have since been made in the situation regarding the question of co-operating with the Statutory Commission. It is on account of these improvements that most of the major provinces have decided to co-operate with the Commission. Their Legislative Councils have resolved, by overwhelming majorities, to co-operate with the Statutory Commission. It has been said by my Honourable friends Seth Govind Das and Sir Phiroze Sethna that the votes which were given in favour of co-operation in the provinces comprised those of officials and nominated Members. With regard to this point, I beg to say that I am not aware of any rule whereby when a Member is nominated to the Council, an oath is taken from him that he would always support the Government or abide by the wishes of the Government.

THE HONOURABLE MR. MAHENDRA PRASAD: They do.

THE HONOURABLE SIR PHIROZE SETHNA: Is not influence brought to bear upon the nominated Members to vote in a particular way?

THE HONOURABLE SARDAR BAHADUR SHIVDEV SINGH UBEROI: I have never sat on any Committee or Council by nomination. I am positive of one fact, that is, that every conscientious man will vote according to the dictates of his conscience. If a man goes into the Council by nomination, he does not thereby sell his conscience to the party which nominates him. If he is an elected Member, it is his bounden duty to carry out the wishes of the electors.

THE HONOURABLE SETH GOVIND DAS: As far as nominated Members are concerned, they must carry out the wishes of the Government.

THE HONOURABLE SARDAR BAHADUR SHIVDEV SINGH UBEROI: Not necessarily. I need not dwell any further upon this point. Many of the provincial Legislative Councils have decided to co-operate with the Simon Commission. It resolves itself into the question, who are the representatives of the people, whether those Members who represent the people on the provincial Councils or those Honourable Members who represent the people on the Assembly. Of course, this is a point which has to be decided by the Members of both Houses amongst themselves. Who are the better representatives? Those who sit in the provincial Councils or those who sit in the Legislative Assembly? One fact seems to me to be quite clear, that is that the franchise for the Provincil Councils is much wider than that for the Legislative Assembly. The number of voters for the Provincial Councils is much more than the number of electors for the Legislative Assembly. Of course Honourable Members who have advanced this argument against co-operation can very well judge for themselves as to who are the better representatives of the masses. One point has been very wisely and prudently and in a statesmanlike manner decided by Sir John Simon, the Chairman of the Commission. The greatest objection to co-operating with the Commission and the greatest argument in favour of a boycott of the Commission was that the Simon Commission put the Members to be elected by the Central Legislatures in a secondary position. One great argument in support of this position was that the Simon Commission have reserved to themselves the right of examining witnesses *in camera*. That of course has been cleared up now by the last communication of Sir John Simon in reply to the Resolution which was passed by the Committee which was elected by the Punjab Legislative Council, and I think the members of Punjab Committee deserve to be congratulated on scoring this point against the Commission. So the atmosphere has since been very much cleared. Of course my Honourable friends Seth Govind Das and Sir Phiroze Sethna are welcome to entertain this idea that the spirit of boycott is existing. But I make bold to say, however, that the spirit of boycott is not permitted to enter into the walls of this Honourable House (Hear, hear), and there is a large portion of the country which still believes in the wisdom of placing their case before the Simon Commision. I cannot say that those men who believe in this line of action are devoid of all sense of patriotism. Is there any data to say that that part of the community of India which has decided to take this line of action are devoid of all sense of patriotism for the welfare of India? It is only a differ-

[Sardar Bahadur Shivdev Singh Uberoi.]

ence of view. One might hold the view that the boycott of the Commission might bring out the desired results. Others are welcome to hold a contrary view and resolve to place their views before the Commission. What the desire of India is that the Commission should consider the claims of India and discuss those claims with the representatives of India. The position has much improved since the Commission first came here. The members of the Committee who are to be elected by the House are to sit with the Simon Commission and have equal rights and they can examine witnesses as they like, and they can write a separate report and that report will be annexed to the report of the Statutory Commission. So the atmosphere is much clearer now than it was when the House had met in Delhi.

One point which I respectfully wish to urge before Honourable Members is this, that this House having once decided to co-operate with the Simon Commission ought not to go back upon its previous decision. This House should not oppose the motion that is at present brought in pursuance of the Resolution which has already been passed by this House. Does it benefit the dignity of this House to go back upon its previous decision, which to my mind was befitting of the House and was very well and very wisely arrived at? My Honourable friend Seth Govind Das had referred to the decisions of the Nehru Conference. I think I cannot let this reference go without expressing my opinion about that Conference. I have all regard and respect for those patriots of the country who had met to frame a constitution for India, but I am not prepared to believe that that Conference was a representative Conference, representative of all the interests and of all the communities. My Honourable friend no doubt will mention the names of two Sikh gentlemen who were on the Nehru Committee. I ask my Honourable friend to prove whether those two Sikh gentlemen who were on the Nehru Committee were representatives of any body or organisation of the Sikhs of the Punjab.

THE HONOURABLE SETH GOVIND DAS: Why did you not go there?

THE HONOURABLE SARDAR BAHADUR SHIVDEV SINGH UBEROI: I had even sent a telegram to the President of the Conference, but received no response. I was not even shown the courtesy of a reply to my telegram (Laughter). I simply say that that Conference cannot be said to be a representative one, representative of all the interests and of all the communities of India. It is a bold fact known to every body in the country and to every Honourable Member of the House that the Sikhs are the third important community in the whole of India. The Sikhs have shed their blood for the defence of the Empire and mind you, my Honourable friends the Swarajists would never be able to defend the Empire without the help of the Sikhs.

THE HONOURABLE SETH GOVIND DAS: Quite right.

THE HONOURABLE SARDAR BAHADUR SHIVDEV SINGH UBEROI: Then why have you ignored their legitimate rights? Without the Sikhs, how can you say that that Conference was of a representative character?

I want to say one word with regard to the argument which has been advanced that the Legislative Assembly has decided contrary to what the Council of State has decided. I wish to ask those gentlemen who advance this

argument whether the two Houses are not quite separate and independent of each other. Have not both Houses separate rules, separate procedure and separate responsibilities? Are they not independent of each other? Is it incumbent or is it necessary for the Members of this House to yield to the decisions of the Assembly at all? Or are we to come to our own independent judgment and decision on matters which come before us? With all respect to the patriots who constitute the Members of the Legislative Assembly, I still hold the position that this Honourable House is quite independent to decide matters in its own way and this House has to use its mature judgment on matters of such vital importance as the present one is.

One point, Sir, which I wish to urge before the House and then I will resume my seat. The latest cablegram from Sir John Simon says that the Committee should be representative of the whole of India which I understand to mean that the Committee should be representative of the important communities and of all the important interests in India, *i.e.*, the Hindus, Muhammadans and the Sikhs. It is with this end in view that I had tabled an amendment to the motion, which of course, I informed the Secretary before entering this Chamber that I did not wish to move. That point I leave entirely to the good judgment, to the good sense of justice of the Honourable Members of this House. All I wish to say is that the Committee to be elected by the House should be representative of all the above-mentioned important communities, of all the interests at stake in the country.

THE HONOURABLE MR. V. RAMADAS PANTULU: Sir, I propose to take a very few minutes of this House. There are occasions, Sir, on which I feel some doubt as to what is the right course of action that I should take in this House, but the moment I find myself in opposition to the Honourable Sir Maneckji Dadabhoy all my doubts are cleared up. I feel I must then be right.

Sir Maneckji Dadabhoy said that the leaders who assembled in the All Parties Conference were unrepresentative of the people.

THE HONOURABLE SIR MANECKJI DADABHOY: I never said a word about the All Parties Conference.

THE HONOURABLE MR. V. RAMADAS PANTULU: It may be so in his view. As a little boy at school I was taught that two negatives make a positive. My Honourable friend Sir Maneckji Dadabhoy is the one Indian who is hopelessly out of touch with his country. Therefore, when he says that others are not true representatives of the country's opinion I take the contrary to be the case.

Well, Sir, my main object in rising at this late stage of the debate is to clear up a grave misapprehension which was expressed by my friend the Honourable Nawab Sir Umar Hayat Khan. My attitude towards the claims of my Mussulman friends is one of absolute friendliness. If my Honourable friend Sir Umar Hayat Khan convinces me that the Nehru Report is against the true interests of the Mussulmans of this country, I shall join him in fighting for an amendment of that Report. I am not fully cognizant of all the views of different Moslem parties in this country, but what I thought was that the recommendations of the Nehru Report were conceived in the best interests of the Indian nation as a whole. If they are not, then the Hindus and Mussulmans are the proper parties to set right the objectionable features of that

[Mr. V. Ramadas Pantulu.]

Report. The Congress view point is that if there are outstanding differences between the Mussulmans and Hindus of this country, it is not for a third party but for the Hindus and Muhammadans themselves to settle those differences. I shall lend all the support that I can to my Mussulman friends if they can show me that the Report is unjust to them. Therefore the objection that we urge to the present motion is the same objection that we urged against the resolution to co-operate with the Commission on the previous occasion, that it is not for the British Parliament or the British Government to determine the fitness or the unfitness of Indians for Swaraj. As for the differences that may exist between Muhammadans and Hindus in this country, it is for either the Moslem League or for the Congress or for a joint session of the two to settle those differences. The National Congress is always ready to give a fair hearing to all and there will be many more opportunities for my Mussulman friends to unsettle anything which they consider requires reconsideration.

My Honourable friend Nawab Sir Umar Hayat Khan is generally a shrewd critic, but he has on this occasion fallen into a very grave error in saying that the Nehru Report was a gesture of co-operation with the Simon Commission. That is absolutely wrong. The Report was put forward before the civilised world to show that India knows its mind. India has made its demand. Therefore India says in so many words, " Give the members of the Commission their passages home and send them back ; we do not want any more of them either in September or October 1928." Having regard to that Report I do not think there is the least necessity for the Commission to come back to India. In fact, if Sir John Simon were influenced by his own conscience, he should refuse to come back to India because representative Indians have now said what India wants. That is the course to follow if it is India that is to decide the matter. If, on the other hand, it is for the British Parliament to decide it, then the Commission may report from Whitehall and the Committee rooms of the House of Commons and it need not take the trouble to come here. In that case we must reject its report. The Nehru Report is in the nature of a direct answer to the challenge thrown out by Lord Birkenhead that India is unable to frame a constitution of her own. There it is now ; we have produced a constitution for ourselves. My Honourable friend Sir Umar Hayat Khan has evidently failed to notice the press comments on that Report. All the Anglo-Indian papers have admitted that if Dominion status were our due, no better Report could be produced with that end in view. I am sorry that my other Honourable friend Sir Maneckji Dadabhoy has also failed to notice that British critics in this country and British journals have paid a great compliment to that Report. Only they said it was impracticable because India was not fit for Dominion status, but if Swaraj were to be vouchsafed to India the Report was conceded to possess great merits. The *Madras Mail* has said it ; the *Statesman* has said it ; the *Times of India* has said it ; the *Englishman* has said it. Therefore, there is nothing wrong with the Report itself. The Report is a direct, straightforward attempt to define India's demand for self-government. If there are any differences outstanding between the communities of India it is for those communities to settle them ; it is not for a third party and an outsider to decide them. Therefore, our

objection to the Simon Commission stands to-day where it did when it was appointed.

One word more, Sir, about the Honourable Sir Maneckji Dadabhoy's optimism about the unrepresentative character of the boycotters and the representative character of those who have co-operated. Even India possesses a directory of "Who's Who in India"; and I want Sir Maneckji Dadabhoy to look up the names of those who have been nominated or elected to serve on these Committees which are to help the Simon Commission, and find out for himself what their status and position is in the public life of their provinces. They are men who have been disowned by their own Councils; they are men who hold no public place in the esteem of their countrymen; they are men who have always been known to be subservient to the Government.

THE HONOURABLE SIR MANECKJI DADABHOY: Well, the so-called leaders have now been disowned by the provincial Councils for their action.

THE HONOURABLE MR. V. RAMADAS PANTULU: Therefore let the public judge. The Honourable Sir Maneckji Dadabhoy may think that people take him for a representative of the country. I say he is not. My Honourable friend says the boycotters do not represent the true interests of the country. Well, I will only throw out one challenge to him which I threw out on a former occasion also. Let him go back to his former constituency. My Honourable friend Seth Govind Das who defeated him in that constituency once will resign his membership to-day.

THE HONOURABLE SETH GOVIND DAS: I am quite prepared to do so.

THE HONOURABLE MR. V. RAMADAS PANTULU: His party have the right to ask him to resign and no doubt he will tender his resignation to-day if we want him to. Now will the Honourable Sir Maneckji Dadabhoy go to the Central Provinces on this issue of the boycott of the Simon Commission, and contest an election?

THE HONOURABLE SIR MENECKJI DADABHOY: I will accept the challenge provided Pandit Motilal Nehru does not go from village to village and district to district and beg for support for him.

THE HONOURABLE MR. V. RAMADAS PANTULU: Nobody need go there. To-day the Congress Party, the Independents, the Nationalists, the Liberals have all joined in the challenge to dissolve the Assembly and the provincial Councils and in asking for fresh elections to see whether boycotters of the Commission will succeed at the polls or not. It is therefore no use indulging in statements like those of the Honourable Sir Maneckji Dadabhoy without taking up our challenge which has been openly thrown out to all co-operators. There are only two kinds of politicians to-day in the country: co-operators and boycotters. There is no distinction in this matter between Muhammadans and Hindus. And what we Congressmen say is that those who do not co-operate represent the country faithfully.

One word more and I have done. My friend the Honourable Sir Maneckji Dadabhoy waxed eloquent about the decision of this Council on the last occasion and has asked this House to stand by its decision. I will only say that when that decision was taken by the House it was Government officials and people like Sir Maneckji himself who owe their seats here to Government by

[Mr. V. Ramadas Pantulu.]

nomination who helped to defeat the boycotters who were mostly elected Members. Altogether 24 elected representatives took part in the voting on the former occasion and 13 voted for the boycott and 11 voted for co-operation. Therefore, the decision of this Council, so far as the peoples' representatives was concerned, was clearly and distinctly for boycott; and it is no use to minimise it and it is no use for the official benches and their nominated supporters to say that the people are for co-operation with the Commission. The representatives of the people are decidedly against the Commission.

My friend, Sardar Shivdev Singh Uberoi, on the last occasion was neutral; he has grown much more enthu siastic to-day about the Commission than he was on the last occasion. I find, Sir, that his amendment to the Government motion is merely that one of the Members to be elected by this House shall be a Sikh; and that translated into plain language means Sardar Shivdev Singh Uberoi himself should be one. That perhaps really explains the new faith my Honourable friend developed in supporting this motion so eloquently to-day. I submit, Sir, this Council should not take the least notice either of the advocacy of Sir Maneckji Dadabhoy or of the new faith which Sardar Shivdev Singh Uberoi has developed since the debate on the last occasion. I submit further that India has no confidence in this Commission; India considers that this Commission is unwanted; India resents that a third party should come to decide its constitution, and for all these reasons, Sir, I join my esteemed friend Sir Phiroze Sethna in opposing this motion with all the emphasis that I can command.

THE HONOURABLE MR. G. S. KHAPARDE (Berar Representative): Sir, one of the rules of life, when we work on cases, is to eliminate what we regard as irrelevant matter and stick to the chief point. Well, what is the matter now in this particular instance which is of importance? The British Parliament wish to advance the interests of India and for that purpose they have appointed the Simon Commission. An opinion has been expressed that Sir John Simon was quite wrong in accepting that position. That is a business which concerns Sir John Simon himself and if he chooses to come, we have nothing to do with it. In India what is our business? Our business is this: we have been all elected here—it may be under various labels, non-co-operators, co-operators, and all that kind of thing. But everyone has been instructed to be here and do the best he can to advance the interests of India. Now, if we are all here to advance the interests of India, I should have liked to hear some arguments addressed to the point that boycotting of the Commission would advance the interests of India and co-operating with the Commission would not advance the interests of India. If such an argument had been advanced here, I could understand and follow it and try to meet it. But unfortunately it reminds me of that story of a man about to be drowned struggling to reach the shore and there were two people standing on the shore and when the drowning man shouted for help each said, "I have not been introduced to him, how shall I go and save him?" That is the sort of thing you are doing here. The Parliament want to give us something and for that they have sent this Commission, and this Commission has come here and asks for help and my friends say "Oh, yes; they have come to do good; but they have not shaken hands with us and they have not asked us to do this and that.

Therefore we decline to see them or meet them." Whether this is the right or proper attitude for us to take has to be considered now. Another argument has been used—and it has been repeated by my friend, the Honourable Mr. Ramadas Pantulu—that a constitution for India should be made by Indians alone and nobody else should make it. So, if you are thirsty in a forest and if you are a Brahmin, you may wander through the forest till you can find drinking water but you must not, according to the Brahminical rule, drink water that is brought by somebody else. So India may suffer from many ills and she may not be in a position to help herself; what is wanted is help from outside. Yet, if it is offered to be done by Parliament in England or by the Simon Commission coming out here, you ought not to take it, and the Brahminical rule should be observed and you should refuse any help offered to you. I would only remark, Sir, that that is not the ordinary rule of life. If there is a diseased part in the body, the doctor cuts it out and puts in a fresh part; and in these days he prolongs life by grafting glands of animals also. But our friends here do not want it. They say in effect: "You had better die; but do not take a foreign substance. It may do good, but it is a foreign substance and therefore you should not take it." But, Sir, if I want it and if it will help me to get rid of the disease, I will have it. The question, therefore, instead of being argued from this point of view, has been argued from the point of view that Sir John Simon said something first, and then he said something else and he suggested a third thing a third time and all that. But I say that the question is not what Sir John Simon said one day or said some other day. My question is, how are the interests of India to be advanced? Parliament has given Sir John Simon a blank cheque about his procedure; he is the master of his procedure; he can follow any procedure he likes; and he may say one thing to-day and another thing to-morrow and a third thing the next day; that has nothing to do with it. All that concerns me is to see whether it advances my interests; and until it has been made clear to me that the recommendations which Sir John Simon is likely to make would not advance my interests, I think it is premature to condemn his work before it is undertaken or done. That is not statesmanship; that is not politics; it may be very good sentiment; it may be very good feeling or even patriotism, if you like to call it by that name; but the real point is that you must look at the article; and without looking at it you cannot certainly reject it; before the article is put before you, before you have seen it, before you have examined it, to condemn it in advance does not look like wise men's procedure anyhow. It has not been made out here that by our non-co-operating with the Simon Commission we shall advance the interests of the country. Nobody has up to this time maintained that, and I do not know how it can be done. In fact those people, the boycotters, say they are increasing; they may be increasing or they may not be increasing—very rightly they are not; but that does not affect me; it matters absolutely nothing to me, until it is made out that by boycotting this Commission India will get more or will be better benefited than by co-operating. I say the argumnt is irrelevant. We want those who oppose the Commission to say that the Commission will do injury and that our non-co-operating with it will do us an immense amount of good. Until that argument is pressed I do not see how they can convince me.

There is another point. The boycotters say they have been boycotting the Commission. Have they really been boycotting it? That is the question I

[ Mr. G. S. Khaparde. ]

ask. In a court of justice, the man who prosecutes and the man who defends are both of them assisting justice. Each may take different sides, weigh the evidence differently and may come to different conclusions ; but both of them are co-operating. In this case, India is the person concerned and her interests are being discussed ; and even those who maintain that this Commission is not good and that we should oppose it are after all contributing to the good of India, some say, " We do not want to do this " and some say " We want to do the work " but both of them are co-operating in the result which comes of it.

Then, Sir, a great argument has been urged that the majority of the people are against the Commission. I doubt if the majority of the people are against it. But supposing they were, what does it matter ? The majority of the people hanged Galileo because he said that the earth went round the sun and the sun did not go round the earth as the people imagined. The majority of the people hanged Christ and they killed many other people. Is the majority always right ? And is the majority called upon here to decide what is the work on which they have to pronounce ? The work has not yet begun but only preparations for it are being made. If they say they are to judge what would happen, I say my reply is : This is *a priori* reasoning : it is like the case of a man who was lying down and a rat jumped over him ; and he at once began to argue within himself, " To-day a rat has jumped over me ; to-morrow a cat will do the same ; and afterwards a dog will do it ; and then a camel will jump over me and after that an elephant will try to jump and oh ! I shall be a dead man ", and forthwith began to cry. Such is the way of *a priori* reasoning—about things which are never likely to happen. I say this is all wrong, entirely wrong. If a rat jumps over you, you simply take a stick and throw it out. Why all this trouble and why all these castles being built in the air ? I may say, Sir, that all these arguments based upon the majority and upon certain persons having co-operated and others having non-co-operated and all that sort of thing are all beside the point. The real point is : will it do good to India ? And about that point nobody says a word. I say, co-operate with the Commission and it will do us a great deal of good. Parliament wishes to see what further things can be done to advance the constitutional progress of India, and they have sent out a person to do it ; they have given him some assistance and full liberty to do it in the manner he likes. Let us put our case before him ; and then if he does not consider it then it is time enough for us to condemn him ; but it is not open to us to do so before we know what he is going to do. If he is not going to do you any good, then you can say, " It is no good to me." But at present to say, " I refuse to put my case before him " looks to me a little bit childish. It is like the Brahmin refusing water because it was not brought to him by a man of the same caste or like a man refusing to take medicine because it was foreign medicine. It all seems to me rather a peculiar way of looking at things.

I think it is our duty to try every method that can be tried and tan the best out of it. We should take whatever is the best. If the Commission will not give us anything, I shall be the first man to say that it was sent out needlessly to this country. If they give me something, I shall say it is all right ; half a loaf is better than none, and for the rest we can fight afterwards. What is the meaning of non-co-operating with the Commission and calling each other names ?

I had a friend who put his horse in a race. I told him not to put his horse in. He said, " No, I will put my horse in ". Then the horses were drawn up in a line. My friend's horse began to kick about and the horse next to it also began to kick my friend's horse. In the meantime, the signal was given and the rest of the horses had their race, while these two horses went on kicking at each other. It is like this. Nothing has been done by the Simon Commission so far, and here Hindus and Mussalmans are fighting, they have a tremendous tilting against one another, and nothing is being done. I say, don't do all this : please restrain your horses, run the race and see who wins. If you win so much the better for you. What is the good of staying at home ? Nobody did any good by staying at home. If there are difficulties in the way, it is your duty to surmount those difficulties and not to say that we will not co-operate with the Commission. For these reasons, Sir, I heartily support the proposition that has been just put before the House.

THE HONOURABLE SIR ARTHUR FROOM (Bombay Chamber of Commerce) : Sir, in the few remarks I have to make on this motion I do not propose to follow the example of the previous speakers and wander away from the terms of the motion before the House, or to stray into other fields quite apart from the motion. It seems to me, Sir, that the question is quite a simple one. We are asked to act in pursuance of a Resolution which was adopted in this House last February. Well, this motion has given members the opportunity to make speeches, of which we had a lot this morning covering much the same ground which they covered a few months ago. However, every body is entitled to his own opinion. I have no quarrel with the Congress Party if members of that party get up and voice their opinions. I have no quarrel either with my Honourable friend Sir Phiroze Sethna, who is not of the Congress Party, getting up and airing his opinions. But what I do want to bring the House back to is the motion before it.

Let us now return for a brief few minutes to the Resolution and its voting last February. The Resolution was carried by a vote of 34 for and 13 against. Now, let us neglect what is sometimes described as an objectionable body in voting, the Government Block, which numbers, if all Members are present, 16. Deduct 16 from 34 : we have a majority then of 18 to 13 for the Resolution.

I believe my Honourable friend Mr. Ramadas Pantulu quoted some figures. I did not quite catch what he did quote, but I think he mentioned something about the " elected " figures. Well, I think that when you quote figures you are treading on dangerous ground. I should imagine that the Honourable Mr. Ramadas Pantulu on the great occasion in February last must have brought up as many of his friends to vote for him as he possibly could. Now, Sir, the total number of elected non-officials in this House is 33.....

THE HONOURABLE MR. V. RAMADAS PANTULU : I said that only 24 took part.

THE HONOURABLE SIR ARTHUR FROOM : Out of 33, under, I presume, a whip of extreme pressure, only 13 elected non-official Members voted against the Resolution last February.

THE HONOURABLE MR. V. RAMADAS PANTULU : No pressure of any kind was brought to bear on them.

THE HONOURABLE SIR ARTHUR FROOM: Some of the speakers have taken their stand on the rejection of a somewhat similar Resolution in the Legislative Assembly by a very narrow majority, and hold therefore, that we in this House should not go against the "voice of the people". Well, I have heard this before, and many Honourable Members of this House have heard it before: I think my Honourable friend Sir Phiroze Sethna has also heard it before, and on occasions I think he has voted againt the views of the other House. Do you suggest that we should blindly follow whatever the Legislative Assembly does? What has it done on occasions in the past? I have a recollection that they passed a Budget with postal rates which would reduce the administration of the post offices in India to an absolute farce, and we in this Council set it right. I remember the Legislative Assembly passed a Budget reducing a tax, which no one would consider as an oppressive tax, down to some insignificant figure, which would have meant a loss in revenue of some crores of rupees for no useful purpose whatever. Did we swallow that in the Council of State? No, we did not. Therefore, I say that this House has acted rightly, and I cannot understand any Honourable Member of this House getting up and saying we should blindly follow the tactics—I cannot describe them as anything else—of a certain party in the other House on the cry of a fight for the people.

THE HONOURABLE SIR MANECKJI DADABHOY: It is a case of the blind leading the blind.

THE HONOURABLE SIR ARTHUR FROOM: Now, what is the motion before us? I could have understood a great outcry on the part of our friends in opposition had the Honourable the Leader of this House said, "Well, the Legislative Assembly have refused co-operation. The Council of State have agreed to co-operate by a great majority. That being so, let the Council of State elect the whole Committee, a Committee of say 8 or 9 and leave the Assembly alone." Perhaps then there would have been some excuse for the opposition to the motion which is before the House. Then the Council of State would have been taking on itself the responsibility of electing the whole Committee. We are not proposing to do that. What we are doing now is to act on our own Resolution and take part in the selection of a small proportion of the Committee to co-operate with the Simon Commission.

Look at the numbers. We are asked to elect three members of this Council to the Central Committee. We are not treading on the toes of the Legislative Assembly in any way whatsoever, and I would like the Honourable Members of this Council to remember that. We are acting—we are asked to act—in pursuance of a Resolution adopted in this Council last February, and that is the motion before us to-day. We are not interfering with the Legislative Assembly in any way whatever. I therefore heartily support this motion.

THE HONOURABLE SARDAR CHARANJIT SINGH (Punjab: Nominated Non-Official): Sir, I rise to support this motion. By the Resolution of 22nd February 1928, this Council has already decided to co-operate with the Simon Commission and the motion before the House this morning is only to carry out that con-

1 P.M.

sidered decision. To oppose this motion therefore can only mean one thing and that is to go back upon what we decided ourselves after mature consideration only a few months ago. Such a procedure, I beg to submit, would neither be constitutional nor dignified. I do hope, Sir, that in the best interests of this country, this motion will be passed by an overwhelming majority.

* THE HONOURABLE MR. KUMAR SANKAR RAY CHAUDHURY (East Bengal : Non-Muhammadan) : Sir, we wanted a round table conference. No Indian had raised or possibly could raise his voice against it, but the Government has flouted that request. Our self respect therefore demands that we should not co-operate with the Government. Although various local Councils have voted for co-operation, the result has mainly been obtained with the help of Government votes and the votes of Europeans, of nominated gentlemen and of some communal group who are not sure of their seats in a joint electorate. There is no difference in the country about the main points as regards the future constitution of India, except the principle of representation and allotment of public service. We ought to settle these differences. Are they so very important? Our differences have emboldened the Government to assume a stiff attitude. This is evidenced by the repressive measures which have recently been adopted by the Government. It is therefore our duty at the present juncture to make up our differences and meet the challenge of the Government by throwing out the resolution. There is one other point to which I had already referred in my speech on the last occasion. No answer has been vouchsafed by Government to it and a subsequent question of mine on the point has been disallowed by you, Sir. I wanted to know whether, when the Simon Commission had submitted their report, the Joint Committee from India that was to sit with the Joint Parliamentary Committee was to be a Committee appointed by the Central Legislature or the Central Government. The absence of an answer to the point makes the position of the Indian Committee quite uncertain and this is another reason why we should not accept the Resolution. There is another point to which I think I should draw the attention of the House. Doubt, I am told, has been raised about the validity of the certification of the Simon grant and if that is well founded, the position of the Committee, I am afraid, will be very unfortunate.

THE HONOURABLE MAJOR NAWAB MAHOMED AKBAR KHAN : Sir, I had no idea when I came up to this Council this morning to take part in the debate on this motion. To me, it is very clear that having discussed this Resolution only a few months ago, there is no reason why we should not carry out the decision we came to before. Nothing has occurred in this interval for any of us to change our considered decision. Secondly, Sir, I am not sure whether a majority of the Muhammadans, as has been alluded to by the Honourable Seth Govind Das, have decided to join the non-co-operators. Sir, I happened to be present myself at Lahore at the time of the Muslim League and I can give very full details of what took place at that conference. More than 30 non-co-operators were allowed to make speeches at that League. Some of us co-operators from the North West Frontier Province also attended that conference. The meeting lasted till late at night and after all the non-

* Speech not corrected by the Honourable Member.

[Nawab Mahomed Akbar Khan.]

co-operators had their say, the resolution was put at ten o'clock in the night and it was carried by an overwhelming majority. The Musalmans of the Punjab and the North-West Frontier Province decided to co-operate with the Simon Commission. I cannot believe how a man who had never been to that conference says that the Musalmans were for non-co-operation. I was an eye-witness at that Muslim League and I was there when the full discussion took place. We are not responsible for the views of certain other Muslims. But I can say this much that the majority of Muslim opinion in India is in favour of co-operation, and as far as the province from which I come, namely, the North-West Frontier Province, we are for co-operation with the Simon Commission. I went through a great portion of my province and I interviewed a good many people and they said : " We are a dependent country, it is for the British Parliament to decide what they are going to do with us and as the British Parliament has appointed the Simon Commission, it is our bounden duty to co-operate with the Commission and to see that proper reports are made, and if the reports are not satisfactory, then we can say something, but we cannot discuss the thing prematurely ". This is what those people said. I think that, having once decided to co-operate, it will not be in the fitness of things that Honourable Members of this House should go back upon their own considered decision. Sir, the most objectionable feature seems to me to be this : When a man comes to dictate to me, I say I cannot tolerate it. Difference of opinion is permissible always. There are some of my friends who believe that they can gain much by not co-operating with the Simon Commission. They are quite welcome to hold such views. But they have got no business to come and dictate to me and say that I must come to their views. It is an honest difference of opinon. Some of us believe that by co-operating with the Simon Commission, we can gain our ends. Others might believe that it is by non-co-operation that they can achieve their purpose. I do not quarrel with them. But, I am personally of opinion that being under the British Parliament the best thing for me and for my province is to co-operate with the Simon Commission. (Hear, hear.) It will be only through co-operation that we can gain something from the British Parliament. If we begin to quarrel like children and say: " I do not want this, or I do not want that because I have not been given this or I have not been given that ", then I am afraid, we are not going to get anything. That is not the way to get things. After all the British nation is ruling over one-fifth of the whole globe and a small section of Indians cannot defy the British Parliament. I do not think this attitude of non-co-operation will do good to anybody. Personally I am for co-operation and I will stick to what I said last time when this Resolution was fully discussed. That is why I extend my whole-hearted support to the Leader of the House in bringing forward this motion and I think, Sir, that those people who differ from us are quite welcome to have their views and we are also welcome to have our own views.

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 Sir Phiroze Sethna in the Chair.

THE HONOURABLE SIR PHIROZE SETHNA (Chairman): The Council will resume discussion on the motion of the Honourable the Leader of the House:

"That in pursuance of the Resolution adopted by this Council on the 22nd February, 1928, the Council do proceed, by such method as the Honourable the President may direct, to elect three of its Members to the Central Committee to sit with the Indian Statutory Commission."

THE HONOURABLE MR. P. C. DESIKA CHARI (Burma: General): Sir, as one who had moved the main Resolution in pursuance of which the present motion is brought, I think it is my duty to support my vote by a speech and not to record a silent vote. Sir, when I moved my original Resolution, the Assembly had already passed a Resolution by a narrow majority in favour of boycott, and I was surprised that my friend the Honourable Mr. Ramadas Pantulu and others thought fit to bring up the matter again which they had already discussed when my Resolution was moved. They took the objection then that, since the Assembly had passed a Resolution for boycott, it was not open to this Council, to move a Resolution in favour of co-operation. The matter was discussed both on the technical aspect as well as on its merits and we had the verdict by an overwhelming majority of this House. Under these circumstances I quite agree with Sir Arthur Froom and others who said that we were moving far away from our moorings when we discussed all these questions as regards the attitude of the Assembly in this matter. Well, it is further urged that it was a Joint Conference that was agreed upon by the original Resolution. We agreed to participate in any Joint Conference. The Joint Conference does not necessarily mean a conference in which both the Council of State and the Members of the Legislative Assembly have to take part. The Joint Conference may be of the representatives here as well as of the representatives sent out by His Majesty's Parliament. So that it is unnecessary for me to stress this point any further. And I also find that the main objections which have been brought forward to the Resolution then are being repeated again here and I find my friend Ramadas Pantulu as Leader of the Swaraj Party—of course he is quite right in stressing his point when a motion is brought—says, "We have no faith in the *bona fides* of this Commission." They are quite welcome to their views. But I would submit to him and to others of his way of thinking that as a hard-headed lawyer I should think that, if I find that I have some doubt about the *bona fides* of the Judge, that is the very reason why I would strengthen my case as much as possible and put forward all the arguments and all the evidence that I can get hold of so that I can strengthen my case for appeal and win even in spite of the judgment of that Judge. Here the Commission is not the final arbiter of the whole thing. They have been sent out by Parliament as accredited representatives of Parliament to find out how to proceed on the lines laid down by the declaration of 1917. Under these circumstances, as I pointed out on the last occasion, it is our duty to take advantage of the vehicle of self-expression which is given to us and not to allow that body—in which certain sections have got confidence and in which certain other sections have got no confidence—to have its own way. It is our duty to take advantage of this vehicle of self-expression to see, if the Commission goes wrong, that our views are properly brought forward and Parliament is impressed with our view point. But I find, Sir, as I also stated at the time when I moved my original Resolution, that it is generally agreed, that it is not disputed that unless Parliament sets its seal of approval on an Act

[Mr. P. C. Desika Chari.]

liberating the Indian people, the Indian people can never have freedom. That is agreed, I think, even by the Congressmen. And I find this statement is further strengthened by what has happened since then. Reference has been made to the All-Parties Conference. Lest Members of this Honourable Council may go away with the impression that the All-Parties Conference consisted of only boycotters, I should make this quite clear that, though the majority of them were boycotters, there were people who were distinctly for co-operation and in fact it was after I had moved my Resolution committing this Council to co-operation that I attended the All-Parties Conference, and I believe my Honourable friend Sir Sankaran Nair also attended that Conference and we were allowed to participate in it. So that there is no meaning in what has been said about co-operators not having been allowed to participate in it. If people like Sirdar Bahadur Shivdev Singh Uberoi did not care to go all the way to the Conference and tell the people responsible there that they were also interested in participating in that Conference, certainly the people who were responsible for convening that Conference should not be blamed. Certainly they would have been allowed to participate in that Conference if they wanted to.

THE HONOURABLE SARDAR BAHADUR SHIVDEV SINGH UBEROI : When I said that, I meant the chief Khalsa Dewan, one of the oldest organisations of the Sikhs in the Punjab, whom I represent. I never meant that I should have been invited personally.

THE HONOURABLE MR. P. C. DESIKA CHARI : Well, I take it the Report of the All-Parties Conference has created this agreed constitution. It was held at a time when the Royal Commission on Reforms had come out to India, at the psychological moment. Generally we do not find such Conferences in other years. Unless the object of a conference like that was to evolve a scheme of constitutional reforms which may be put forward before the Simon Commission by others interested, it is not clear what the object could be—at any rate that is how I understood it. And as there were people who were distinctly for co-operation, it was quite open to them to bring it forward before the Simon Commission ; and when they published the Report it was certainly meant to be read ; when it was published to the world at large it was naturally expected that these Royal Commissioners on Reforms would certainly go through it. In that way I regard it as an indication that those people who were originally for boycott were not averse to having their case stated. Whether they state it openly before the Commission or not, whether this Report is actually placed before the Commission by anybody who participated in that Conference or not, they were anxious that their views should be known to a body which has come out to improve the constitution and to give representative institutions in the real sense of the word in pursuance of the original Declaration of 1917.

Well, Sir, there is one other aspect. Much has been said about the Legislative Assembly deciding against co-operation. Of course I have already referred to it and I say, and I have known several people in the Assembly to say that but for the technical objection that a fresh Resolution cannot be brought within one year,—that if a Resolution were brought to-day before the Assembly

I have absolutely no doubt the Resolution for co-operation would be carried to-day. (*Cries* from the Swarajist Benches of "Question, question!") I know, Sir, that at the time when I originally moved my Resolution I laid stress on this fact that one of the greatest obstacles in the way of co-operation, one of the strongest weapons which the Commission and the Government were placing in the hands of the boycotters was this question of camera evidence and exclusion of the Indian Committee from participating in all the evidence. I was one of the very first to take early steps to intimate to the Commissioners that if this camera evidence goes and if the objections which I raised in my letter written as Secretary of my Party to the Commission go—if all those objections were removed, the people or the vast majority of the people would be in favour of co-operation. The very fact that soon after the Commissioners have revised their views—of course in answer to our objections—and have done away with camera evidence—there was a distinct change in public opinion shows that I was right when I prophesied that if this insistence on camera evidence goes the whole country or the vast majority of the population would be in favour of co-operation, and if the Assembly is asked to give its verdict to-day after this main objection has gone I am perfectly certain the verdict of the majority would certainly be in favour of co-operation.

Reference has been made to the attitude taken up by the various Legislative Councils. I know, Sir, the Legislature of the Province of my birth originally were not in favour of co-operation. In fact this distinction between Members of the Royal Commission and members of the Committee weighed heavily with a large majority of the Members of the Legislative Council in Madras. What do we find now? After the Commission made a distinct statement that no distinction would be made between the members of the Commission and the members of the various Committees co-operating with it, the main objection to co-operation disappeared.

THE HONOURABLE MR. V. RAMADAS PANTULU: Why were popular Ministers who in obedience to the mandate of the Council refused to co-operate with the Commission dismissed in Madras?

THE HONOURABLE MR. P. C. DESIKA CHARI: I will come to that also. With one voice in no uncertain terms the Legislative Council of my Province declared that the Council and the country were in favour of co-operation. My Honourable friend Seth Govind Das—I do not know whether he referred to that humourously or whether he was serious—stated that two organisations had come into existence after the Commission was appointed. He named the Liquor Association as well as the Leather Association in Madras. And he instanced only those two organisations as co-operating with the Commission. I do not myself see why for the purposes of their own trade they ought not to co-operate, but he has been very careful not to give out to the Council what happened afterwards if he really cared at all to follow the popular opinion, the public opinion, in that province. Well, Sir, though I come from Burma, all my people are in Madras. All my brothers are in Madras and I have frequent opportunities of going to Madras. I know the conditions in Madras quite as well as any Member from Madras knows them. Well, who are the persons who were in favour of boycott when the original Resolution for boycott was passed? The main party was the Justice Party besides the Swarajists.

[Mr. P. C. Desika Chari.]

(At this stage the Honourable Sir Phiroze Sethna vacated the Chair which was resumed by the Honourable the President.)

My friend referred to the Ministers and the opposition of the Ministers there. Well, two Ministers who were not in favour of co-operation had to resign because there was a motion of want of confidence moved by the Leader of the Swaraj Party in the Council and there were not even enough men to stand up and support that motion of want of confidence in the Minister who had co-operated. Then immediately after this boycott Resolution was passed in the Madras Council, the Members of the Council opened their eyes and even before the Royal Commission on Reforms agreed to treat the members of the various Provincial Committees and the members of the Central Committee on the same footing as the members of the Royal Commission, even before that they thought they had committed a blunder and they at once proceeded to rectify that blunder by showing in unmistakable terms that they had absolute confidence in the Minister who voted for co-operation. If any doubt there was, that doubt was cleared up by the attitude of the Justice Party. Immediately after this the Leaders of the Justice Party came forward with a statement and if there was any doubt about the attitude of that Party it was made abundantly clear in the later Resolution for the appointment of a Committee by that body representing the vast millions of non-Brahmans in the country, declaring by their votes that they were for co-operation. And if the non-Brahmans are thus accounted for, what is the rest of the community that is left? It is the Brahmans. I know, Sir, that the orthodox Brahman community are in favour of co-operation, except those people who are bound by the Party mandate. I know that the Association of the Brahman community distinctly made quite clear that they were in favour of co-operation and I challenge any Member of this House coming from Madras to dispute this statement. They were not associations formed after the Simon Commission came out or was appointed, but one of the oldest associations existing in the country. .. .. ..

THE HONOURABLE RAO SAHIB DR. U. RAMA RAU (Madras: Non-Muhammadan): What about the People's Party?

THE HONOURABLE MR. P. C. DESIKA CHARI: I am not going to go off at a tangent at the request of my Honourable friends. I think when I have stated that the representatives of the non-Brahmans and the representatives of the Brahmans are all in favour of co-operation, I do not see which other community there is to boycott. There may be one or two people who come on the Congress ticket and who may be bound by the resolution passed by the Congress body and who cannot get out of this mandate which comes from the Congress. But even in that case, now that the Nehru Report has been accepted by the Congress Committees thereby giving the go-bye to the goal of independence, there is absolutely no reason why the Congress Party should not co-operate at all. If you are satisfied with Dominion status, who is to give you that Dominion status. If you are for independence I can understand boycott, because you can get it irrespective of the opinion of Parliament or the British people.

THE HONOURABLE SETH GOVIND DAS: The Congress still stands for independence.

THE HONOURABLE MR. P. C. DESIKA CHARI: I can only draw my conclusions from what is a distinct indication and I would go further and say that the Congress Committees by accepting the Nehru Report have given the go-bye to the independence resolution.

THE HONOURABLE SETH GOVIND DAS: A compromise.

THE HONOURABLE MR. P. C. DESIKA CHARI: I am very glad that my friends who were not for a compromise have now grown wiser and accepted the compromise. But whether it is on account of a spirit of compromise or for any other reason, when the Congress organisations have given the go-bye to the independence resolution, I say that it is a natural corollary, when they accept the goal of Dominion status, that we cannot get it unless we get the approval of the British Parliament and we cannot get the approval of the British Parliament unless we take advantage of the vehicle which is given to us and unless we impress upon the Parliament our fitness to do so. Under these circumstances I say that we ought not to place very great reliance upon a Resolution passed by the other House—whether you call it a popular House or an unpopular House,—at a time when independence was the accepted goal of the Congress I have always believed that you must have some respect at least for its decisions, though of course we are not bound by them; and I have always advocated that course, but that does not mean that you should follow closely in their footsteps. The object of a revising Chamber is not to endorse every word of what the Assembly says; but you have got every right to go into all questions and form your own opinions, taking care not to disturb the conclusions of that House very often. That has been the view that I have been advocating and after the passing of this Resolution by the Legislative Assembly, things have considerably changed, but it is not possible for any Member of the Assembly now to bring forward another Resolution before the lapse of one year from the date of that Resolution. Therefore, I ask my friends not to entrench themselves behind this technical rule, but to allow the country to draw the proper conclusions. Indications are not wanting even in the Swarajist camp that after this Resolution for boycott there has been a considerable amount of feeling in favour of the Commission. (*An Honourable Member*: "Question?") I do not want to refer to a recent incident, but Honourable Members of this House who belong to the Swaraj Party know it very well.

Well, Sir, I have spoken about Madras, the province of my birth, where I was brought up and in whose conditions I am intimately concerned and whose conditions I know quite as well as any Member coming from Madras.

Now, taking the question of Burma, the Burma Legislative Council unanimously passed a Resolution in favour of co-operation. Of course the Committee is not yet formed, because the Council had to be dissolved by efflux of time and a new Council is to be elected before the Simon Commission comes there, and in due course they will appoint a Committee. I find quite recently that there has been a great agitation over the question of the separation of Burma or of Burma remaining as part of the British Indian Empire. That is a live question. Who is to decide this question? I find from important organisations representative of Burma, even some of those organisations which are

[Mr. P. C. Desika Chari.]

in favour of boycotting have veered round to this view that it is necessary to co-operate with the Commission and to put all the available material before the Commission ; and this question being a live issue, the vast majority of the people there—I am not talking from my experience of Rangoon alone, I know intimately the conditions in the districts because very often I have more to do in the districts than in Rangoon itself—the vast majority of people in Burma are in favour of co-operation. It may be that there is a distinct section which tries to follow the Congress mandate, and being vociferous an impression is created that there is an influential body in favour of boycott. But I say, Sir, the vast majority of the people in Burma are in favour of co-operation. What about the other Councils ? A majority of the Legislative Councils with the exception of one or two, which will follow suit, I think, are in favour of co-operation.....

THE HONOURABLE SETH GOVIND DAS : Not the Central Provinces at least.

THE HONOURABLE SIR MANECKJI DADABHOY : The Central Provinces does not count.

THE HONOURABLE MR. P. C. DESIKA CHARI : It is one of the minor provinces of India ; and I am not quite sure whether even the Central Provinces is not going to follow the lead of the other provinces which are in favour of co-operation.

THE HONOURABLE SETH GOVIND DAS : It will follow the lead of the Assembly.

THE HONOURABLE MR. P. C. DESIKA CHARI : Very well ; let them follow and you had better advocate it. But I am very doubtful about the results even in the Central Provinces Legislative Council. That being the case, Sir, what is the position ? Here one half of the Central Legislature is in favour of co-operation and almost all the provincial Legislative Councils are in favour of co-operation. As one of the Members pointed out, the provincil Councils are represented by men who have got a more intimate knowledge of the condition of things in the provinces than the Members who represent a particular province in the Assembly. The franchise is wider and they have necessarily every day greater opportunities of meeting people in all walks of life and have to devote their time in the provincial Councils into dealing intimately with provincial subjects and therefore they have better opportunities of knowing what the views of the people are and their verdict is the verdict of the people. More especially is this the case when you find some of the provinces revising their views, while the Assembly did not have an opportunity of revising its views.

Something has been said as to what sort of representation there ought to be on this Committee. My friend, Sardar Shivdev Singh Uberoi, pleaded the cause of his community. Of course he is here to plead the cause of his community also ; but so long as Burma is a part of British India, Burma is bound to be represented—I do not care whether it is represented by a Member of the Assembly or here ; and unless there is a representatives in this Committee representing Burma (*Honourable Members* : "Hear, hear.") I do not see that

it will represent all interests in British India, because you will be excluding Burma altogether.

One other point that I wish to state is this .....

THE HONOURABLE SETH GOVIND DAS: I want to know whether, if Burma is not represented, Mr. Chari will co-operate with the Commission.

THE HONOURABLE MR. P. C. DESIKA CHARI: Burma has been co-operating as you find. It does not make it a condition precedent; it does not attach any condition to co-operation at all. In fact my attitude from the very beginning, when it was quite uncertain whether there was going to be any committee or not, has been that I was distinctly in favour of co-operation. I was in favour of co-operation even if there were no committees at all; and that being the case I am surprised that my friend Seth Govind Das puts this question.....

THE HONOURABLE SETH GOVIND DAS: Unconditional surrender?

THE HONOURABLE MR. P. C. DESIKA CHARI: It is not a question of unconditional surrender; it is a question of putting our case before Parliament and, as I pointed out on the last occasion, it is our duty and a sacred duty to take all steps we can in furtherance of this object. Of course, now, fortunately, we are given this vehicle of expression. We can make our own reports; but even apart from that, unless you treat these Commissioners as accredited representatives of Parliament, how can you advance your interests? How can they find out what your needs are? They want co-operation for the purpose of ascertaining in what way your interests can be furthered. That being the case, I was distinctly in favour of co-operation from the very beginning, whether there were to be committees or no committees.

One word more, Sir, and it is this. Some Honourable Members said that now that the Assembly is not to elect its representatives it is not proper to send any representatives at all from the Assembly. The Assembly as a body might have non-co-operated, but does it mean that those Members of the Assembly who are for co-operation cease to represent their constituencies? Of course, if these people are nominated from the Assembly, they cannot say that they are the representatives of the Assembly. There is a doubt with reference to that question. But they do not cease to be representatives of the constituencies whom they represent, and the best course which the Government can follow is to adopt the method of nominating people in whom their constituencies have reposed confidence. It will be a sort of indirect representation because those people have been elected by their constituencies, and instead of sending out a number of people as representatives of the Assembly, the representatives of the people will be represented, at any rate the co-operating section in the Assembly will be represented on the Committee. With these words, Sir, I heartily support the motion which has been moved by the Honourable the Leader of the House.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: Sir, as one of the Members of this House who had to face the electorate only last month, I think I can speak with some authority on the question as to what the

[Srijut Rama Prasad Mookerjee.]

electorate wants in my part of the country. One cannot say what opinion would be expressed if there is a new election in every part of India, but so far as I am concerned, I represent West Bengal, and I gave it out in my manifesto that I had accepted the Congress ticket, and the plank on which I was elected was that I would not support any co-operation with the Simon Commission. An attempt was made by some important public men in Bengal to set up candidates against me, but they would not get, except one, to stand against me, and he also was defeated. I cannot, therefore, so long as I retain my seat here on the Congress ticket, support any proposal for co-operation with the Simon Commission.

But apart from that, Sir, what is the position of the Council of State at the present moment? Any Honourable Member who has cared to go through the Parliamentary debates that took place when the Government of India Act was amended by the Parliament or when the Resolution for the appointment of the Commission was passed in the Houses of Parliament knows that there was a very strong opposition from certain sections of the House that there ought not to be any Commission sent out to India unless that Commission was acceptable to the major portion of the Indian public. Whether Indians should be associated with the Commission or not was the question which arose at that time. The method that was suggested by the Ministry then was to appoint representative Committees in India so as to remedy the defect of non-representation of the Indian element on the Parliamentary Commission. It is not in one place, but I think it is in three or four places in these debates that the Prime Minister, the Secretary of State for India and the Under Secretary of State for India have given out that the Committee to be appointed should be elected by the Central Legislature. Great emphasis was laid by Honourable Members in the Parliament on the fact that the Members who would be elected by the Central Legislature would be representatives of the people, who would really represent the interests of the people in a much more representative character than it may be possible for a Parliamentary Commission which would include two or three members from India. Sir, on the 8th of November, 1927, when the Prime Minister made his statement before the House of Commons, he said as follows:

"His Majesty's Government cannot, of course, dictate to the Commission what procedure it shall follow, but they are of opinion that its task in taking evidence would be greatly facilitated if it were to invite the Central Indian Legislature to appoint a Joint Select Committee, chosen from its elected and nominated unofficial Members, which would draw up its views and proposals in writing and lay them before the Commission for examination in such manner as the latter may decide."

Sir, this was the opinion expressed by the Prime Minister in the House of Commons. But as the discussion went on, it was recognised that the position which would be occupied by the Indian Committee, which was termed by Lord Olivier as the "Indian Commission", would be much more important, and that it would not only co-operate with the Commission, that it would not only take evidence, but it would also sit in joint conference.

Then again, Sir, on the same date, when Lord Birkenhead was making his statement before the House of Lords, he also mentioned the same fact before that House, that it would be a Joint Select Committee, chosen from its elected and nominated unofficial Members.

Sir, the same statement was made by every Noble Lord, including Lord Olivier, and Lord Reading; and Lord Reading, speaking with the experience which he had as the head of the administration in this country, said that it would not be possible for any Commission to do any real work unless the vocal public, the Indian aristocracy of intellect joined with the Commission, and that the only way that could be done was by appointing a Committee in India, a Committee which would be appointed by the Central Legislature,—by the Assembly and the Council of State,—and also by the Provincial Councils electing their own Committees. There is one important passage here which I cannot but read to the House, because that also shows unmistakably that it was not a Committee of the description which Sir John Simon now wants to co-operate with him, that was anticipated or thought of by the Members of the House of Commons when they approved of the appointment of the Commission. At page 174 of the Parliamentary Debates, Earl Winterton, the Under Secretary of State, made this statement:

"Surely it cannot be contended that the chosen representatives of the Indian electorate who will form the Select Committee of the Indian Legislature to meet the Commission are likely to find a lack of sympathy on the part of those who are really in one sense their colleagues, since the Indian Central Legislature is affiliated to the Empire Parliamentary Association."

On this point it is necessary to say a few words more about the intentions of the Parliament, about the Joint Committee of the Central Legislature and the Committees of the Provincial Councils. There seems to be some misunderstanding on this point.

3 P.M.

Lower down, Earl Winterton says:

"I have said that I will try to make one or two points clear in regard to the committee of the Central Legislature—I have called it the joint committee, because it will be representative both of the Council of State and the Legislative Council—and the committees of the Provincial Council. They will be more than mere witnesses. They will be able to prepare a case for further self-government as it appears to them in the Central Legislature and the provincial Councils respectively and present it to the Commission. They will be available for consultation by the Commission on those proposals."

Then, again, at page 184, he says:

"Now in the examination of those witnesses I would strongly urge our commission to agree to have the Indian Commission sitting with them, the right honourable and learned Gentleman the Member for Spen Valley (Sir John Simon) presiding over the joint sitting and the Indian representatives having exactly the same rights and privileges and status as the members of our own section. The adoption wherever it is possible of the idea of joint sessions will, I think, remove a large amount of Indian suspicion, that being done in such a way as to secure to our Commissioners the absolute right, the previously announced right, so that there can be no dispute about it of saying in respect to this, that, and the other witnesses or subject, "We are going to take evidence upon these matters ourselves."

What was attempted to be done in Parliament was that the elected representatives of the Assembly and the Council of State will be there to join in the deliberations of the Royal Commission. Now that the Legislative Assembly has rejected that offer, what is the use of the Council of State Members going there? I do not for one moment suggest that because the Legislative Assembly has rejected the proposal to co-operate with the Commission, it is not open to the Council of State to join in co-operation. But what is the practical value of such a co-operation? What was attempted to be done and what was attempted to be shown to the world at large was that the elected Indian

[Srijut Rama Prasad Mookerjee.]

representatives would act in collaboration with the Commission. But when you have such a large section of the public not joining with the Commission, what good will these three Members from the Council of State do ? The Government will assert in the Parliament that Indian public opinion has been taken and the Commission had the representatives of the Assembly and the Council of State to co-operate with them though the representatives of the Assembly might be nominated. Some Honourable Members may even say that nomination was better than election. But that is not the view which the Imperial Parliament would certainly take of nomination and that is not certainly the way in which in any democratic country nomination would be looked upon. But, Sir, if we are going to have Assembly Members by nomination to sit on that Joint Committee, I for one would not like the Council of State to elect members to that body. Because, although there would not be elected representatives from the Assembly, yet it would be given out that the representatives of the elected Members have joined in the Joint Conference and that they voice the representative opinion of the Indian public.

Much has been attempted to be made of the decision that has been arrived at in the different provincial Councils to co-operate with the Commission. It has already been pointed out that if we analyse the voting strength of the different Councils we would find that in the majority of them, the majority of the elected representatives were against such co-operation. What by the official Members of the Government, what by the nominated Members of the Government, they have often a majority in the provincial Councils. The Montagu-Chelmsford reforms by the introduction of communal representation has made it easier for Government by division and therefore it is only fair and proper for us here to look not on the face value of the opinion expressed by the different provincial Councils, but to analyse it deeper and see how many of the elected representatives of the people were agreeable to join the deliberations of the Commission. I for one speaking of the Bengal Council may say that the majority of the elected non-official Members in the Bengal Council were against co-operation. Certainly the Resolution for co-operation has been passed in the Bengal Council, but that is with the help of the nominated members and with the help of the official block. You should also know that you should leave the non-official European Members also out of account, because the non-official European Members are not so interested in the Commission from the point of view of the poeple and when you want to gauge the opinion of the people of India you should look to the opinion as given by the elected non-official Members of the Council and especially Indian Members.

I was surprised at the Honourable Sir Maneckji Dadabhoy's characterisation of the proposal that has been made by some Members of the Legislative Assembly that the Councils ought to be dissolved and there ought to be a fresh election on this issue. He stated that the gentlemen who were concerned with the proposal has not the courage of their conviction to own that it was not right for them to give out that they ought not to co-operate with the Commission. He said that they have changed their views and that they want to fizzle out through the backdoor. I was really surp ised that he made that statement. Any reader of constitutional history would certainly characterise that statement of the Honourable Member as against all constitutional pre-

cedent. An appeal to the electorate means that you want to see what the general body of the electorate would think about it, and whether you have the support of the country behind you on a particular point.

THE HONOURABLE SIR MANECKJI DADABHOY: The representatives of your province have shown what they want. Is there more distinct evidence than this?

THE HONOURABLE SETH GOVIND DAS: What has your province shown?

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: This question did not come as a principal question when the elections were held some time ago and certainly it is only fair to the Government and the people of India that there ought to be fresh election so that the Government and the gentlemen elected may know for certain which way the opinion of the country lies. I may give out one opinion, the Honourable Sir Maneckji may hold another and it is only fair and constitutional that a fresh election should be held so as to state without any question what the opinion of the country is.

THE HONOURABLE SIR MANECKJI DADABHOY: You want to delay and obstruct the work of the Commission.

THE HONOURABLE SETH GOVIND DAS: There is no hurry.

THE HONOURABLE SIR MANECKJI DADABHOY: I think you are in a hurry.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: After all how long will it take to hold fresh elections? It may take about six months at the most and not more than that. At the outset, on a very important question like this, a period of six months in the life history of a nation is not a very long period. Does my Honourable friend think that by co-operating with the Commission during the next six months, he will be in a position to get from the Commission such recommendations as would compensate for the delay that he would not like to brook now. It was stated, Sir, that he expected this Council to act with sanity and judgment. Certainly he does not expect this Council to lapse to senility. What is the attitude of the public towards this Council? He regards the provincial Councils to be more representative bodies. Certainly there is a larger body of electors for the provincial Councils. It is a much smaller electorate for the Legislative Assembly and it is a still smaller one for the Council of State. The position occupied by this Council of State has been characterised by one Honourable Member to-day as that of a "corrective Chamber." Yes, it is a corrective Chamber, it corrects, but which way. That is more than I need say at this stage. If you review the history of this Council for the last few years and if you take the general opinion of the country you will find that it almost always corrects the Assembly the other way.

THE HONOURABLE SIR MANECKJI DADABHOY: Then why are you here?

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: I am here for a very good reason—to correct the impulse of those Members who want to correct the Assembly. I know that it is not possible for a humble

[Srijut Rama Prasad Mookerjee.]

Member like me to correct the impulse of the Honourable Members who sit here in this hall, but still a time may come when by dinning these facts into their ears continually they will think twice before acting in a way which is not acceptable to the general body of people in the country. Sir, I do not think that any useful purpose will be served by my continuing this debate any more. I do not think that we will be helping the interests of India by co-operating with the Simon Commission at this stage.

But one word more about the Nehru Committee Report. That has been trotted out by some Honourable Members opposite as a gesture by some members of the public who do not want to co-operate with the Commission but at the same time want to help them. But, Sir, it is not such a gesture. It is an answer to those remarks made by Members of Parliament and specially Lord Birkenhead that Indians are not in a position to chalk out their future. It is an answer to those who say that it is not possible for Indians to sink their mutual differences when there is a common enemy to be faced. If you go through the debates in Parliament you will find that one of the principal reasons that were advanced for not bringing in Indian members or members with Indian experience was that there were so many divergent views in India that it was not in the interests of India herself to introduce Indian Members or Members with Indian experience. The Nehru Committee Report is a fitting reply to those remarks for it goes to show that, in spite of those great differences of opinion, or differences between the different communities or the different sections of the public, it is possible for the public to present a united front when there is a common danger ahead. What did England do during the war ? England is governed by party politics ; but all party politics were kept in abeyance and every person joined in managing the affairs of the country. So also I think that this is a most opportune time for the leaders of the different sections of the public to join together and say in no unmistakable voice what is the minimum demand that is to be put before the public or before the world in general. It was given out at the time when the Peace Treaty was signed that every country in Europe was for safeguarding the interests of the smaller States, for the self-determination of the dependencies, and if by publishing this Nehru Committee Report or by such amendment as may be introduced into it by common consent, we show to the world at large that the statement by England that she wants self-determination in every part of the world is falsified by the actual practice in India, that would be a gain in the long run which cannot be neutralised by any other factor. The Nehru Committee Report therefore is a substantial contribution to the proper development of the political consciousness of the people. There will be something before the people on which they can argue, on which they can carry on a discussion for the purpose of finding out what is a common basis for which they ought to fight.

Sir, on these grounds I oppose the motion that has been moved by the Honourable the Leader of the House.

THE HONOURABLE SIR GEORGE GODFREY (Bengal Chamber of Commerce): Sir, I little thought when I came to this House this morning and viewed the business on the paper that we should be let in for this very full and most interesting debate. I thought the Resolution which we were

discussing would go through quickly and easily and that we should not be indulged with all the eloquence much of which we heard in February of this year. But listening as things went on, I came to the conclusion that the discussion had undoubtedly done a great deal of good. In particular, before I go on, I should like to congratulate the last speaker on the very able way in which he has put his case. He spoke with great fluency and with great dignity quite worthy of this House, but I am afraid that I for one must consider that he was only making the best of a very bad case. Now, some of the Opposition Members who have indulged in the boycott have stated that their party voice the people. They lay claim to knowing what the people think about this Simon Commission. I ask you whether it is really possible that the people in the full sense of the word, can possibly take any interest whatever in whether the Simon Commission is supported or boycotted. These gentlemen who have supported the boycott and who lay claim to voicing the people are probably influenced mostly by the actions and sayings of the inhabitants of their own particular constituencies or by their political friends with whom they come into contact day after day. But I very much doubt whether they really know anything about the feelings of the people themselves. In the course of my time in India I have had to travel about in various out of the way places. I have had opportunities of talking to the people, the peasant classes, the agricultural classes, and my own personal knowledge is that those people are not the staunch supporters of these—whom I might almost describe as political professional politicians, these boycotters. I am quite sure that the people themselves, in that sense of the word, look to the moderate Indians who are helping to carve out a destiny for their country and also look to the British Officials with whom they are constantly coming in contact and whom they can appeal to and approach when they are in difficulties. I am speaking as a practical business man. I do not lay any claim to being a politician, and the practical view is that this House has passed a Resolution deciding to co-operate with the Commission and it is now called upon to adopt the Resolution, to elect a Committee. Surely the practical way is to agree to that Resolution. It would be stultifying the decision of the House and its past action to attempt to resile from that position. I thought that my Honourable friend Sir Phiroze Sethna, being a business man himself, would have viewed this proposal also from a practical point of view. But no. He has taken up the opposite position. He lays very great stress on the fact that he amongst others is voicing the people of the country.

He seemed to me later on to contradict himself because I understood him to say that he was also voicing the majority of the thinking people of the country. There is a good deal of difference between these two, but I feel that he, business man as he is, has been drawn into the very unfortunate position which the boycotters fell into on the first announcement from home of the appointment of the Simon Commission. Without waiting to consider the full purport of the announcement, without considering all that it meant, they got together in a hurry and they said that as there were no Indians on the Commission it must be boycotted. They then announced this policy publicly. They got in more disciples and they were finally left in a position which they cannot now easily withdraw from without feeling that they have lost some dignity. It is not a practical position, this of theirs. I feel that as a business

[Sir George Godfrey.]

man it reminds me of somebody who has embarked upon a rather wild financial speculation. He is either bearing or bulling. He has brought forward or he has sold forward. The market goes against him. He knows that he is going to lose all or else make a great success. The wise man says the chances of making a success are very poor ; it looks as though I was going to lose all. Therefore he promptly proceeds to sell out or cover up as the case may be. He cuts his losses and endeavours to consolidate his position and to start again to make good. These gentlemen are rather in that position. They have gone so far now that they cannot summon up enough courage to cut their losses and to recover their position. I make a very great appeal to them. I make a very great appeal to the gentlemen in this House, the Honourable Members of this House who have so far endeavoured to do all they can to boycott the Commission, to reconsider their position now, to see if this afternoon they cannot display that courage which is necessary to vote in favour of the Resolution. With these few remarks, Sir, I support the Resolution.

THE HONOURABLE MR. H. A. B. VERNON : Sir, in making the few observations which I have to make in favour of this Resolution I shall confine myself to one point and to one point only. I could advance many excellent reasons why this Council should not behave like the old woman crossing the street in traffic who gets half way across and then sees a bus coming and bolts back. But Sir, those reasons have been so well set out by other speakers that I am going to confine my remarks to the position of an official. Usually in this Council the official Member who is not a member of the Government has to sit in discreet silence while his conduct and general activities suffer very grave disparagement ; but, Sir, there are some occasions on which the worm will turn and this is one of them. A great deal of capital has been made by speakers on the other side of the relative value of the official vote as compared with the elected vote,—I should say the official vote and the nominated vote as compared with the elected vote in this Council and in the Legislature generally and in the provincial Councils. Well, Sir, it seems to me that we are working under a constitution by law established and that constitution provides that the Members of the Legislature should consist of three different classes, (1) elected Members, (2) nominated Members and (3) official Members. There is nothing in the law of the constitution under which we work which differentiates in any degree between the value of the votes of those three classes of Members.

THE HONOURABLE MR. V. RAMADAS PANTULU : The legal value.

THE HONOURABLE MR. H. A. B. VERNON : Quite so, Sir, the legal value,—I am coming to the moral value later. Well, this non-co-operating party or Swaraj Party or whatever they like to call themselves—I never quite know—choose to come to this Legislature and thereby they accept this constitution. They therefore have no earthly right to discount the value of the vote of any one of these classes. And further, Sir, supposing the Legislatures did not have these official Members, there must be somebody in their place. That I presume would mean a wider franchise and a

larger number of elected Members in the Legislature. Is there any guarantee, Sir, that the new Members who would come in to replace the nominated and official Members would regard as their leaders the Congress members ? We must remember, Sir, that there are some 50 million of the depressed classes who we all know do not regard the tenets of the Congress Party as infallible and they certainly would not support the non-co-operative party in the Legislature. Well, Sir, as regards the actual value of the vote of the nominated and official Members, I can leave the nominated Members to take care of themselves with the passing remark, in answer to the taunt that they vote as Government directs them, that I think I remember in the debate in February on this very same subject, that a nominated Member spoke strongly in favour of non-co-operation.

THE HONOURABLE RAI SAHIB DR. U. RAMA RAU : That was a single exception.

THE HONOURABLE MR. H. A. B. VERNON : Thereby showing that the nominated Members are in the habit of voting according to their conscience. I am more immediately concerned with the value of the official vote. The official who is not a member of the Government is as a rule a district official. He has worked many years in the districts of this country. He has an intimate knowledge of Indian life, of village life. He knows the agricultural problems. He knows the health problems, and the housing problems : and he sees a great deal of the home life of the Indian people. Well, Sir, I maintain and I am perfectly convinced that I am correct in saying that as a general rule the experienced district official knows as much if not more than the average Indian politician (*Cries of* "Question, question.") as to the economic condition of the Indian people. I have, Sir, on more than one occasion visited villages with Indian politicians and I was astonished at the colossal ignorance which they displayed of the conditions of their own countrymen, specially the conditions of the depressed classes. I have been also, Sir, in a district where non-co-operation had for a time gained complete ascendancy and I know, Sir, what the real feeling of the people was. I know the nature of the propaganda which was in vogue in that district ; and I say, Sir, that I was in a far better position to tell the people the truth or rather I was far more disposed to tell the people the truth than those politicians who succeeded in stirring up strife in a hitherto peaceful district.

The official, Sir, has also an intimate acquaintance with the methods by which selections are conducted ; he is, I believe, the official returning officer at all elections and he is in a position not only to know how the elections are conducted but to see by what methods the majorities of the many of these elected Members are secured. Therefore, Sir, I say that to disregard the value of the official vote or to consider his opinion as of no value is absolutely without justification.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan) : Sir, I do not like to give a silent vote in favour of this motion. So I stand to support it with a brief observation. I gave expression to my views on this subject in my speech delivered in the Delhi Session of the Council on the 22nd February last. I hold those views even now....

THE HONOURABLE SETH GOVIND DAS: But the position is changed.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Yes, the position is changed for the better, and even now I hold the same views which I do not want to repeat and thus waste the time of the Council. In that speech I offered a few suggestions to the Royal Commission and those suggestions were that the Royal Commission should extend their helping hand to those who want to co-operate with them on equal terms. I also suggested or rather pressed the point that the Joint Committee in India should not be excluded when evidence is being taken *in camera*, that members of the Joint Committee should have equal powers of cross-examining witnesses appearing *in camera* and that they should have full access to all the records and memoranda of evidence that are to be placed before the Commission. It is a matter of satisfaction that the Royal Commission has practically accepted all my suggestions and this wise decision of theirs has turned many boycotters into co-operators. It has been mentioned to-day in this House, Sir, that Government generally dictates to nominated Members of various Legislatures to follow blindly what the Government says. In this connection I may state that I had the privilege of being returned more than once to the Punjab Legislative Council as an elected Member; once the Government was pleased to nominate me to the said Council. If I rightly gathered from the talk I had on several occasions with Sir Michael O'Dwyer, the then President of the Punjab Legislative Council, one of the reasons why I was nominated to the Council was because I was a critic. At least in my term of nomination I exercised my free will in Council and was never directly or indirectly asked to follow the Government view, though at times I opposed and strongly criticised Government. Constitutionally speaking, Sir, the provincial Legislatures represent the various provinces and their verdict of co-operating with the Commission is a substantial proof that the various provinces are for co-operation. I therefore, Sir, request this House to support fully the motion put forward by the Honourable the Leader of the House.

THE HONOURABLE SIR MUHAMMAD HABIBULLAH: Sir, I must own to a feeling of surprise that the motion which I moved this morning should have elicited such a full dress debate as we have listened to the whole of the forenoon and the afternoon. I have no mind to traverse the ground which has been already covered by the large number of speakers who have preceded me. If I attempted to do so I should perhaps be guilty of attempting to put on the gramophone the records which had been placed on the last occasion and to which I think we listened with the greatest interest. My motion, Sir, was in strict conformity with the demand made by this House. This House definitely and in unequivocal words recommended to the Governor General in Council that he be pleased to take steps for the election of representatives from the Council of State to participate with the Indian Statutory Commission. At the time the House passed this Resolution, it was fully aware of the attitude that was being adopted towards the Commission generally in the country; it was equally aware of the atmosphere which prevailed at the time—nay, more. It was also aware of the fact that the other House had already refused to co-operate with the Simon Commission. In the light of these facts, I say, this House expressed its willingness to co-operate; but it went a step further. It did no stop merely with an expression of its willingness to co-operate; but it definitely asked the

Governor General in Council to take the necessary steps for the purpose of securing the election of that proportion of the Members of this House which should sit with the Central Committee which was to be attached to the Simon Commission. It is, therefore, too late in the day now to attempt to reopen the same question and to say that we shall not co-operate with the Commission. Indeed, those of the Honourable Members who had then definitely expressed their views against any such co-operation may stand aside and not take part in the elections nor agree to be elected. I can quite understand their position to that extent; but what I do not understand is why this whole question which had been so exhaustively debated upon on the last occasion and which as a result of that exhaustive debate had resulted in the passing of the Resolution of the 22nd February 1928, should again be reopened on the floor of this House. A good deal of water has flown under the bridge since the 22nd February 1928 when the Council of State solemnly passed this Resolution to which I have referred. I said, Sir, that at that time the House was fully aware of the atmosphere in the country, of the attitude generally of some of the leaders of the parties, and also of the definite verdict which the other House had passed. In spite of that, they took the bold step to record their own verdict in favour of co-operation. What has happened since? Seven provinces have already elected their provincial Committees to co-operate with the Simon Commission. So since the 22nd February last it can hardly be said that conditions have so worsened as to justify this House to reconsider the verdict which it passed only 7 months ago.

My Honourable friend Sir Phiroze Sethna with his usual vehemence and eloquence, which, I admit, I cannot emulate, tries to lay emphasis on the fact that while one House has declined to co-operate, is it not up to this House to follow suit? But, Sir, as I have already stated, it was only after the other House had declined to co-operate, that this House recorded its verdict in favour of co-operation. That, therefore, is no new argument and does not need any consideration. The arguments advanced by the six Honourable Members of this House who spoke against co-operation have more than been met by the other ten Honourable Members who have supported my motion. As I said already, I shall not weary the House by trying to recapitulate the arguments used by them.

But, Sir, I feel that I owe a word of personal explanation, if I may say so, in regard to the speech which my Honourable friend Seth Govind Das made this morning. I feel highly flattered by the encomiums and compliments which he was good enough to shower upon me in exuberance. He has also foretold my place in public life after I shake off the robes of this office, and I am indeed glad that the regard and consideration which he has for me has tempted him to prophesy my future. At the same time, Sir, may I remind my friend that he asked me a certain question which in all fairness it was not decent on his part to have done. He realises, I hope, that I am holding a position under the Crown by a Royal Warrant, and he recognises equally well, I expect, that as such I have to take an oath of secrecy in regard to all matters which not only come within my cognisance as a Member of the Cabinet, but also in regard to all advice which I may tender to His Excellency the Viceroy and Governor General. Did he therefore seriously ask me the question on the floor of

[Sir Muhammad Habibullah.]

the House what advice I gave to the Governor General in regard to this matter ? I only wish he had not raised that question. He ought to have been wiser,—I hope he will pardon me for using that word—because when a similar question was raised on the floor of the other House the Government Member thought it proper not to respond.

I feel, Sir, and I am glad, that there is a consensus of opinion in the House in favour of the motion which I have made. Let me repeat that this is not my own motion. Let me repeat that this motion did not emanate from my own brain. Let me again repeat that this is a motion which, as in duty bound, I as Leader of the House should have put forward before the House. There is the Resolution of this Honourable House asking the Governor General to take certain steps, and I am only trying to give effect to that Resolution by means of this motion. By doing so I have only paid respect to the sentiments of the House, and I only hope that Honourable Members will vote in favour of it, except of course those who have already expressed their views against it.

THE HONOURABLE THE PRESIDENT : The question is :

"That in pursuance of the Resolution adopted by this Council on the 22nd February 1928, the Council do proceed, by such method as the Honourable the President may direct, to elect three of its Members to the Central Committee to sit with the Indian Statutory Commission."

The motion was adopted.

THE HONOURABLE THE PRESIDENT : The motion just adopted by the House throws upon the Chair the onus of deciding in what way the election should be conducted. As a first step towards election, I propose to fix Thursday, the 20th of September, up to the hour of noon for the receipt of nominations. Nominations may be handed in to the Secretary of the Council any time up till noon on the day after to-morrow. When nominations have been received, I shall be in a better position to decide what form of election will best achieve the result the Council desires.

## INDIAN MINES (AMENDMENT) BILL.

THE HONOURABLE MR. A. G. CLOW (Industries and Labour Secretary) : Sir, I must ask the House to descend, after they have been discussing high constitutional theory, to a matter of minor importance, but of importance none the less. I move that the Bill further to amend the Indian Mines Act, 1923, for certain purposes, as passed by the Legislative Assembly, be taken into consideration.

The primary object of this Bill is to place a daily limit on the hours of work in mines. That limit has been fixed at 12 hours. It is perhaps not surprising, therefore, that there have been demands for a lower limit, and there have even been suggestions that those responsible for the Bill are anxious to see that the miner works for twelve hours a day. I can readily assure the House that there is no such sinister motive behind this measure. As a matter of fact, we already have in the Indian Mines Act provisions limiting the weekly hours of work, for those who work above ground to 60 and for those who work under-

ground to 54. This gives an average of 10 hours and 9 hours per day respectively, and it is obvious from these facts that if the main object of this Bill were to protect the Indian miner from overwork it would be a singularly ineffective measure. The real object is not so much to effect a reduction in the hours of work as to secure greater regularity in the hours for which the miner works. The miner at present does not as a rule work up to the limits allowed him by the Mines Act, but he is apt on occasions, particularly in the coal mines, to work very irregularly. He may stay underground for considerably more than 12 hours and be employed partly in working, partly in sleeping and eating and partly, I think, in expectation and meditation. All that we propose to do is to take the first steps to make it obligatory on the mine owner to introduce some sort of system in his mines. Under the measure he will have a choice between two alternatives. He can either keep his mine open for work for only 12 hours in the day, or he can introduce a system of shifts. If he elects for shifts, the shifts may not overlap and no shift may exceed 12 hours so that the net effect is that the working hours of the miner must fall within a specified period of 12 hours. It may be urged that a 12 hours' shift is a long one even if it is not occupied—and it is certain not to be occupied—entirely by work. I readily admit that; but the only feasible alternative to 12 hours' shifts is 8 hours' shifts and those who have examined the question are mostly agreed in reaching the decision that it is impracticable to introduce 8 hours' shifts at present. As a matter of fact, the 8 hours' shift is the commonest in the not inconsiderable number of mines where shifts are at present worked and I hope it will be the commonest when this Bill is passed.

If the Bill is passed into law, those concerned will have over 18 months in order to make the necessary adjustments. For, as Honourable Members will observe, the only operative clause which comes into effect before the April 30th is the last one, and that clause merely makes a minor change in the manner of making rules under the Act and is entirely unconnected with the main purpose of the Bill.

THE HONOURABLE THE PRESIDENT: The question is:

"That the Bill further to amend the Indian Mines Act, 1923, for certain purposes, as passed by the Legislative Assembly, be taken into consideration."

The motion was adopted.

Clauses 2 to 7 were added to the Bill.

THE HONOURABLE THE PRESIDENT: The question is:

"That clause 1 do stand part of the Bill."

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE (West Bengal: Non-Muhammadan): Sir, with regard to this clause 1, I have one question to ask. In clause 1, sub-clause (2), I find that the date mentioned is the 7th day of April, 1930, but in the Statement of Objects and Reasons, it is the 1st April 1930. Has that been intentionally done or is that a mistake?

THE HONOURABLE MR. A. G. CLOW: It is not a mistake. It was a change which was introduced for reasons which have been explained in the Report of the Select Committee in the other House.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. A. G. CLOW : Sir, I move that the Bill, as passed by the Legislative Assembly, be passed.

The motion was adopted.

## ELECTION OF A PANEL FOR THE STANDING COMMITTEE FOR THE DEPARTMENT OF COMMERCE.

THE HONOURABLE SIR GEOFFREY CORBETT (Commerce Secretary) : Sir, I beg to move ;

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

I should explain that the life of the present Committee expires on the 23rd of this month, and it is desirable that a new Committee should be formed before the end of this Session.

The motion was adopted.

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## STATEMENT OF BUSINESS.

THE HONOURABLE SIR MUHAMMAD HABIBULLAH (Leader of the House) : I ask for your ruling, Sir, regarding the date on which the Government Bills laid on the table to-day should be placed on the List of Business. The earliest day on which they can be taken without a curtailment of the usual period of notice is Friday next and I would suggest that the Council might conveniently meet on that day instead of on Thursday. I may add for the information of the Honourable Members that the business of the Session is not likely to terminate before the end of the next week.

THE HONOURABLE THE PRESIDENT : There will accordingly be a meeting of the Council on Friday and not on Thursday as originally fixed. On Friday, as many of the Bills laid on the table to-day as the Governor General in Council choose to put on the list of business will come up for consideration.

The Council then adjourned till Eleven of the Clock on Wednesday, the 19th September 1928.

M60CS—981—24-9-28—GIPS

# COUNCIL OF STATE.

*Wednesday, 19th September, 1928.*

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

## QUESTIONS AND ANSWERS.

DISCONTINUANCE OF THE PRESENT LINE BETWEEN BAKULAHA AND REOTE RAILWAY STATIONS ON THE BENGAL AND NORTH WESTERN RAILWAY.

116. THE HONOURABLE MR. ANUGRAHA NARAYAN SINHA (on behalf of the Honourable Mr. Mahendra Prasad): Will the Government be pleased to state if it is a fact:

(*a*) that there is a proposal to discontinue the present railway line between Bakulaha and Reote Railway stations on the Bengal and North Western Railway in the district of Ballia ?

(*b*) that a new line is to be opened between the said two villages which will pass through villages Madhubani and Goniha Chapra within police station Bairia, District Ballia and that land has been acquired for the purpose ?

(*c*) that the land of tenants was taken and construction begun in the year 1925 but that up to this time the price has not been paid to the owners of the land ?

(*d*) if the answer to (*c*) be in the affirmative, what steps do the Government propose to take in the matter ?

THE HONOURABLE SIR GEOFFREY CORBETT: (*a*) and (*b*) A proposal to this effect was sanctioned in July 1925.

(*c*) and (*d*) The information which the Honourable Member requires is being obtained from the Agent of the Railway.

PERMANENT TOWN INSPECTORS OF POST OFFICES ATTACHED TO FIRST CLASS HEAD POST OFFICES IN THE BENGAL CIRCLE, ETC.

117. THE HONOURABLE MR. V. RAMADAS PANTULU (on behalf of the Honourable Mr. Kumar Sankar Ray Chaudhury): Will the Government be pleased to furnish:

(*a*) the names of the permanent Postal Town Inspectors attached to the first class head post offices in the Bengal Circle who were holding such posts on the 31st August 1927, showing against each the length of his permanent service from the date of his permanent appointment as a Town Inspector to the date of his removal from the permanent post of Town Inspector to the post of a clerk after 1st September 1927;

(*b*) the names of the officials who have been newly appointed as Town Inspectors in the Bengal Circle after 1st September 1927 showing against each the length of his permanent service as Inspector, town or sub-divisional, and also the total length of his service in the Postal Department ;

(*c*) a serial statement showing the Nos. of the Rules of the Post Office Manual, Vol. 2, the duties relating to which are done by the Postal Muffasil Inspectors in the Bengal Circle but are not done by the Postal Town Inspectors, Calcutta ;

(*d*) a statement of the duties which are done by the Postal Town Inspectors of Calcutta but are not done by the Postal muffasil Inspectors in the Bengal circle.

TOWN INSPECTORS OF POST OFFICES IN CALCUTTA.

118. THE HONOURABLE MR. V. RAMADAS PANTULU (on behalf of the Honourable Mr. Kumar Sankar Ray Chaudhury) : Will the Government be pleased to state :

(*a*) whether it is a fact that for the special nature of duties imposed upon the town Inspectors of Calcutta under the authority of "N. B." above rule 345 of the Post Office Manual, Volume 2, corresponding to those of the Muffasil Inspectors it was customary, before the introduction of the time-scale of pay, to reserve the higher grades of pay, *viz.*, Rs. 80 and 100 for Calcutta ;

(*b*) whether it is a fact that the posts of Postal Town Inspectors in Calcutta were actually filled up in all cases by the selection of the Presidency Postmaster irrespective of seniority or pay or examination ; and

(*c*) the names of the officials who were selected during the graded scale on Rs. 80 and continued from that time to the date of their reversion to clerical posts after 1st September 1927 ?

119. THE HONOURABLE MR. V. RAMADAS PANTULU (on behalf of the Honourable Mr. Kumar Sankar Ray Chaudhury) : Is it a fact that the passing of the departmental examination was not a condition, precedent or subsequent to appointment to the post of a Postal Town Inspector in Calcutta, both before and after the introduction of the time-scale of pay ?

120. THE HONOURABLE MR. V. RAMADAS PANTULU (on behalf of the Honourable Mr. Kumar Sankar Ray Chaudhury) : (*a*) Have Government received representations controverting so far as the Postal Inspectors of Calcutta town are concerned the statements regarding increased work and responsibility contained in the revised Orders of Government, dated the 16th September, 1927 appearing in the *Labour*, dated November 1927 ?

(*b*) Is it a fact that the postal town Inspectors of Calcutta proved their fitness by performing those duties in practical work ?

THE HONOURABLE MR. A. G. CLOW : Sir, with your permission, I propose to answer questions Nos. 117, 118, 119 and 120 together. These arise

from the operation of orders issued by the Government of India in August and September 1927 and of an interpretation of these, issued with the approval of the Government of India, by the Director General, Posts and Telegraphs, in February 1928. These orders related to the revision of the pay and duties of Town Inspectors attached to first class Head Post Offices. They have resulted, in some cases, in the displacement of some of the officials who, on the date from which the orders originally took effect, namely, the 1st September 1927, were the actual incumbents of the posts named. In other cases the existing incumbents have been retained in their appointments. The orders to which I have referred necessarily left to the heads of administrative Postal Circles the final decision as to the application in individual cases of general principles which had been laid down. The decisions reached have given rise to a number of representations addressed to the Director General and to the Government of India from different Service Associations and individuals interested. These representations have received the most careful consideration of the Director General whose recommendations are now before the Government of India and will receive their close attention, together with the various points raised by the Honourable Member in these questions.

## INDIAN SUCCESSION (AMENDMENT) BILL.

THE HONOURABLE MR. NARAYAN PRASAD ASHTHANA (United Provinces Northern : Non-Muhammadan) : Sir, I beg to move that the Bill further to amend the Indian Succession Act, 1925, as passed by the Legislative Assembly, be taken into consideration.

In commending the Bill to the favourable consideration of the House, I have to add but few words. The Bill is intended to remove the doubts which have arisen on account of the conflict of rulings between the Calcutta and the Allahabad High Courts and also to remove the hardship and injustice which is done in certain cases where the debt is a very large one, while the property covered by the debt or to be realised in execution of that debt is comparatively small.

It is a notorious fact that among Muhammadans the dowers are fixed at very large amounts while the estate of the husband is small compared with the dower ; and after the death of the wife her heirs, if they want to sue for the dower debt, then, according to the Allahabad High Court, they have to pay court-fees on the entire amount ; while according to the Calcutta High Court, they have to pay only upon the amount which they consider could be realised from the estate of the deceased. Moreover, in certain other cases,where the mortgaged property is of very small value while the debt with interest comes to a very large amount, the heir is ruined by having to take a certificate and to pay the court-fees on the entire amount of the debt. It is to remove these hardships that this Bill was introduced into the Legislative Assembly and was passed there so as to enable the heir to obtain a succession certificate of a part of the debt.

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

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

THE HONOURABLE MR. NARAYAN PRASAD ASHTHANA: Sir, I beg to move that the Bill, as passed by the Legislative Assembly, be passed.

The motion was adopted.

THE HONOURABLE THE PRESIDENT: Yesterday afternoon the Council adopted a motion for the election of a panel from which members of the Standing Committee for the Department of Commerce are to be nominated. I now have to announce that nominations to the panel will be received up till 11 o'clock in the morning on Friday, the 21st September; and I shall thereupon announce when the election will take place, if one be necessary.

With reference to the other motion adopted by the House yesterday, namely, that it should proceed to elect three representatives to sit on a Committee with the Indian Statutory Commission, I would remind Honourable Members that nominations are to be receivable by the Secretary up till noon to-morrow. It is possible—I can say no more than that at present—that the election may take place on Friday. If I should so direct, I shall take care that every Honourable Member receives notice thereof some time on Thursday afternoon.

The Council will now adjourn till Friday, 21st September, at 11 o'clock in the morning.

The Council then adjourned till Eleven of the Clock on Friday, the 21st September, 1928.

# COUNCIL OF STATE.

*Friday, 21st September, 1928.*

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

## QUESTIONS AND ANSWERS.

QUALIFICATIONS REQUIRED FOR THE REGISTRATION OF MEAT CONTRACTORS BY THE ASSISTANT DIRECTOR OF SUPPLIES AND TRANSPORT, BOMBAY.

121. THE HONOURABLE SIR EBRAHIM H. JAFFER: Will the Government be pleased to state:

(*a*) The qualifications which are required for the registration of the name of a meat contractor in the list of approved contractors, kept by the Assistant Director of Supplies and Transport, Bombay?

(*b*) The names of the approved contractors at present on the list of the Bombay District?

(*c*) Out of these how many are (*a*) professional butchers, (*b*) ordinary suppliers?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: With your permission, Sir, I will answer questions Nos. 121, 122 and 123 together. A report has been called and the Honourable Member will be informed in due course.

CONTRACTORS OF THE SUPPLY AND TRANSPORT DEPARTMENT.

*122. THE HONOURABLE SIR EBRAHIM H. JAFFER: Will the Government be pleased to state:

(*a*) Whether a contractor of the Supply and Transport Department whose name is registered at Madras, Poona, Bangalore and Bolarum, is not eligible for the Bombay District?

(*b*) Is it true that such a contractor whose head office is in the city of Bombay itself was refused registration without assigning any reason?

(*c*) If so, why?

TENDERS FOR THE SUPPLY OF BEEF AND MUTTON FOR TROOPS IN THE BOMBAY DISTRICT.

*123. THE HONOURABLE SIR EBRAHIM H. JAFFER: Will the Government be pleased to state:

(*a*) How many contractors tendered for the supplies of beef and mutton for the year 1928-29 for the Bombay District?

(*b*) What were the rates of the accepted tender and the lowest of the rejected ones?

* For answer to this question, see answer to question No. 121.

(*c*) What was the loss suffered by Government by not accepting the lowest tender ?

(*d*) What were the special reasons for accepting the higher tender ?

(*e*) What steps do Government intend to take to avoid such loss in future ?

TOMB OF THE *ex*-KING BAHADUR SHAH OF DELHI AT RANGOON.

124. THE HONOURABLE SIR EBRAHIM H. JAFFER: With reference to the information supplied to me in reply to my questions Nos. 129 and 130 by demi-official No. 73-B., dated 28th June last by the Army Secretary regarding the tomb of the *ex*-King Bahadur Shah of Delhi at Rangoon, will Government be pleased to state :

(*a*) Whether the land in question has been handed over to the Government of Burma by them ?

(*b*) Has the land been resumed from the present occupant by the Government of Burma under the Bengal Rules, and has a public garden been made therein ?

(*c*) Do they intend to ask His Excellency the Viceroy to open this public garden during his visit to Burma in November next.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: (*a*) Not yet, Sir. But the transfer of the land to the Local Government has been sanctioned and they intend to take it over soon, together with other areas of the cantonment.

(*b*) From my reply to (*a*) above it will be seen that this has not yet been possible.

(*c*) I am afraid I do not know the intentions of the Burma Government in the matter.

INCREASE OF THE GRANT TO PRINCESS ROUNAC ZAMANI BEGUM, GRAND-DAUGHTER OF THE *ex*-KING OF DELHI.

125. THE HONOURABLE SIR EBRAHIM H. JAFFER: Will the Government be pleased to state :

(*a*) Whether the grand-daughter of the *ex*-King of Delhi named Princess Rounac Zamani Begum was asked by the Commissioner of Police, Rangoon, under Political Department memorandum No. 72-P.P.-42 Part II, 24th January 1928 to vacate her house ?

(*b*) To whom does this house belong ?

(*c*) What assistance is the Government giving to this old lady ?

(*d*) Did she apply for the grant of a motor car ?

(*e*) Was it refused and if so, why ?

(*f*) Does she sublet parts of her house ?

(*g*) What are the conditions attached to the grant for the maintenance of the descendants of the *ex*-King of Delhi ?

(*h*) Will Government lay them on the Council table ?

(*i*) Have Government considered increasing the grant in consideration of the rise in the cost of living ?

THE HONOURABLE MR. B. J. GLANCY : The information is being collected and will be furnished as soon as possible.

REMARKS CONTAINED IN A RECENT JUDGMENT OF THE CHIEF JUSTICE OF THE PATNA HIGH COURT REGARDING THE GIVING OF FALSE EVIDENCE.

126. THE HONOURABLE MR. MAHENDRA PRASAD: (*a*) Has the attention of the Government been drawn to a passage in the recent judgment of the Chief Justice of the Patna High Court wherein he says " Having regard to the habits of the people in this particular part of the world where the giving of false evidence, however deplorable it may be, is not considered an offence which is fatal to a man's reputation to say the least of it."

(*b*) If the answer to (*a*) be in the affirmative, do the Government propose to take any action in the matter ?

THE HONOURABLE MR. H. G. HAIG : (*a*) Yes.

(*b*) No.

REMARKS MADE BY THE CHIEF JUSTICE OF THE PATNA HIGH COURT IN A CASE AGAINST BABU JAGAT NARAYAN LAL, M.A., LL.B., M.L.C.

127. THE HONOURABLE MR. MAHENDRA PRASAD: (*a*) Has the attention of the Government been drawn to the following remarks made by the Chief Justice of the Patna High Court against Babu Jagat Narayan Lal, M.A., LL.B., M.L.C., and Secretary of the All-India Hindu Sabha, in his judgment against him in the case under section 124-A. of the Indian Penal Code ?

(*i*) " The subject of the charge is a silly little article in an insignificant little paper written by a silly little noisy man."

(*ii*) " ..... and I have no doubt myself from the tone of the article that that was the intention of this foolish writer."

(*b*) If the answer to (*a*) be in the affirmative, did the Government propose to take any action in the matter ?

THE HONOURABLE MR. H. G. HAIG : (*a*) Yes.

(*b*) No.

RAISING OF THE PLATFORM AT MIDNAPORE ON THE BENGAL-NAGPUR RAILWAY, ETC.

128. THE HONOURABLE MR. MAHMOOD SUHRAWARDY : (*a*) Will the Honourable Member in charge of the Railway Department be pleased to state what action, if any, has been taken to raise the railway platform at Midnapore on the Bengal Nagpur Railway in Bengal ?

(*b*) Will he be pleased to state what steps, if any, have been taken to provide two intermediate class waiting rooms for gentlemen and ladies at Midnapore station on the Bengal Nagpur Railway in Bengal ?

(*c*) Will he also be pleased to state what steps, if any, have been taken to construct sheds over the platforms at Midnapore and Kharagpur on the Bengal Nagpur Railway in Bengal ?

THE HONOURABLE SIR GEOFFREY CORBETT : (*a*) From the proceedings of the meeting of the Bengal Nagpur Railway Advisory Committee, the

Government learn that the question of raising the platform at Midnapore is under investigation, and an estimate of cost has already been called for.

(*b*) They also learn from the proceedings of another meeting of the local Advisory Committee that the Agent was proposing to provide one intermediate class waiting room at Midnapore.

(*c*) At the third meeting of the local Advisory Committee, the Agent explained that it would cost at least 4 lakhs to cover the platforms at Kharagpur, and that for this reason he could not deal with the matter immediately, but he would bear it in mind and take up the work piecemeal when funds permitted. The Honourable Member will see that all the three matters mentioned in his question have been very properly the subject of discussion in the local Advisory Committee, and I venture to suggest that the question of providing small facilities or amenities of this kind at individual stations might very well be left to Local Committees.

OFFICE HOURS IN THE GOVERNMENT OF INDIA SECRETARIAT AND ATTACHED OFFICES.

129. THE HONOURABLE MR. MAHMOOD SUHRAWARDY: Will the Honourable the Home Member be pleased to state what are the actual working hours of the Government of India offices (including attached and subordinate offices) and what amount of overtime pay, if any, clerks, duftaries and peons get if they are required to work after the usual office hours ?

THE HONOURABLE MR. H. G. HAIG: The question of office hours is within limits, one for each Department to decide for itself, but generally the office hours in the Government of India offices are from 10-30 A.M. to 4-30 P.M. As members of the office staff are wholetime Government servants no remuneration is paid to them if they have to work extra hours owing to the exigencies of the public service.

LOCATION IN A SEPARATE BUILDING OF THE WIRELESS BRANCH OF THE OFFICE OF THE DIRECTOR GENERAL OF POSTS AND TELEGRAPHS.

130. THE HONOURABLE MR. MAHMOOD SUHRAWARDY: Is the Wireless Branch part of the Director General, Posts and Telegraphs' camp office ? If so, will the Government be pleased to state why that Branch is located in a separate building since the date of its formation ?

THE HONOURABLE MR. A. G. CLOW: The Wireless Branch is a part of the Director General's office. It is located in a separate building because sufficient accommodation for it is not available in the same building as the remainder of the Director General's office.

POSITION OF DIRECTOR GENERAL, POSTS & TELEGRAPHS' OFFICE.

131. THE HONOURABLE MR. MAHMOOD SUHRAWARDY: Will the Honourable Member in charge of the Industries and Labour Department be pleased to state what is the present position of the Director General, Posts and Telegraphs' Office, *i.e.*, whether it is Subordinate, Attached or Secretariat proper ? If it is one of the three classes mentioned above whether the rates of pay of the clerical staff are fixed accordingly ? If not, why not ?

THE HONOURABLE MR. A. G. CLOW : The Honourable Member's attention is invited to the reply given on the 19th March 1928, in the Legislative Assembly, in response to the same question which was asked by Mr. Anwar-ul-Azim.

LOCATION IN SIMLA DURING THE WINTER MONTHS OF THE WIRELESS BRANCH OF THE OFFICE OF THE DIRECTOR GENERAL OF POSTS AND TELEGRAPHS.

132. THE HONOURABLE MR. MAHMOOD SUHRAWARDY : (*a*) Will the Honourable Member in charge of the Industries and Labour Department be pleased to state whether the Wireless Branch is part of the Director General, Posts and Telegraphs' Office in all respects ? If so, what is the reason or reasons for leaving that Branch in Simla during the winter months ?

(*b*) Will he be pleased to state the actual expenditure involved up to March 1928 by locating the Wireless Branch in Simla during winter months ?

THE HONOURABLE MR. A. G. CLOW : (*a*) The Wireless Branch is a part of the Director-General's Office in all respects. It has been retained in Simla during the winter months since its formation for reasons of administrative and executive convenience.

(*b*) The actual expenditure involved (under winter allowances) is Rs. 9,200. If the Wireless Branch had migrated to Delhi every season an expenditure of approximately Rs. 18,700 would have been incurred in travelling allowances ; therefore a saving of Rs. 9,500 has been effected up to March 1928 by locating the Wireless Branch in Simla during the winter months.

REFUSAL TO GRANT TO 17 CLERKS OF THE NON-MIGRATORY PORTION OF THE OFFICE OF THE DIRECTOR GENERAL OF POSTS AND TELEGRAPHS OF THE CONCESSIONS GRANTED IN CONNECTION WITH THE TRANSFER OF THE HEADQUARTERS FROM CALCUTTA TO DELHI.

133. THE HONOURABLE MR. MAHMOOD SUHRAWARDY : (*a*) Is it a fact that 17 clerks of the non-migratory portion of the Director General, Posts and Telegraphs' Office, have been deprived of the concessions granted in connection with the transfer of the headquarters from Calcutta to Delhi on the ground that they were recruited for service in Simla/Delhi only, *i.e.*, in the migratory portion of the Director General's Office ? If so, will the Honourable Member in charge of the Industries and Labour Department be pleased to state what alternative concessions have been granted to these clerks and why they are not attached to the migratory portion of the said office ?

(*b*) Is it a fact that most of the 17 affected clerks are non-Bengalis ?

THE HONOURABLE MR. A. G. CLOW : (*a*) No. The Honourable Member's attention is invited to the reply given by the Honourable Sir Bhupendra Nath Mitra to starred question No. 482 in the Legislative Assembly on the 19th March last. Actually the concessions referred to were not granted to 19 clerks the majority of whom formed part of that portion of the Director-General's office staff which migrates between Simla and Delhi, the others being stationed at Simla. As these clerks were unaffected by the transfer of the Director General's main office from Calcutta to Delhi they have no reasonable claim to any concession in connection with that change.

(*b*) The majority of the clerks concerned were not Bengalis.

NUMBER OF MUSLIM AND NON-MUSLIM GAZETTED ENGINEERS, PROVINCE BY PROVINCE.

134. THE HONOURABLE MR. MAHMOOD SUHRAWARDY: Will the Government be pleased to state the number of Muslim and non-Muslim gazetted engineers, province by province, with their percentage to the total in each case?

THE HONOURABLE MR. A. G. CLOW: The information required is given in the statement which I lay on the table.

*Statement showing the number of Muslim and Non-Muslim gazetted engineers, province by province, with their percentage to the total in each case.*

| Province. | Gazetted Engineers. | | | Percentage of Muslims. | Percentage of Non-Muslims. |
|---|---|---|---|---|---|
| | Muslims. | Non-Muslims. | Total. | | |
| Madras .. .. | 1 | 148 | 149 | 0·67 | 99·33 |
| Bombay .. .. | 8 | 262 | 270 | 2·96 | 97·04 |
| Bengal .. .. .. | 1 | 98 | 99 | 1·01 | 98·99 |
| United Provinces .. .. | 16 | 183 | 199 | 8·04 | 91·96 |
| Punjab .. .. .. | 27 | 287 | 314 | 8·60 | 91·40 |
| Burma .. .. .. | 1 | 152 | 153 | 0·65 | 99·35 |
| Bihar and Orissa .. .. | 5 | 57 | 62 | 8·06 | 91·94 |
| Central Provinces .. .. | 4 | 92 | 96 | 4·17 | 95·83 |
| Assam .. .. .. | 2 | 34 | 36 | 5·56 | 94·44 |

The above figures do not include temporary engineers.

ELIGIBILITY OF PANDIT UDHO RAM, SUB-DIVISIONAL OFFICER, PUBLIC WORKS DEPARTMENT, DELHI, FOR THE RANK OF ASSISTANT ENGINEER OR EXECUTIVE ENGINEER.

135. THE HONOURABLE MR. MAHMOOD SUHRAWARDY: (*a*) Is it a fact that Pandit Udho Ram, Sub-Divisional Officer, is at the top of the list of temporary Upper Subordinates, Delhi Public Works Department, in respect of pay and service?

(*b*) Is he a Roorkee hand (Overseer class)?

(*c*) Is he eligible for the post of Assistant Engineer or Executive Engineer?

THE HONOURABLE MR. A. G. CLOW: (*a*) and (*b*) Yes.

(*c*) Assistant Engineer is a rank confined to officers borne on the cadres of provincial services in Governors' provinces, and Executive Engineer is a rank confined to the Indian Service of Engineers. As the officer in question does not belong to any of the services mentioned, he is not eligible for either rank.

CRACKS IN THE NEW SECRETARIAT AND OTHER BUILDINGS IN NEW DELHI.

136. THE HONOURABLE MR. MAHMOOD SUHRAWARDY: (*a*) Is it a fact that all jack arches of buildings in New Delhi leak in the rains and soffits get wet ?

(*b*) Is it a fact that cracks occurred in the New Secretariat and many other buildings in New Delhi ?

(*c*) Is it a fact that ceiling plaster is continually falling from the roofs in the Bodyguard Lines, etc., in New Delhi ?

(*d*) If so, will the Government be pleased to state the reasons for the cracks in the newly built edifices, leaking of roofs and falling of ceiling plaster ?

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

(*b*) Cracks occurred in the New Secretariat and certain other large buildings.

(*c*) No.

(*d*) I understand that in very large buildings, particularly where they do not rest on uniform foundations, cracks are inevitable.

PAYMENT OF CONTRACTORS' BILLS BY THE PUBLIC WORKS DEPARTMENT, DELHI.

137. THE HONOURABLE MR. MAHMOOD SUHRAWARDY: (*i*) Is it a fact that contractor's bills are prepared and paid according to entries made in the Measurement Books in the Delhi Public Works Department ?

(*ii*) Are the Delhi Public Works Department Measurement Books recorded according to rules and works measured according to specification ?

THE HONOURABLE MR. A. G. CLOW: (*i*) and (*ii*) The practice is as stated by the Honourable Member.

GRANT OF CONVEYANCE ALLOWANCE TO CLERKS OF THE GOVERNMENT OF INDIA NOT PROVIDED WITH QUARTERS IN NEW DELHI.

138. THE HONOURABLE MR. MAHENDRA PRASAD: (*a*) Will Government be pleased to say whether the Roshanara Gardens, Safdarjang, Nizamuddin and Delhi Shahdara are within the Notified Area for the purposes of granting conveyance allowance to the clerks of the Government of India ?

(*b*) If the answer to (*a*) is in the negative, will Government be pleased to define the areas included in the Notified Area ?

(*c*) Will Government be pleased to state whether conveyance allowance is granted only to clerks living in the Notified Area or to those also who live at a distance greater than the Notified Area ?

(*d*) Have Government fixed any limit of mileage for the purposes of granting conveyance allowance for those who are not provided with Government quarters and who live on any side of New Delhi except the Notified Area ? If not, why not ?

THE HONOURABLE MR. H. G. HAIG: (*a*) No.

(*b*) The Honourable Member is referred to the Notification issued by the Chief Commissioner, Delhi, dated the 16th January 1913, which was published on page 122 of Part II of the Gazette of India, dated the 18th January 1913.

(*c*) The allowance is granted only to those living in the Notified Area.

(*d*) No. The whole question of the justification of these conveyance allowances will be re-examined.

THE HONOURABLE MR. NARAYAN PRASAD ASHTHANA: A supplementary question, Sir. Will the Government be pleased to state the reason why conveyance allowance is allowed only to clerks living in the Notified Area and not to those who live far off? What is the reason why this distinction is made?

THE HONOURABLE MR. H. G. HAIG: The reason, Sir, is historical arising from the time when the Government of India offices were in Old Delhi and certain clerks were living out in Raisina. But the whole position seems somewhat illogical and it will now be re-examined, not necessarily for the purpose of extending these allowances.

THE HONOURABLE MR. NARAYAN PRASAD ASHTHANA: Will the Government be pleased to state when it is intended to revise the scheme?

THE HONOURABLE MR. H. G. HAIG: As soon as possible, Sir.

GRANT OF CONVEYANCE ALLOWANCE TO CLERKS OF THE GOVERNMENT OF INDIA NOT PROVIDED WITH QUARTERS IN NEW DELHI.

139. THE HONOURABLE MR. MAHENDRA PRASAD: (*a*) With reference to the Honourable the Home Member's reply to Sir Hari Singh Gour's starred question in the Legislative Assembly No. 535, parts (*c*) and (*d*), dated the 26th March, 1928, will Government be pleased to say whether distance or suitability of accommodation is the consideration for granting conveyance allowance to those clerks of the Government of India who are not provided with Government quarters in New Delhi and have to attend office after traversing a distance of 5 or 6 miles?

(*b*) If distance is the consideration for granting conveyance allowance, why is it withheld from clerks living near or about the Roshanara Gardens, and granted to those living near the Swiss Hotel (Alipore Road)?

(*c*) Do Government propose to fix some limit of distance beyond which such allowance may be granted?

THE HONOURABLE MR. H. G. HAIG: (*a*), (*b*) and (*c*) I refer the Honourable Member to the answer which I have just given to his question No. 138.

## HINDU LAW OF INHERITANCE (AMENDMENT) BILL.

### PRESENTATION OF THE REPORT OF THE SELECT COMMITTEE.

THE HONOURABLE SIR SANKARAN NAIR (Madras: Non-Muhammadan): Sir, I beg to present the Report of the Select Committee on the Bill

to alter the order in which certain heirs of a deceased Hindu dying intestate are entitled to succeed to his estate, with the Bill as amended.

I also beg to move, Sir, that you may be pleased to suspend the rule that seven days must elapse before the Bill is taken into consideration under Standing Order 43, Appendix III to the Manual of Business, page 98.

THE HONOURABLE MR. V. RAMADAS PANTULU (Madras : Non-Muhammadan) : I also support the request of my Honourable friend, Sir Sankaran Nair.

THE HONOURABLE THE PRESIDENT : With regard to the Honourable Member's application that I should suspend the Standing Orders and enable the Bill to be taken into consideration, I would point out to him that, so far as I am aware, the Governor General has not allotted any further day in this Session for non-official business.

THE HONOURABLE SIR SANKARAN NAIR : It was my intention, Sir, to apply to the Honourable the Leader of the House to allot a day, as early as possible, for the consideration of this matter as there is no non-official day. I thought I could make that application after you agreed to suspend the Standing Orders.

THE HONOURABLE KHAN BAHADUR SIR MUHAMMAD HABIBULLAH (Leader of the House) : Sir, Government are not at present in a position to place any further business before the Council. They are, however, anxious that two Bills, which are still outstanding in another place, should be passed into law during the course of the present Session, and it may be hoped that one, if not both, of these Bills will be passed elsewhere in time to admit of the laying thereof in this Council on Wednesday next. Government will be happy to give time for the Honourable Sir Sankaran Nair's Bill on that or any other official day.

THE HONOURABLE THE PRESIDENT : The Bill in regard to which the Honourable Sir Sankaran Nair has made an application is one which I know is regarded as of great importance by a considerable section of the House. From that point of view, I should certainly be reluctant to shorten the statutory period of seven days to any considerable extent. On the other hand, the Bill has been in Honourable Member's hands now for some time ; it is of no considerable length ; and I think I may say that the amendments made in Select Committee can hardly be described either as drastic or as numerous. In view of these facts, I propose to fix a meeting for Wednesday next, the 26th of September. There is a further matter of convenience in that date, in that I gather from what the Leader of the House has just stated that before that date there will be no further Government business to put before the Council, and should I fix an earlier day for the consideration of Sir Hari Singh Gour's Bill, I should have to fix a subsequent date on which I gather there would be no business for the Council to dispose of, except possibly the laying of a few Bills passed in the other place on the table of the House. I shall therefore fix a meeting for Wednesday, the 26th instant, on which day it is open to Government to put down the Honourable Sir Sankaran Nair's motion.

## ELECTIONS TO THE PANEL FOR THE STANDING COMMITTEE FOR THE DEPARTMENT OF COMMERCE.

THE HONOURABLE THE PRESIDENT: Nominations to the panel from which members of the Standing Committee for the Department of Commerce have to be nominated closed at 11 o'clock this morning. The following nominations have been received:

The Honourable Sir Phiroze Sethna,

The Honourable Sir Arthur Froom,

The Honourable Sir George Godfrey,

The Honourable Rai Bahadur Lala Ram Saran Das,

The Honourable Mr. G. S. Khaparde, and

The Honourable Sardar Bahadur Shivdev Singh Uberoi.

As the number of nominations coincides with the number of vacancies for the panel, I declare those six Honourable Members duly elected.

## ELECTION OF MEMBERS OF THE COUNCIL OF STATE ON THE CENTRAL COMMITTEE TO SIT WITH THE INDIAN STATUTORY COMMISSION.

THE HONOURABLE THE PRESIDENT: Honourable Members will have received by this time a circular issued yesterday by the Secretary of the Council informing them that the election of three members of this Council on the Central Committee to sit with the Indian Statutory Commission will take place to-day after the disposal of the legislative business on the paper. They will have also received the list of Honourable Members who had been nominated up to the hour of noon yesterday. They were:

The Honourable Sardar Charanjit Singh,

The Honourable Sir Maneckji Dadabhoy,

The Honourable Mr. P. C. Desika Chari,

The Honourable Mr. G. S. Khaparde,

The Honourable Sir Sankaran Nair,

The Honourable Sir Arthur Froom,

The Honourable Mr. Mahmood Suhrawardy,

The Honourable Prince A. M. M. Akram Hussain Bahadur,

The Honourable Sir Haroon Jaffer,

The Honourable Sardar Bahadur Shivdev Singh Uberoi,

The Honourable Raja Nawab Ali Khan, and

The Honourable Major Nawab Mahomed Akbar Khan.

I have to inform the House that two Honourable Members have withdrawn their nominations. They are the Honourable Mr. Mahmood Suhrawardy and the Honourable Major Nawab Mahomed Akbar Khan. That for the present leaves 10 Honourable Members standing for the election.

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces: Nominated Non-Official): I am very grateful to my Honourable colleagues for nominating me for election on the Central Committee, but I have decided to withdraw from the contest for certain reasons. I have also communicated my decision early yesterday morning to the Home Department. My reasons are simple and easily intelligible. It is going to be a very important Committee, and I am of opinion that the two large communities in India, the Hindus and the Muhammadans, ought to receive the fullest representation on this Committee. I am also of opinion that there are very large, varied and comprehensive European interests and there ought to be at least one Member representing European commerce and trade in this country on the Committee. My community, the Parsi community, is a very small one and is proverbially loyal, and their co-operation with Government in all right directions is a matter of common knowledge and experience. I apprehend I may perhaps come in the way of Muhammadan representation, and, in order to avoid that contingency, I have decided to withdraw from this contest. This action of mine is also in accordance with the wishes of the Simon Commission that the composition of the Committee should be, as far as possible, representative of Brtisih India as a whole.

THE HONOURABLE PRINCE A. M. M. AKRAM HUSSAIN BAHADUR (Bengal: Nominated Non-Official): Sir, I also for certain reasons into which I do not wish to go desire to withdraw my name as a candidate for this Committee.

## INDIAN TRADE UNIONS (AMENDMENT) BILL.

THE HONOURABLE MR. A. G. CLOW (Industries and Labour Secretary): Sir, I move that the Bill to amend the Indian Trade Unions Act, 1926, for a certain purpose, as passed by the Legislative Assembly, be taken into consideration.

The Bill proposes to alter only one section of the Indian Trade Unions Act. That is section 11 which relates to appeals from the orders of the Registrar. At present if the Registrar's office is situated within the jurisdiction of one Judge who has been authorised to hear appeals and the head office of the Trade Union is situated within the jurisdiction of another such Judge, it is doubtful to which Judge the appeal lies. The new section will make it clear that the competent Court is that of the Judge for the area wi thin which the head office of the Trade Union is situated.

The second purpose of the Bill is to clarify the law in respect of appeals within the Presidency-towns and Rangoon. The appeal lies at present to a Judge of the principal Civil Court of original jurisdiction and there is a second appeal to the High Court. But the principal Civil Court of original jurisdiction in these areas is the High Court, and it was not intended that in these areas there should be two appeals. The new section will make it clear that there is only one appeal in such areas and that that lies to the High Court.

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. A. G. CLOW: Sir, I move that the Bill, as passed by the Legislative Assembly, be passed.

The motion was adopted.

## INDIAN INCOME-TAX (AMENDMENT) BILL.

THE HONOURABLE MR. E. BURDON (Finance Secretary): Sir, I move that the Bill further to amend the Indian Income-tax Act, 1922, for a certain purpose, as passed by the Legislative Assembly, be taken into consideration.

The purpose of this small Bill is extremely simple. Section 5 (*3*) of the Income-tax Act, 1922, requires the Government of India to consult the Local Government concerned before it makes an appointment to a particular Commissionership of Income-tax. This provision was never intended to be permanent. It was adopted merely for the purpose of smoothing the initial stages of the process of the Government of India's taking over the administration of the Income-tax Act. The taking over by the Government of India of the administration of the Act is now far advanced, and accordingly it is proposed to create an all-India cadre of Commissioners of Income-tax and to abolish the provision to which I referred at the commencement of these remarks. The proposal has received the assent of all the Local Governments, except one. That particular Local Government, in reply to a reference made to all Local Governments on the subject, said that it would retain the existing practice under which the Local Government is consulted by the Government of India before any officer is posted as Income-tax Commissioner to a province. Hitherto, they went on to say, the Income-tax Commissioner has always been a member of the Indian Civil Service of this province and has remained in fairly close touch with the Local Government, and the Governor in Council thinks that there is a danger that a Commissioner from a strange province, who would naturally be lacking in local knowledge and experience, might administer the Act without due regard to the local prejudices and to the interests of the Province.

THE HONOURABLE SIR PHIROZE SETHNA (Bombay: Non-Muhammadan): May I ask which is that Provincial Government?

THE HONOURABLE MR. E. BURDON: It is the Government of the Punjab. Since then as a matter of fact the Government of the Punjab have found themselves unable to provide an Indian Civil Service officer to be Income-tax Commissioner of the Punjab, and I think therefore that their dissent on this question may for practical purposes be disregarded. I do not think that my proposition requires any further remarks. I therefore move it.

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. E. BURDON: Sir, I move that the Bill, as passed by the Legislative Assembly, be passed.

The motion was adopted.

## INDIAN SUCCESSION (SECOND AMENDMENT) BILL.

THE HONOURABLE MR. H. G. HAIG (Home Secretary): Sir, I move that the Bill further to amend the Indian Succession Act, 1925, for a certain purpose, as passed by the Legislative Assembly, be taken into consideration.

This is a small amending Bill arising out of a piece of legislation undertaken in 1926. In that year, on the recommendation of the Civil Justice Committee, the provisions of section 57 of the Indian Succession Act, whereby Hindus, Buddhists, Sikhs and Jains were required to reduce their wills to writing in certain areas only, were extended to all members of the communities. It was not intended, however, at the time that the provisions relating to wills other than reducing them to writing should be extended to members of these communities outside the areas to which the full provisions apply. It was not observed at the time that under section 213 of the Indian Succession Act it was laid down that wills made by any Hindu, Buddhist, Sikh or Jain, where such wills are of the class specified in section 57, would be governed by the requirement of probate or letters of administration. The object of this Bill is to withdraw that necessity and to state in section 213 that its provisions should apply only to Hindus, Buddhists, Jains, etc., who are specified in sub-section (*1*) of section 57.

Sir, I move.

The motion was adopted.

Clause 2 was added to the Bill.

THE HONOURABLE THE PRESIDENT: The question is:

"That clause 1 do stand part of the Bill."

THE HONOURABLE MR. H. G. HAIG: Sir, I beg to move:

"That in clause 1 for the brackets and word '(Amendment)' the brackets and words '(Second Amendment)' be substituted."

This is a purely formal amendment. I was surprised at the last meeting of the Council to observe my Honourable friend, Mr. Narayan Prasad Ashthana, rising to move an Indian Succession (Amendment) Bill, and at first I suspected that he had purloined my Bill. I discovered afterwards that two Bills of this nature were coming before the Council this Session; and the object of this amendment is merely to differentiate this Bill from the Bill moved by my Honourable friend, Mr. Ashthana.

THE HONOURABLE THE PRESIDENT: The original question was:

"That clause 1 do stand part of the Bill"

Since which an amendment has been moved —

"That for the brackets and word (Amendment)' the brackets and words '(Second Amendment)' be substituted."

The question is that that amendment be made.

The motion was adopted.

Clause 1, as amended, was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. H. G. HAIG: Sir, I move that the Bill, as passed by the Legislative Assembly, be passed.

THE HONOURABLE MR. NARAYAN PRASAD ASHTHANA: 'As amended by this House.'

THE HONOURABLE MR. H. G. HAIG: Yes, Sir, as amended by this House.

THE HONOURABLE THE PRESIDENT: The question is:

"That the Bill further to amend the Indian Succession Act, 1925, for a certain purpose, as passed by the Legislative Assembly and amended by the Council of State, be passed."

The motion was adopted.

## INDIAN INSURANCE COMPANIES BILL.

THE HONOURABLE SIR GEOFFREY CORBETT (Commerce Secretary): Sir, I move that the Bill further to amend the Indian Life Assurance Companies Act, 1912, for certain purposes, and to provide for the collection of statistical information in respect of insurance business other than life assurance business, as passed by the Legislative Assembly, be taken into consideration.

This Bill, Sir, has two distinct objects. The first is to remove a defect in the existing law. The point is rather complicated, but I will try to make it as clear as possible to the House. The intention of the Indian Life Assurance Act is that the life fund should be absolutely the security of the life policyholders, and should not be applied, directly or indirectly, for any other purposes than those of life assurance. That, I think, is clear from section 6 of the existing Life Assurance Act. But it happens, Sir, that the law relating to the liquidation of life companies assumes that the company will be *insolvent*, and consequently the liability of the company to the policyholders is determined by a procedure that does not take into account the possibility of a surplus in the life fund. Hence it follows that if a *solvent* company were to go into voluntary liquidation, this surplus would all pass into the hands of the shareholders, and the policyholders would be deprived of their legitimate share in the surplus, which has been actually contributed by them and may legitimately be regarded as part of the real value of their policies.

THE HONOURABLE SRIJUT RAMA PROSAD MOOKERJEE: Has there been any such case?

THE HONOURABLE SIR GEOFFREY CORBETT: There has not yet been any such case. This is a prophylactic measure (Laughter). But if there were such a case of a large and successful life company which had a large surplus, it would come to a very big amount, and the temptation to the shareholders might be very great to take what the law, as it now stands, undoubtedly allows them to take. And if this were to happen—it has not happened—but if it were to happen, I think the Honourable Member will agree that it

would be a very severe shock to public confidence in insurance in India generally ; and therefore it is desirable to amend the law so as to remove, as early as possible, all temptation from the shareholders of large and successful companies. I think this defect in the law, as far as I am aware, was in th first instance noticed by the Departmental Committee appointed by the Board of Trade, under the chairmanship of Mr. Justice Clouson, which recently examined the English Insurance Companies Act, on which the Indian Act is largely based : and the amendment which I now propose in this Bill follows closely the wording of the amendment which the Clouson Committee recommended.

Sir, that is the first object. The second object of the Bill is to provide for the collection of statistical information in respect of all kinds of insurance business. In this respect, the Bill does not apply only to life business, but to all insurance business. I want to make that clear. The first object applies only to life business, and the second to all. The Bill then, as stated in the Statement of Objects and Reasons, requires every Insurance Company transacting any class of insurance business in British India to submit annual statements showing the details of its business both in and outside India. Well, Sir, there has for some years been a demand for this information, and in the opinion of the Government it is desirable that this information should be available for the use of the Government and of the public. The reasons for this are three. In the first place, there is a special need for publicity in insurance business. An Insurance Company, as actually defined in this Bill, means " any person who transacts in British India the business of effecting contracts of insurance against any risk ". But, Sir, the risk is not all on one side. There is also the risk to the person insured that the company might not be able to pay his claim if and when it arises. And so it is necessary in order to inspire public confidence in insurance, and consequently it is necessary in the true interests of Insurance Companies themselves, that their financial position should be published in as clear a form as possible.

That is the first reason for requiring these statistics. The second reason is the social and economic interest in insurance generally. The growth of the insurance habit is of great importance in the social and economic life of the country, and I think the Government and the public should be in a position to watch its growth and to know its extent. This is the reason why it is of special importance that the companies operating in India, whether Indian or non-Indian companies, should state separately their business in India and outside India.

The third reason for requiring these statistics is to provide data for any future legislation that may be undertaken to regulate insurance business. There is a general, and I think a quite proper, demand that our law relating to insurance should be revised and brought up-to-date. This is being done now in England ; and the English Act, which, as I have said, is the parent of the Indian Act, has been scrutinised by an expert Committee presided over, as I have said, by Mr. Justice Clouson, and a Bill was drafted by them and is likely to be considered by the British Parliament at an early date. I should like to say that the Government is definitely of the opinion that we ought not to undertake any general comprehensive revision of our Insurance Act until the English

[Sir Geoffrey Corbett.]

Act has been revised. It is very desirable that insurance law, subject to local considerations, should be kept as far as possible on the same basis in different countries, because Insurance Companies operate in many different countries; and particularly in the matter of statistics it is desirable that there should be common and uniform forms. But when the time comes for the amendment of our law, it will be of great value for us to have before us the statistics for which the present Bill provides. At present when we are dealing with insurance problems, when we are considering what measure of control over insurance business may or may not be required, we are to a large extent working in the dark. We really are not in a position to consider legislation to regulate insurance until we know the requirements. We cannot know the requirements until we know the facts. This Bill is designed to give us the facts.

Sir, I move.

THE HONOURABLE SIR PHIROZE SETHNA (Bombay: Non-Muhammadan): Sir, the commercial community in this country, and in particular the Indian section of it, will greatly welcome this Bill. I say advisedly the Indian section of the commercial community for the reason that the Indian Merchants' Chamber of Bombay have now for some years past been requesting Government not only to amend the existing Insurance Act, known as the Indian Life Assurance Companies Act of 1912, but also to undertake legislation in regard both to Indian and non-Indian companies doing insurance business of any kind in this country. As the Honourable Sir Geoffrey Corbett has told the House, Government recognise the value of this recommendation, but they are not yet able to accede to the request in full. The Bill which we are considering to-day deals only with two matters referred to by the Honourable the Commerce Secretary. Sir, if there is delay on the part of Government, there is perhaps reason for it as was explained by Sir Geoffrey. The Indian Life Assurance Companies Act of 1912 is based on the English Act, and as he also pointed out, faults were found in the English Act with the result that the Board of Trade appointed a Departmental Committee, known as the Clouson Commission. The report of that Committee was made public over a year ago. Till now, however, because of more pressing business, Parliament has not been able to consider the amendments made by that Committee, and consequently, the English Act has not yet been amended. Because the Indian Act is based on the English Act, and because of the recommendations of the Clouson Committee it is possible that Parliament may introduce several amendments in the English Act, it would not do to tinker with the Indian Act from time to time and therefore it is proposed that we should wait until the English Act is amended. That, I take it, is the reason for the delay so far. However, there are two important matters which could not be postponed, and that is why this Bill has been now introduced. The first of these two points is referred to in clause 3 of the Bill, and the other relates to the collection of data in regard to premiums, claims paid, etc., which are to be found in clauses 2, 7, 8 and 9 of the Bill.

Now, Sir, whilst this Bill deals with only these two matters, its passage will assure the general public that Government have now taken this matter in hand, and that as soon as Parliament amends the English Act, they will

introduce a further Bill dealing with all important matters relating not only to life insurance but to every kind of insurance in this country, and particularly as to the deposits to be paid both by Indian and non-Indian companies, and also the investment by them of a portion of their reserves in Indian securities as well as many other kindred matters. In this connection I would like to point out that the name of the Indian Act, namely, the Indian Life Assurance Companies Act, 1912, because it will now deal not only with life insurance but other kinds of insurances, and also because it will deal not only with Indian but also with non-Indian companies, is a misnomer, and I hope, therefore, that when Government bring forward a further Bill to which I have referred, they will consider by what new name to designate this Act in the future. As I have said, there are only two changes contemplated in the present Bill. The first is in regard to a matter which, as the Honourable Sir Geoffrey Corbett explained, is somewhat difficult and complicated. In short, it is to prevent shareholders of a prosperous Indian Life Insurance Company to voluntarily wind it up and thereby secure to themselves, namely, the shareholders, very large gains by taking away the greater portion of the surplus and not giving it to the policyholders from whose moneys such surpluses have been built up. My Honourable friend Mr. Rama Prosad Mookerjee inquired whether there has been such a case. May I inform him that there was very nearly going to be such a case only a few months ago ? And if that had happened as was likely in the case of this very prosperous Indian Life Assurance Company, the result would have been that the shareholders would have walked away with 60 times or more of the par value of the shares of that company. It is therefore but right that Government should intervene and introduce such a section as Section 26A as proposed in the Bill whereby the shareholders will be prevented from walking away with the bulk of the surplus to their own benefit and to the detriment of the policyholders.

The savings of the middle class of every progressive country are very largely invested in life insurance policies, and I am glad to say the same is becoming the case in India as well. It is therefore the bounden duty of Government to see that the moneys of these policyholders are well secured. I quite realise that in the beginning of the history of any Life Insurance Company, a share capital is necessary as security to the policyholders. But once what we may call the danger zone has been passed, which generally is after about 20 years, or so, then there is no more necessity for that share capital. In fact, that share capital is but a small fraction of what funds the company by the time has accumulated. I admit the shareholders have taken a certain amount of risk in the earlier years for which they require to be adequately compensated. But I also believe that once such a concern is in a very prosperous condition, it is not fair that the shareholders should profit beyond reason and beyond all reasonable proportion. I would suggest to Government the consideration of a point that I am making, namely, whether in the case of companies well established and prosperous as, for example, the one which was likely to be voluntarily wound up recently, Government would assume powers to enable them for the benefit of the shareholders to mutualise such a life company not of course without adequately recompensing the shareholders who took the risk in the earlier years. This is merely a suggestion for Government to consider when they introduce the fuller Bill hereafter.

[Sir Phiroze Sethna.]

As regards the recommendations regarding the furnishing of figures which have been made, the primary object of asking for these details is to ascertain whether insurance business in India is on the increase or not, and secondly, whether the business of Indian Insurance Companies is also on the increase or not. Such statistics are required first under clause 2 of the Bill which deals only with life insurance business. Now, I may explain to the House that every Life Insurance Company fixes a retention for itself. Supposing an Honourable Member proposes to a company for a policy of say Rs. 60,000. Supposing that company has fixed its own retention at only Rs. 50,000, then it follows that it will reinsure the excess of Rs. 10,000 with another office or offices.

In the case of life insurance policies, however, the percentage of its re-insurances to its entire business is comparatively very small and consequently I have no suggestion to make in regard to clause 2.

The case, however, is different in regard to clause 8 where statistics are required of the premium income received and the claims paid by companies doing other than life insurance business. As Honourable Members are aware re-insurance in Fire and Marine business is very large particularly in the case of smaller and younger companies. Now clause 8 (*i*) requires a statement showing :

"In respect of premium income for which credit is taken in the revenue account, the amount of premium derived from business effected in India."

The amount shown in the revenue account will be the net retention and consequently the purpose for which these figures are wanted will not be served. I can best explain my meaning by an illustration. Suppose there are two companies A and B, A being an old established company and B a younger concern. Say for example the annual premium income of both Companies A and B is alike, *viz.*, Rs. one lakh per annum. Now the older company A will be able to retain more, say, half the business and re-insure the other half with, say, companies not in India. Therefore this Company in its returns will show a premium income of Rs. 50,000. Now take Company B which is smaller and younger. It cannot retain as much as A and decides to retain, say, only a fourth and re-insures three-fourths again, say, with companies outside India. Therefore Company B in its returns to Government will show a premium income of only Rs. 25,000. The entire premiums of Rs. 2 lakhs between these two companies is on Indian business but according to clause 8 (*l*) they will submit in their returns premium incomes of only Rs. 50,000 and Rs. 25,000, respectively, and Government will not have a record of the remaining premium income of Rs. 1,25,000 paid out as insurances by these two companies to companies outside India. That was not what was contemplated. What we want to know is the total amounts of premiums on the Indian business.

Again in the illustration I have just given I assume that after holding their own retentions the companies A and B would re-insure the balance in companies outside India. It is open to them, however, to re-insure as well in Indian or non-Indian companies in India itself and this is invariably done. If they do so then such Indian or non-Indian companies working in India in their returns must under clause 8 (*l*) show what premiums they

have collected by way of re-insurance from companies A and B. This is satisfactory. Companies A and B might have re-insured both in companies working in India and also in companies not working in India, and these latter companies are not required to submit their returns in respect of re-insurance premiums they have received on Indian business. The object of the Bill in consequence would be frustrated. The solution of this difficulty therefore is so to alter clause 8 (*1*) that companies are required to show gross premiums obtained in India deducting only re-insurances effected in India. This will bring in the premiums which are paid out by way of re-insurance on Indian business to companies not working in India and Government will get figures of the full premiums on the Indian business.

Similarly in clause 8 (*2*) companies are required to show separately the amounts of claims paid to claimants (*a*) in India as also to claimants (*b*) outside India. This to my mind is not necessary. It will quite suffice if the "claims paid" were shown under one heading, whether claims paid on Indian business were paid in India or paid outside India.

Presumably Government are aware that the "claims paid" will not be the claims debited in the revenue account to which the statement will be attached since in the case of Fire and Accident business (and in many instances, Marine business also), the claims debited in the revenue accounts are "claims paid and outstanding", and not "claims paid". It may be preferable to adhere to "claims paid" as this will ensure that each company submits similar figures.

I am glad the Select Committee have altered the words throughout the Bill from "British India" to "India". They have certainly done so because we require figures of premiums, claims, etc., of all Indian and non-Indian companies on the business done by them throughout the whole of India. It is for this very reason that I contend that clause 8 (*1*) as drafted in the Bill will not help to obtain full particulars as Government expect and as the commercial public desire.

I know the time has passed for me to give notice of amendments and I must take the blame for it on myself ; but perhaps you, Sir, with the concurrence of the Honourable the Commerce Secretary might be disposed not to insist on the time limit. If therefore I am permitted to move such amendments when the Bill is considered clause by clause I will do so. On the other hand if the Honourable the Commerce Secretary thinks it is too late at this stage to accept amendments, I shall certainly not oppose the consideration of the Bill if an assurance is given by the Honourable Sir Geoffrey Corbett that the points I have raised will be duly considered, and if there is substance in them he will give effect to them by amendments preferably from himself at the next Delhi Session of the Council.

I would also like Sir Geoffrey Corbett to assure the House if under the definition of ('insurance company') as given in clause 6 (*b*) a person or firm representing Lloyd's in this country will be similarly required to furnish the figures of his or their business.

Again, there is one other means of carrying on insurance business and particularly life insurance business and that is by post. There is a certain retired member of the Indian Civil Service who writes a fair amount of life

[Sir Phiroze Sethna.]

insurance business in India and does so by correspondence. As his business is done by correspondence I will not be surprised that neither he nor the company he represents are paying any income-tax in this country, and I wonder if it would be possible to get from this Insurance agent figures of the business that he writes in India and the premiums he collects from people in India. Perhaps the Honourable the Commerce Secretary will enlighten us on this point as well.

THE HONOURABLE SIR GEOFFREY CORBETT: Sir, I shall deal as briefly as possible with the points raised by the Honourable Sir Phiroze Sethna. I should first of all like to acknowledge the courtesy with which he discussed these matters with me yesterday, and I am only sorry that I did not get notice of them earlier than I did, so that we might have been in a position to consider whether we should introduce an amendment elsewhere before the Bill came to this House. In regard to the amendment of clause 8, I think the House will recognise that there is great force in the Honourable Sir Phiroze Sethna's argument and the view he has taken. The question whether the amendment should or should not be made really depends upon the extent to which re-insurance is effected with companies not operating in British India. As the Honourable Sir Phiroze Sethna is aware, if the company with which the re-insurance is effected is operating in British India, then the premiums will be shown in the revenue account of that company. If it is a fact that there is a very large or a substantial amount of re-insurance effected with companies not operating in British India, then I quite recognise that this amount would be lost sight of, and to that extent the Bill would be defective. That is a question of fact which will be most carefully considered and gone into at an early date. I am personally always a little nervous about making any hasty amendment in commercial law without full opportunity of discussion with all the interests affected. Of course, it is quite obvious that the statistics we now propose to collect will not be altogether complete, and the only question is, whether it will be worth while imposing additional obligations on Insurance Companies. I can assure the Honourable Member that we will thoroughly examine his proposals, and if we find the Bill is seriously defective, we will undertake amending legislation at the earliest convenient opportunity.

12 NOON.

With regard to the other points raised by the Honourable Sir Phiroze Sethna, he wanted to know whether the definition of "Insurance Company" covers Lloyds. Well, the definition given here is "any person who transacts in British India the business of effecting contracts of insurance against any risk." I presume it will be a matter for the Courts to decide what "transacting business" means, but I can assure the Honourable Member that the intention of this Bill is to apply to agents who transact business in India, and would include agents who pass cover notes; and therefore I think it would ordinarily apply to Lloyds. The Honourable Member will correct me, if I am wrong.

With regard to the distinguished member of my service (retired), who conducts insurance business through the post, I feel that the Honourable Member will agree with me that we cannot take power to open letters which

are suspected of dealing with insurance business. So I think we shall have to let insurance by post go. We cannot get at that. I think I have now covered all the points raised by the Honourable Sir Phiroze Sethna.

THE HONOURABLE THE PRESIDENT: The question is:

"That the Bill further to amend the Indian Life Assurance Companies Act, 1912, for certain purposes, and to provide for the collection of statistical information in respect of insurance business other than life assurance business, as passed by the Legislative Assembly, be taken into consideration.

The motion was adopted.

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

THE HONOURABLE THE PRESIDENT: Part III.

THE HONOURABLE SRIJUT RAMA PROSAD MOOKERJEE (West Bengal: Non-Muhammadan): In clause 12 we find that the time mentioned within which an Insurance Company is to submit certain returns from the commencement of this Act is one month and you will find in sub-clauses (*d*) and (*e*) certain information is asked for from companies who may not be originally registered in India but outside India. Is it possible for such companies to give the information within one month from the commencement of this Act? Was that point considered by the Government when this period was fixed in the Bill? In other places I find that opportunity is given to Government to extend the time but no such thing is mentioned here. If a company does not submit a return within one month, will they not be liable to prosecution under this Bill?

THE HONOURABLE SIR GEOFFREY CORBETT: I think, Sir, all I can say is that in the administration of the section we will allow a reasonable latitude, and we certainly shall not prosecute a company which, having regard to considerations of time and space, is unable to comply with the requirements of the section within one month.

Clauses 6 to 20 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE SIR GEOFFREY CORBETT: I move that the Bill, as passed by the Legislative Assembly, be passed.

The motion was adopted.

## REPEALING AND AMENDING BILL.

THE HONOURABLE MR. S. R. DAS (Law Member): 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.

This is the usual Amending and Repealing Bill. It object is to make a few necessary amendments of a formal nature in certain enactments and to repeal certain spent or useless matter in the Statute-book.

Sir, I move.

The motion was adopted.

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

THE HONOURABLE THE PRESIDENT: The question is :—

"That the First Schedule be a Schedule to the Bill."

THE HONOURABLE SRIJUT RAMA PROSAD MOOKERJEE (West Bengal: Non-Muhammadan): Sir, if you refer to the First Schedule, the last but one item there, you will find that it is proposed to add the following sub-section to section 98 of the Code of Civil Procedure :—

"nothing in this section shall be deemed to alter or otherwise affect any provision of the letters patent of any High Court."

Section 98 of the Civil Procedure Code, among other things, deals with cases where there is a difference of opinion between two Judges of the High Court. The Letters Patent which allowed appeal from such difference of opinion and also provided for appeal from the judgment of a single Judge has recently been modified in January last.

In the Statement of Objects and Reasons it is mentioned that "the amendment states in precise terms the fact, implicit in section 4 of the Code, that the Letters Patent of the High Courts override the provisions of section 98 of the Code." As regards section 4 of the Civil Procedure Code, that was explained by the Judicial Committee sometime ago, and there it was mentioned that "any special form of procedure" included Letters Patent that might be passed by His Majesty in Council. Now if it be so that the Letters Patent here override the provision of the Civil Procedure Code under section 4, as explained in that case by the Judicial Committee, what is the necessity of putting in this additional sub-clause ? My further objection to the acceptance of the superiority of the Letters Patent in an Act of the Legislature of this description is that the power which the Crown exercises under the Letters Patent in modifying any part of the jurisdiction or any power of the High Court, is a derivative power which has been given to the Crown under section 106 (1) (*a*) of the Government of India Act. It is not a power which is exercised under the prerogative of the Crown. As that power has been limited by the Government of India Act, it is open to the Indian Legislature to modify many of the sections including sections 106, 108 (*1*), etc., relating to the High Courts in the Government of India Act, and so modify the Letters Patent also. And because the Letters Patent are issued by the Crown under those sections of the Government of India Act, I do not think it is right in principle to incorporate in the Act itself any provision which gives the Letters Patent a higher position than an Act passed by the Indian Legislature. I may mention in this connection that there was some difference between the provisions of section 98 and the Letters Patent as it was in vogue before January last, but after the amendment in January last there is very little difference between the provisions of the Civil Procedure Code and the Letters Patent. The Government may be apprehensive that if any further amendment of the Letters Patent is made, the question may be raised whether such an amendment of the Letters Patent would override the provisions of the Civil Procedure Code or not. If and when such an amendment of the Letters Patent is made, that would be the proper occasion for the Government to come up before the Indian Legislature for having that amended form of the Letters Patent being passed by the Indian Legislature. I would therefore

submit that this is not the time when any new provision should be added in the Civil Procedure Code by which the powers of the Indian Legislature would by specific words be curtailed. If on any future occasion the Indian Legislature has to modify any provision of the Civil Procedure Code which in any way contravenes the powers that are given under the Letters Patent, then it would be necessary to repeal this portion of the section before that amendment could be made. On these grounds, I submit that it is not necessary to have this subclause added to section 98 of the Civil Procedure Code, and I therefore formally move the amendment that stands in my name.

THE HONOURABLE MR. S. R. DAS: Sir, I oppose the amendment. The reason for this amendment of section 98 is very simple. As the Honourable Mr. Mookerjee has pointed out, the Privy Council held that under section 4 of the Civil Procedure Code a provision in the Letters Patent overrode any provision in the Civil Procedure Code. Therefore, a new provision in the Letters Patent would, in the ordinary course according to the judgment of the Privy Council and under section 4 of the Civil Procedure Code, override the provisions of section 98 of that Code. Unfortunately, recently, in 52 Cal. will be found the judgment of Mr. Justice Page who has attempted to distinguish that finding of the Privy Council and has succeeded in throwing a certain amount of doubt as to whether, when there is a conflict between a provision of the Letters Patent and the Civil Procedure Code, the Letters Patent would prevail or the Civil Procedure Code would prevail. It is to clear that doubt and to make it clear that the law is as laid down by the Privy Council that those words are proposed to be added, *viz.*:

"nothing in this section shall be deemed to alter or otherwise affect any provision of the Letters Patent of any High Court."

This is the simple reason for this amendment, and I do not see any reason why the Council should accept the objection which has been raised by the Honourable Mr. Mookerjee.

THE HONOURABLE MR. V. RAMADAS PANTULU: Is there any difference between the Letters Patent and section 98 of the Civil Procedure Code?

THE HONOURABLE MR. S. R. DAS: There is, as the Honourable Mr. Mookerjee has pointed out very little difference, but there is a difference.

THE HONOURABLE THE PRESIDENT: The original question was:

"That the First Schedule should be a Schedule to the Bill."

Since which an amendment has been moved:

"That in the First Schedule the proposed amendment to section 98 of the Code of Civil Procedure, 1908, be omitted".

The question is that that amendment be made.

The motion was negatived.

The First Schedule was added to the Bill.

The Second Schedule was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. S. R. DAS: Sir, I move that the Bill, as passed by the Legislative Assembly, be passed.

The motion was adopted.

## MADRAS SALT (AMENDMENT) BILL.

THE HONOURABLE MR. E. BURDON (Finance Secretary): Sir, I move that the Bill further to amend the Madras Salt Act, 1889, for a certain purpose, as passed by the Legislative Assembly, be taken into consideration.

Section 49 of the Madras Salt Act empowers certain officers to arrest persons found committing an offence under that Act. The provisions of the Act, however, are such that if the officer making the arrest be not an inspector, he has not the power to admit to bail the person arrested, but must forward the person arrested to the Inspector of the Circle in which the arrest is made, or, if that officer is more than ten miles from the place of arrest, to the nearest police-station. It is now proposed to incorporate in the Act provisions enabling any officer making an arrest under section 49 to grant bail, provided he has been empowered in that behalf by the Central Board of Revenue. Sir, I think the Council will readily agree that the change which it is proposed to make is very desirable and will be to the convenience of all concerned.

Sir, I move.

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. E. BURDON: Sir, I move that the Bill, as passed by the Legislative Assembly, be passed.

The motion was adopted.

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## MATCH INDUSTRY (PROTECTION) BILL.

THE HONOURABLE SIR GEOFFREY CORBETT (Commerce Secretary): Sir, I move that the Bill to provide for the protection of the match industry, as passed by the Legislative Assembly, be taken into consideration.

Tariff Bills are sometimes complicated and controversial, but I am glad to say this Bill is simple and short. Members no doubt have received the Tariff Board's Report on the match industry which was sent to them on the 1st of this month, and they have also read the Resolution of the Government of the same date. This Bill is designed to give effect to the recommendations of the Tariff Board as accepted in the Government Resolution. Briefly, the position is this. In 1922, a duty of Rs. 1-8-0 per gross of boxes was imposed on matches purely for revenue purposes, and at first it brought in a very substantial revenue. But the effect of it has been to create an important match industry in India. It came about rather curiously,—if Honourable Members who have been present at previous Sessions will throw back their minds, they will remember—

that at first, when the duty was imposed for revenue purposes, the match companies imported splints and veneers and made them into matches and match boxes in India. Well, we circumvented that by putting a corresponding duty on splints and veneers. Then the match companies went one better and set up a machinery for making matches in India and imported logs. They imported logs for this purpose, chiefly the aspen from Siberia and from Scandinavia. But the veneer, I think, is now made from Indian woods. Some matches too are made from wood grown in India. However that may be, the match factories in India are now capable of supplying the whole of India's requirements. The growth of the industry in these few years has really been quite astonishing. There are now 27 factories in India capable of producing 500 gross of boxes a day or over, and the total capacity is 18 million gross per annum against a total consumption of 17 million gross. At the same time, imports have declined from 13½ million gross in 1922-23 to 3½ million gross in 1927-28, with a result that is very gratifying from the point of view of the development of the new match industry that has been started in India, but of course the duty, as a revenue proposition, has become less and less valuable every year. In these circumstances, we thought it advisable to have the whole position inquired into by the Tariff Board. An entirely new set of circumstances had arisen from those in which the revenue duty was imposed, and we thought it advisable that the whole matter should be inquired into and cleared up. Sir Padamji Ginwala and his colleagues have made a very patient and interesting inquiry, and I think their report is good reading. The substance of their report is that the present duty of Rs. 1-8-0 per gross should be continued, as it stands, no longer for revenue purposes but for protective purposes. They find that the industry fulfils all the requirements laid down by the Fiscal Commission for protection. At the same time, they are of opinion that the consumer is not being put to any loss, because the internal competition is sufficient to keep prices down. There are several match companies making matches in India. At the same time, if the duty were reduced or removed, this new industry would be exposed to attack from the Swedish Match Company which would probably wipe it out in the course of a very short period. As long as the duty remains at the present rate, it is hardly a practical proposition for the Swedish Match Company to dump matches in India. They may be able to sell below cost price to a certain extent in India, and of course they now manufacture in India themselves. But they cannot carry on dumping so as to destroy this new industry which has sprung up. The point of this Bill is merely to declare that the existing duty of Rs. 1-8-0 per gross is no longer a revenue duty but is a protective duty; that is, it simply removes the present duty from the revenue part of the Schedule to the protective part of the Schedule, and it will give this new match industry an assurance that the duty will be continued for its protection for the present and for so long as the Legislature considers it to be required, and that it is not liable to be reduced or removed at any time for revenue or other considerations.

**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 GEOFFREY CORBETT: Sir, I move that the Bill, as passed by the Legislative Assembly, be passed.

The motion was adopted.

## PROCEDURE FOR THE ELECTION OF MEMBERS OF THE CENTRAL COMMITTEE TO SIT WITH THE INDIAN STATUTORY COMMISSION.

THE HONOURABLE THE PRESIDENT: The Council will now proceed to the election of 3 members of the Central Committee to sit with the Indian Statutory Commission.

THE HONOURABLE SIR HAROON JAFFER (Bombay Presidency: Muhammadan): Sir, I beg to raise an objection to the nomination paper of Raja Nawab Ali Khan. While he was here he told me that he was unwilling to stand as a candidate for this Central Committee. I believe his nomination paper was sent without his consent. I understand from my friend Nawab Sir Umar Hayat Khan that he nominated him on getting his consent by telegram from Mussoorie. I saw the telegram, Sir, which is in his possession, and it runs thus:

"Thanks. No objection provided majority Members support."

"Thanks, no objection" means that the consent was not previously taken. That is quite clear. "Provided majority members support" shows that it is a conditional consent. No one knows who will come out in the election; who will get a majority or a minority of votes cannot be said. In these circumstances, I submit that the nomination of my Honourable friend, Raja Nawab Ali Khan, may be declared by you as null and void.

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN (Punjab: Nominated Non-Official): My Honourable friend, Raja Nawab Ali Khan, told me that he wanted to stand, and as I knew this, I put in his nomination before 12 o'clock yesterday. Therefore I submit that his nomination is in order. He was present in this Session and I do not think that there is anything against him. Since he has also confirmed his desire to stand by telegram I think all that is needed has been done.

THE HONOURABLE THE PRESIDENT: In view of what has been said, I think I have to hold the nomination of the Honourable Raja Nawab Ali Khan to be in order. The Honourable Member who nominated him has provided me with the original of the telegram which he has received from the Honourable Raja. I take that to give his consent.

I have, however, to announce to the House that the number of candidates is still further reduced by one by the withdrawal of his nomination handed to me a short time ago by the Honourable Sardar Bahadur Shivdev Singh Uberoi. There remain, therefore, 7 candidates for the 3 vacancies.

I have been asked by some Honourable Members before the meeting today to explain, as far as possible, the system under which this election takes place. Members will receive a ballot paper shortly from the Secretary if they will remain in their seats and they will see at the foot of the ballot paper certain

instructions for their guidance. The first of those instructions says that each Member has one vote and one vote only. I think perhaps that might be said to be slightly misleading. It really means that each Member has one vote only for his first choice, but in this case the Council has to elect three Members. Therefore, the procedure in this election is that in the column provided in the ballot paper Honourable Members will mark No. 1 against their first choice. They can stop there if they like. If they have a second choice, they can mark No. 2 against their second choice, No. 3 against their third choice. There is nothing to prevent Honourable Members from marking against the whole list until they have indicated from No. 1 to No. 7 the order of their preference for the candidates. The ballot papers will now be distributed.

(The ballot papers were then distributed and Honourable Members filled them in and handed them to the Secretary of the Council).

THE HONOURABLE THE PRESIDENT: Honourable Members may probably be aware that the result of the election cannot be announced at once. It has to be worked out according to a somewhat complicated procedure. It is the custom in elections of this kind for the result to be announced from the Chair; but as I shall not be in a position to make any announcement with regard to the election before Wednesday next, I think on this occasion, at all events, it will be more suitable if, as soon as the result is known, a circular is issued to Honourable Members. That circular will probably go out this afternoon. I mentioned the complicated procedure. I should think it is quite possible that there are, if any, very few Honourable Members of this House who have any idea how election by means of the single transferable vote is made. The results of the election will be worked out by the Secretary in one of the rooms of the Legislative Department in Gorton Castle, and I am sure that he will only be too pleased to allow any Honourable Member who likes to attend at the procedure to see the way in which the election is conducted. He will probably be beginning his work at about 2-30 P.M. this afternoon.

The Council now stands adjourned till 11 o'clock on Wednesday, the 26th September, 1928.

The Council then adjourned till Eleven of the Clock on Wednesday, the 26th September, 1928.

# COUNCIL OF STATE.

*Wednesday, 26th September, 1928.*

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

## QUESTIONS AND ANSWERS.

### SCHOLARSHIPS FOR TRAINING CANDIDATES FOR THE ARCHÆOLOGICAL SERVICE.

140. THE HONOURABLE MR. MAHENDRA PRASAD: 1. Will Government be pleased to state:

(*a*) the circumstances which necessitated the institution of the scholarship system for training candidates for the Archæological Service ?

(*b*) whether this system was abolished in 1923 for reasons of financial stringency ?

(*c*) whether the system was revived in 1926 ? If so, why ?

2. Is it a fact that after the revival of the scholarships in question the Government insisted on following a method of inviting and selecting applicants which was different from that proposed by the head of the Archæological Department ?

3. If the answer to question 2 be in the affirmative, will Government be pleased to explain its own method ?

4. Is it a fact that the selection of Archæological scholars was made about a fortnight before the creation of the Public Service Commission ?

5. If the answer to question 4 be in the affirmative, has Government taken any steps to move the Public Service Commission to ratify its selection of scholars ?

6. If the answer to question 5 be in the negative, does Government intend to take any such steps ?

THE HONOURABLE KHAN BAHADUR SIR MUHAMMAD HABIBULLAH: 1. (*a*) The system was instituted to increase the supply of young Indians trained in archæological work.

(*b*) The system was then temporarily suspended.

(*c*) Yes, for the reason given under (*a*) above.

2. The Director General of Archæology in India in 1926 proposed that candidates should be selected without reference to a Board of Selection, but Government preferred to adhere to the ordinary procedure.

3. Scholars are selected on the advice of a Selection Board.

4. The precise interval was one month.

5 No.

6. No. It is not the function of the Public Service Commission to ratify Government's selection of scholars.

REVISION OF THE LIST OF VOTERS OF THE COUNCIL OF STATE IN THE UNITED PROVINCES.

141. THE HONOURABLE MUNSHI NARAYAN PRASAD ASTHANA: Was the list of voters of the Council of State recently revised in the United Provinces? If so, with what object? Is the election of 1930 to be held on the basis of the lists now prepared?

THE HONOURABLE MR. S. R. DAS: Fresh rolls for the constituencies of the Council of State in the United Provinces were recently prepared under the automatic operation of sub-rule (4) of rule 9 of the Council of State Electoral Rules, which provides that an electoral roll shall continue in force for three years, and that a fresh roll shall be prepared after the expiration of that period.

In the event of a general election being held in 1930, it would, in the absence of a direction under the proviso to the sub-rule in question, be conducted on the rolls recently prepared.

REMODELLING OF THE EAST INDIAN RAILWAY STATION AT ALLAHABAD.

142. THE HONOURABLE MUNSHI NARAYAN PRASAD ASTHANA: (*a*) Is it contemplated by the Government to remodel the East Indian Railway station at Allahabad? If so, when?

(*b*) Has Government received complaints about the want of an intermediate class waiting room at the station, the inadequacy of the third class waiting room and the insanitary situation and character of the urinals?

THE HONOURABLE SIR GEOFFREY CORBETT: (*a*) The Quinquennial Programme provides for remodelling the Allahabad Yard in 1930-31-32. It is impossible to say yet whether the project will be taken up.

(*b*) Government have received no complaints to this effect. They are sending a copy of the Honourable Member's question to the Agent, East Indian Railway, in order that he may consider whether the arrangements at Allahabad require improvement.

PAY AND ALLOWANCES OF THE TASK WORK DELIVERY PEONS OF THE HEAD TELEGRAPH OFFICE AT ALLAHABAD.

143. THE HONOURABLE MUNSHI NARAYAN PRASAD ASTHANA: (*a*) What are the pay and allowances paid to the Task work delivery peons of the Head Telegraph Office at Allahabad and other first class offices?

(*b*) Is it a fact that recently the telegraph task work peons of the Allahabad Telegraph Office and some other places have submitted a petition to the Director General of Post Offices detailing their grievances? If so, what action has been taken upon that petition?

(*c*) Does the Government propose to give these peons the same pay and pension as postmen?

(*d*) Is it a fact that recently the Director General has issued a circular that five telegrams to the same address be counted as one for calculating the task work allowance? If so, why? Is it proposed to withdraw the circular?

THE HONOURABLE MR. A. G. CLOW : (*a*) If by the term " other 1st class offices " the Honourable Member refers to those offices in the United Provinces Circle that are open for 24 hours, then the answer is that the subsistence allowance of task work peons at Agra and Allahabad is Rs. 8 per month in addition to which the peons earn, in Agra, for each delivery of not more than five messages at the same time to one addressee, 6 pies, and in Allahabad 6 pies if delivery is effected on bicycles supplied by Government and 8 pies if delivery is made on foot. They also get a house-rent allowance of Rs. 2 per month.

(*b*) Yes. The petitions have been disposed of by explaining the position in respect of the several points referred to.

(*c*) No.

(*d*) Yes. Because the time and labour involved in the delivery of a number of messages to one addressee at a time is the same as for the delivery of one message. It is not proposed to withdraw the circular.

RELAXATION OF THE EXISTING REGULATIONS REGARDING PASSPORTS IN INDIA.

144. THE HONOURABLE SIR PHIROZE C. SETHNA : (*a*) Is it a fact that passport requirements have been relaxed in several countries on the Continent ?

(*b*) Are Government considering a relaxation of the existing regulations regarding passports in India ?

THE HONOURABLE MR. B. J. GLANCY : (*a*) As far as the Government of India are aware no Continental country has abolished passports. His Majesty's Government have, however, come to an agreement with certain Continental States for the mutual abolition of visas. India shares this privilege in that British subjects and British Indian subjects are allowed to proceed to such States without visas ; but no foreigners are allowed to land in India without a British visa.

(*b*) No, Sir.

REDUCTION OR ABOLITION OF THE CUSTOMS DUTY ON PAPER AND PRINTING INK.

145. THE HONOURABLE SIR PHIROZE C. SETHNA : (*a*) Have Government received any complaint that the printing and publishing trade of the country is penalised on account of the free import of printed matter ?

(*b*) Have Government considered the advisability of the reduction or abolition of customs duty on paper and printing ink ?

THE HONOURABLE SIR GEOFFREY CORBETT : (*a*) No.

(*b*) No. I would remind the Honourable Member that the manufacture of paper in India is protected and that the duty on printer's ink was raised in 1926 from 2½ per cent. to 5 per cent. in order to secure tariff equality to the Indian Industry.

THE HONOURABLE SIR PHIROZE C. SETHNA : Do the Government consider the raising of the duty from 2½ per cent. to 5 per cent. an adequate protection to the Indian manufacturer ?

THE HONOURABLE THE PRESIDENT: Order, order. The Honourable Member cannot ask the Government for an expression of opinion.

POLICY OF THE RAILWAY BOARD IN THE MATTER OF PURCHASING OF STORES MADE BY THE DIFFERENT RAILWAYS.

146. THE HONOURABLE SIR PHIROZE C. SETHNA: (*a*) Is it the policy of the Railway Board to secure preference for indigenous goods over imported goods in the purchase of railway requirements ?

(*b*) If the answer is in the affirmative, will Government be pleased to say what action the Railway Board has taken to enforce this policy in the matter of purchases made by the different railway systems through their own officers ?

THE HONOURABLE SIR GEOFFREY CORBETT: (*a*) Yes, to the extent provided in the Stores Purchase Rules which are binding on State-managed Railways.

(*b*) I would refer the Honourable Member to the reply given to his question No. 79 on the 17th September 1928 which explains how the Railway Board ensures that these rules are carried out.

IMPORT OF AUSTRALIAN WHEAT.

147. THE HONOURABLE SIR PHIROZE C. SETHNA: With reference to the reply to my question No. 87 on the 17th instant, will Government be pleased to state whether they have received representations to the effect that the import of Australian wheat was due to a shortage of crops in India and that such importation is prejudicial to the interests of Indian wheat-growers ?

THE HONOURABLE KHAN BAHADUR SIR MUHAMMAD HABIBULLAH: Government have received no such representations.

## MESSAGE FROM THE LEGISLATIVE ASSEMBLY.

SECRETARY OF THE COUNCIL: Sir, the following Message has been received from the Legislative Assembly:

"In accordance with Rule 36 (1) of the Indian Legislative Rules I am directed to inform you that the amendment made in the Council of State in the Bill further to amend the Indian Succession Act, 1928, for a certain purpose was taken into consideration by the Legislative Assembly at their meeting held to-day, the 25th September 1928, and that the Assembly have agreed to the amendment."

## HINDU LAW OF INHERITANCE (AMENDMENT) BILL.

THE HONOURABLE SIR SANKARAN NAIR (Madras: Non-Muhammadan): Sir, I beg to move that the Bill to alter the order in which certain heirs of a deceased Hindu male dying intestate are entitled to succeed to his estate, as passed by the Legislative Assembly and as reported by the Select Committee, be taken into consideration.

The alterations made by the Select Committee are not of such a character as to require any further explanation from me. I therefore beg to move.

THE HONOURABLE DR. U. RAMA RAU : (Madras : Non-Muhammadan) : Sir, I beg to move the amendment that stands in my name, that in the Title of the Bill the word " deceased " be omitted.

THE HONOURABLE THE PRESIDENT : The Honourable Member is somewhat premature ; the House has not yet decided to take the Bill into consideration.

The question then is :

" That the Bill to alter the order in which certain heirs of a deceased Hindu dying intestate are entitled to succeed to his estate, as passed by the Legislative Assembly and as reported by the Select Committee, be taken into consideration.

The motion was adopted.

THE HONOURABLE THE PRESIDENT : The question is :

" That clause 2, as reported by the Select Committee, do stand part of the Bill."

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

" That in clause 2 between the figure ' 2 ' and the words ' A son's daughter ' the words ' A pre-deceased son's widow ' be inserted."

The reasons which have prompted me to give notice of this amendment had already been discussed in the Council of State on the last occasion when this matter was referred to the Select Committee. This is not a new proposal that is being made in this Council. In 1923, when Mr. Seshagiri Ayyar's Bill was circulated to the different Provincial Heads and the different High Courts for their opinion, many of those authorities pointed out that the relations mentioned in Mr. Ayyar's Bill were not all that ought to be taken into account.

A predeceased son's widow occupies a position in a Hindu family which is somewhat peculiar, because under Hindu law in the case of the husband who dies during the lifetime of his father, the widow is denied all rights in the family property. If the husband had outlived the father and died after the father, then the widow would have come in automatically under the ordinary rules. When we are here considering the cases of the son's daughter, the daughter's daughter, the sister or the sister's son, I think it is only fair and proper that we should also consider the case of a predeceased son's widow in this connection ; and in my opinion, and also in the opinion of some other Members, the predeceased sons's widow occupies a position which is superior to any of the relations who are mentioned in clause 2. That is the reason why I have put the predeceased son's widow before all those relations mentioned in clause 2, that is, in the beginning. The widow in a Hindu family occupies a position which is a much more superior position than that occupied in a family under any other system, and the reason is that although she belonged to a different *gotra* before, as soon as she is married she takes the *gotra* of the husband and she becomes a *sapinda*, in the sense that she is of the same body as the husband ; and not only that, she is also entitled to receive funeral oblations from the relations of her husband's family in the same way as if she belonged to the same family. Under these circumstances, I think that a

[Srijut Rama Prasad Mookerjee.]

predeceased son's widow ought to be put in in the place where I have placed her.

THE HONOURABLE SIR C. SANKARAN NAIR: Sir, I regret I have to oppose this motion. Honourable Members will mark the radical difference between the position of the son's widow and the other members for whom relief is proposed to be given in this Bill. In this Bill the persons referred to are the son's daughter, the daughter's daughter, sister and sister's son, all of them are blood relations. The widow's position stands on a very different footing. I do not say she is not entitled to relief. But what I am pointing out is that the position of those who have come into the family by marriage stands on a very different footing from those who are related by blood to the deceased. This Bill was intended only to assist the blood relations. Now, when the Bill was introduced, there were besides the persons noted in the Bill itself, others also whose names were all struck out. The son's widow was not one of them. My friend stated to the Council that though the son's widow was not in the original proceedings yet there was a considerable body of opinion in favour of the son's widow. I forget the exact words, but I believe that is the substance of his remark. He did not take the trouble to tell the Council what the strength of that opinion was. I have gone through all the opinions received and the opinions are scarcely worth consideration by this Council—Madras, Bengal, Burma, the Central Provinces, Delhi, Ajmer, the North-West Frontier Province, Baluchistan, Coorg, Assam—there was nobody in these provinces who ever considered the case of the son's widow or who ever suggested any relief for her. From Bombay there were two, naturally because in Bombay the widows occupy a high position. In the United Provinces there were two; in the Punjab there was only one who suggested relief to the son's widow and in Bihar and Orissa there were two. That is how matters stand. It is scarcely strong enough to justify any statement that the opinion of all India has been taken on this question. It has not been, and therefore we should not now consider this question. It is premature, and then there are many further questions to be considered if you want to bring in the son's widow. You will have to say whether you propose to give the widow an absolute or a qualified estate. In the Bill itself the words used for the son's daughter, etc., are qualified estate, but there are many instances in Bombay where the widow is given an absolute estate. Accordingly, we will be prejudicing the position of the widow if we make the amendment now in the Bill itself as my friend has suggested. We have proceeded on the footing that while we are giving relief to women and giving them a place in the order of succession, we should not prejudice their rights in any other respect, and therefore when any woman has any rights under the Hindu law according to such law as is administered in any Presidency, we should not take away existing rights, and in that view we have made certain amendments in the Bill. Accordingly without qualifying the statement, we cannot insert the words in the amendment.

Then there are also other difficulties. The widow's position would vary very much so far as marriage is concerned. If she marries according to the custom of the community her rights may be—I do not say it is, there is a difference of legal opinion—but her rights may be different from those of the widow who is married under the Remarriage Act as to forfeiture of rights. All that

has to be considered. Then again in Bombay for instance, where the son's widow has a right of succession, the son's widow takes only after the sister and half-sister. Now, in the Bill you find that the predeceased son's widow comes long before the sister and half-sister. We are thus prejudicing the position of the sister who is in the Bill; we are prejudicing the position of the half-sister who has been eliminated from the Bill and who was there before. We should not do that, according to the principle which we have followed in the Select Committee; but whether we are doing it or not, it is a matter which requires fuller and more careful consideration. Then, there is another matter. The son's widow comes only after what we call the *gotrajas* or *sapindas*, that is to say, those who are males and members of the family.

This amendment places the widow before her. So, I say there are all these points to be considered, and there are also further difficulties in principle to be solved. Her case, I admit, is really a hard one. In cases of joint families, where there are lots of people and succession goes to the collateral reversioner, the case of the son's widow is a hard one. On the other hand, it is not a hard case where the families consist of, say, a father and son and his wife. Now, from the opinions received, it will be seen that the agriculturists in the Punjab are not generally in favour of the son's widow's claim. In other parts of the country where the joint family system prevails and where the son's widow is handed over to the collateral reversioner, the position is a strong one. There is also a further point which we have to consider. According to Hindu law, a woman who has been unchaste before the succession opens is not entitled to the property. As the Bill would stand, if my Honourable friend's suggestion is accepted, we may be overriding that position.

There is another matter, Sir, which seems to me to be conclusive in this respect. A Bill is going to be introduced in the other place. I have got a copy of it in my hand, and in that Bill all the rights of the widows are going to be considered. That Bill deals with all these matters more fully than this amendment. That Bill deals with not only the rights of the son's widow, but it deals with the case of all the widows in the family. It also deals with one great principle which we may have also to deal with if we are to recognise the widows. There it is said that a widow shall be entitled immediately on her husband's death to claim partition of the property. That is of course a far higher right than what is attempted to be given here. It is thus a question for consideration how we are to recognise the widow's rights, whether we are to recognise her rights by putting her in the place of her deceased husband at once so as to enable her to claim in the joint family property a share which her thusband would be entitled to if he had to sue for a partition, or whether she is only to succeed after the death of her father-in-law as stated by my Honourable friend, are all matters which require very serious consideration.

For all these reasons I would advise the Council strongly to reject the motion. I say again I suggest its rejection not for want of sympathy, but because there are so many questions to be considered before we can recognise that claim. I do not suggest for a moment that that claim should not be considered, nor do I say that the reasons against her admission are conclusive or strong or preponderating, but at present I am strongly against including the son's widow. In view of the fact that the matter is to be fully considered in the other place, I would strongly advise my Honourable friend to withdraw his

[Sir C. Sankaran Nair.]

amendment, because if we pass this measure here and it goes to the other place and if they come to an adverse conclusion.....

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces: Nominated Non-Official): Has that Bill been introduced in the other place?

THE HONOURABLE SIR SANKARAN NAIR: The Bill is to be introduced in the Delhi Session. There was no time to introduce it now.

THE HONOURABLE SIR MANECKJI DADABHOY: Who is the author of it?

THE HONOURABLE SIR SANKARAN NAIR: The author is Rai Sahib Harbilas Sarda. In view of the fact that a more comprehensive Bill is going to be introduced in the other place shortly, I would strongly advise my Honourable friend to withdraw his motion.

THE HONOURABLE MR. G. S. KHAPARDE (Berar Representative): Sir, this strongly reminds me that the objection which I first took about piece-meal legislation is very sound. My Honourable friend also finds it difficult now to support parts of this because the other parts are left open, and he argues that because those parts are left open we better pass this. That again reminds me of the story of the woman who wanted her neighbour to feed her husband and provide medicine for her own husband. This is exactly like that, and as I say my objection stands on a very firm footing from the very beginning, that piece-meal legislation in matters of inheritance, more especially as complicated as it is in India, particularly among the Hindus, should not be undertaken in this fashion....

THE HONOURABLE SIR SANKARAN NAIR: This does not arise now.

THE HONOURABLE MR. G. S. KHAPARDE: Sir Sankaran Nair in arguing the matter said that the first objection he took was that the present Bill was intended only to provide for what are called blood relations and the son's widow coming into the family was not a blood relation; but she becomes one. I say whether she becomes a blood relation subsequently or after her coming into the family, she is a blood relation, and perhaps she is much nearer than the sister or sister's sons or anybody else, because under the Hindu law she forms part of her husband's body; so that his objection in this matter cannot hold water.

Then another point is, my friend Sir Sankaran Nair is in sympathy with the claims of the son's widow, but he feels a difficulty, and what is it? That difficulty is, whether she is to have a life estate or full ownership, and that she will displace the position which the sister occupies at present. I say all these objections occurred to us before, and therefore we proposed that the whole matter might be comprehensively considered when the other Bill came in. Why should we pass parts of this Bill now and wait for the other parts to be passed in the other House when it comes on? My own idea is that the whole question should be left over to be considered comprehensively and once for all when the other Bill comes on; otherwise, by piece-meal legislation you will pass this Bill and leave it to the mercy of the other place, and as my friend said, whether you pass this Bill here or you do not pass it, it comes to the same

thing; it makes no difference whatever, because in the other place they may reject our measure altogether. If they reject it, it will be all right; if they pass it, it will still be all right, because we shall bring in another Bill to do something more. I think no argument is needed to show the futility of this legislation as at present introduced. It is innocuous, whether you pass it or not. Why not therefore reject it here and be done with it? As I myself think, we have overridden so many principles of the Hindu law in recent legislation, and this measure specially overrides so many other principles, and to introduce the son's widow would only be an act of charity and an act of good-will, and certainly it will not do greater harm than what has already been done by previous legislation. I therefore support this amendment strongly and it should be passed, so that if the other Bill ever comes before the other House for consideration they may remember that we raised this objection from the very beginning about piecemeal legislation, and the difficulty is felt as to what position to give to the son's widow. That difficulty will be felt when that Bill comprehensively dealing with the widows is taken up for consideration. Why not put all the things together and consider them at the same time? I therefore strongly support this amendment.

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN (Punjab: Nominated Non-Official): Sir, as a controversy has arisen over this matter whether the amendment should be accepted or not and as Sir Sankaran Nair wants to reject it, I think we may be called upon to vote, and so I want to explain my attitude as well as that of most of my co-religionists in this matter. This is primarily a Bill which affects our one all-powerful sister community, and I think that community is the best judge to decide whether or how they should carry this measure. If any decision were taken with our votes, they might say that we have meddled with religious legislation which is entirely their own.

When saying this, the cause which has led us to adopt this course is, that we too at times may have to bring forward such legislation and we want that, when such a time comes, they will also be magnanimous enough to allow us our own way with our own majority of votes. We are afraid, Sir, that, when there has been a certain report at the end of which it is said that every legislation which the overwhelming population of certain provinces, say, the Punjab or Bengal, may pass for their own interests it may be brought to the Central Legislature and may be turned down. Many such subjects are mentioned therein that they should be afterwards decided by the majority in the Central Legislature. We are aware of the fact that always, we, being the minority, will be at the mercy of those who are in the majority in the Central Legislature, and we want to adopt this course that, when the time comes and there is anything that we want to have, they will be just as kind to us and allow us to have our own way.

If I am allowed, Sir, I would also suggest to the Government Benches that, when there is a legislation like this, it really should be allowed to the party concerned to vote and decide it by its own majority.

As the question may be put to the vote, Sir, I thought it proper to stand up and explain this attitude of ours.

THE HONOURABLE MR. NARAYAN PRASAD ASTHANA: (United Provinces Northern: Non-Muhammadan): Sir, the amendment that has been moved has my every sympathy. The son's widow no doubt has got a very

[Mr. Narayan Prasad Asthana.]

just claim on the estate of the deceased father-in-law and it was in the United Provinces that in the Tenancy legislation her rights were recognised and the son's widow was placed after the widow and the brother. Therefore, the claims of a son's widow are very legitimate. But the question before the Council is this : whether the son's widow should be made an heir in the present legislation. The difficulties that have been pointed out by the Honourable Sir Sankaran Nair are no doubt serious, and I think that we should at present leave out the case of all these persons who come by marriage into the family and take up the case only of those persons who are related by blood. Moreover, the case of the son's widow was never considered by the Legislative Assembly from where this Bill has come. If it had been considered and rejected, or if it had been considered and accepted, then this Council would have been in a much better position to accept or to reject the amendment which has been brought forward. The Bill as it was presented to the Legislative Assembly did not contain any reference to the son's widow and it was passed twice. It came once to the Council but was shelved, and it has now come to us for the second time. In my opinion, therefore, we should be better advised in accepting the Bill and letting it pass as it stands instead of making any innovations in the Bill, so that when it goes to the other House they may not be able to say that we have changed it quite out of their sanction. Moreover, the objection that has been taken by the Honourable Mr. Khaparde as to piece-meal legislation is answered by the question which was put very recently by Sir Hari Singh Gour in the Legislative Assembly when the Honourable Mr. Crerar declared in reply to that question that the Government was not prepared to take up the codification of the Hindu Law. Therefore, it is necessary for us to go on by piece-meal legislation and to make a reform in the Hindu Law in that manner. If my friend, the Honourable Mr. Khaparde, brings in a comprehensive measure of codification of Hindu Law, we will see what we can do.

My friend, the Honourable Colonel Nawab Sir Umar Hayat Khan, has said that the votes of the Muhammadans would be neutral in this matter. I think that where the justice of the case is so obvious, where the matter is one which should be decided by the whole community in India, I do not see why the Muhammadans should be neutral in this matter. As to the officials, we have already been taught the value of the official votes the other day, and I do not think that the officials should be neutral in this matter, because we find that where the question of legislation comes in, it is on the entire body as a whole that the responsibility should rest and not on any one community or another. My opinion, therefore, is that the Muhammadans, as well as the Official Benches, should cast their votes in whichever direction they choose.

THE HONOURABLE MR. S. R. DAS (Law Member) : Sir, I should like to explain, after what the last speaker has said, that the Government propose to take up a neutral attitude with regard to this amendment that has been proposed. The members of the Government will not vote but the official Members will be free to vote in any manner they think best in regard to this amendment.

There is just one other remark I should like to make in regard to this, and that is, I will ask the Honourable Members to bear in mind that the question of the succession of the son's widow has never been circulated and the opinion of the public has not yet been invited as to whether the son's widow should be given the position that the amendment seeks to give.

THE HONOURABLE THE PRESIDENT: The original question was:—

"That clause 2, as reported by the Select Committee, do stand part of the Bill."

Since which an amendment has been moved:—

"That at the beginning of the clause the words 'a predeceased son's widow' be inserted."

The question is that those words be there inserted.

The Council divided:

AYES—9.

De, The Honourable Mr. K. C.
Govind Das, The Honourable Seth.
Khaparde, The Honourable Mr. G. S.
Mahendra Prasad, The Honourable Mr.
Mookerjee, The Honourable Srijut Rama Prasad.
Rama Rau, The Honourable Rao Sahib Dr. U.
Ray Chaudhury, The Honourable Mr. Kumar Sankar.
Sinha, The Honourable Mr. Anugraha Narayan.
Suhrawardy, The Honourable Mr. Mahmood.

NOES—14.

Akbar Khan, The Honourable Major Nawab Mahomed.
Ashthana, The Honourable Mr. Narayan Prasad.
Clow, The Honourable Mr. A. G.
Dadabhoy, The Honourable Sir Maneckji.
Froom, The Honourable Sir Arthur.
Godfrey, The Honourable Sir George.
Hayat Khan, The Honourable Nawab Malik Muhammad.
Macmillan, The Honourable Mr. A. M.
Maqbul Husain, The Honourable Khan Bahadur Sheikh.
Nawab Ali Khan, The Honourable Raja.
Sankaran Nair, The Honourable Sir.
Sethna, The Honourable Sir Phiroze.
Uberoi, The Honourable Sardar Bahadur Shivdev Singh.
Vernon, The Honourable Mr. H. A. B.

The motion was negatived.

THE HONOURABLE MR. MAHENDRA PRASAD (Bihar and Orissa: Non-Muhammadan): Sir, this Bill is intended to remove sex disqualification. Previously, a son's daughter, daughter's daughter and sister had no place in the line of succession. Now, it is intended that they should be included. It is mentioned here that the sister's son should also be an heir. By introducing the sister's son we are introducing a male and not a female as is intended by this Bill. Moreover, if we introduce the sister's son, there would be a change in the law of succession and the agnates would be shunted off to a lower place. I think that is quite unfair. As the Bill is only to remove sex disqualification, let only the son's daughter, daughter's daughter and sister be included and given a place, but not the sister's son who does come in as a *bandhu*. In fact, he is one of the persons who has got a right to succeed. Let him occupy the position which he occupied before. Why should he be given this new position as proposed in the Bill? Therefore, I move my amendment that the words "sister's son" be omitted.

THE HONOURABLE THE PRESIDENT: I would point out to the Honourable Member that if this amendment is carried into effect clause 2 becomes almost meaningless. The clause would then read "A son's daughter, daughter's daughter, sister, and shall, in the order so specified, be entitled...." Perhaps I can help the Honourable Member to put it right.

The original question was:

"That clause 2, as reported by the Select Committee, do stand part of the Bill."

Since which an amendment has been moved:

"That for the words 'sister, and sister's son' the words 'and sister' be substituted."

THE HONOURABLE SIR SANKARAN NAIR: Sir, my Honourable friend wants the sister's son to go out of the clause. I do not believe that objection was taken by anybody in the Legislative Assembly, nor was any objection taken to the sister's son in the opinions that have been received, except the general opinion with regard to including the son's daughter, daughter's daughter and sister. The reason why the sister's son is brought in, I presume, is because he is the son of a female and does not come in for that reason, and when we remove the disqualification as to the sister we bring in the sister's son in accordance with the principle that after the owner himself his son comes in. There is no reason at this late stage why the sister's son should be given up.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: I would oppose the amendment which has been moved by my Honourable friend Mr. Mahendra Prasad: the sister's son occupies a position under the Dayabhaga in Bengal which is not given to the sister's son in the Mitakshara. I think that of all the relations who are mentioned in clause 2 the sister's son is certainly one who is nearest from the point of view of affection or from the point of view of nearness of relationship and his case ought to be considered. The Honourable Mr. Mahendra Prasad stated that we are only considering the female relations. But if at the time of considering the cases of the female relations we take into consideration a male relation who has been relegated to a very distant place in the Mitakshara we will be simply doing a justice which is due to the sister's son, and I hope that the Honourable Member will not press his amendment.

THE HONOURABLE MR. NARAYAN PRASAD ASTHANA: Sir, I rise to oppose the amendment which has been moved. My grounds are that the daughter's son has been given a very high place in the Mitakshara and I do not see why the father's daughter's son should not have a place in close proximity to the other heirs. It is only an accident that the father's son comes in, otherwise the father's daughter's son, namely, the sister's son would have been heir to the estate of the deceased father. Therefore, my submission is that the sister's son is very nearly related to the deceased and he must be given a place just after the father's daughter.

Sir, I oppose the amendment.

THE HONOURABLE MR. G. S. KHAPARDE: I support the amendment.

THE HONOURABLE THE PRESIDENT: The original question was:

"That clause 2, as reported by the Select Committee, do stand part of the Bill."

Since which an amendment has been moved:

"That for the words 'sister, and sister's son' the words and 'sister' be substituted."

The question I have to put is that those words be substituted.

The motion was negatived.

THE HONOURABLE THE PRESIDENT: Does the Honourable Member (Mr. Mahendra Prasad) wish to move his amendment for the omission of the proviso?

THE HONOURABLE MR. MAHENDRA PRASAD: No, Sir

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: In view of the opinion already expressed by the House with regard to the pre-deceased son's widow, I do not think I should press the amendment* which stands in my name, because this is certainly a more difficult case than the one which I had moved before.

THE HONOURABLE THE PRESIDENT: Do those remarks of the Honourable Member apply to amendments Nos. 8 and 9 standing in his name on the paper?

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: Only to No. 8.

THE HONOURABLE THE PRESIDENT: The Honourable Babu Rama Prasad Mookerjee.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: Sir, I move:

"That for the proviso to clause 2 the following be substituted, namely, 'the sister's son shall include an adopted son, provided that such adoption is made by the sister and her husband jointly or by the sister after her husband's death.'"

You will find, Sir, that the Select Committee has made some alteration in the wording of the clause as it stood before. The clause as it stood before was:

"The son includes an adopted son provided that in the case of the adoption to a sister's husband, the adoption has been made with the consent of that sister during her life time"

and now after amendment by the Select Committee it stands:

"provided that a sister's son shall not include a son adopted after the sister's death".

Now, here are these different kinds of adopted sons, that would have to be taken into consideration. A son may be taken in adoption by the sister's husband during the life time of the sister; that adoption may be made either jointly with the sister or separately. If the sister's husband has got more than one wife, then it is open to that husband to take a boy in adoption either jointly with one of the wives concerned or he may take in adoption a boy without making any of the wives a party to the adoption. Now, it has been held by the Courts that if a boy is taken in adoption by a person together with one of the wives, then that adopted son becomes the son of the wife who joins in the adoption. He does not become the son of the wife who does not join; the wife who does not join becomes the step-mother. But in the case

*"That in clause 2 at the end of the first paragraph, after the words 'father's brother' the following words be added, namely: That a father's sister be entitled to rank in the order of succession next after the father's brother."

[Srijut Rama Prasad Mookerjee.]

where the husband takes a boy in adoption without taking any of the wives with him in the ceremony, then that boy becomes the son of all the wives that that person may have. Now this anomaly would arise—that a boy in whose adoption the sister was not consulted, to the adoption of whom the sister was not a party, would become an heir to the paternal family of that sister, although the sister had nothing to do with that adoption. No doubt under Hindu law an adopted son occupies the same position as a natural born son but here we are not considering the case of the rights of an adopted son to the adoptive family but the right to the family of the sister, which is quite a different family. I therefore think that we ought to limit the cases of adopted sons who would be entitled to come in under this clause to only those sons who are taken in adoption during the life time of the sister and with her jointly. The question may arise as to whether a particular boy was taken in adoption with the consent of the sister or not. That would be a question of evidence. That question may come up years after the actual adoption. For that purpose I have worded my amendment in this way that where the son is taken in adoption by the sister and her husband jointly—only those adopted sons would be entitled to come in. I do not think there was any real objection to the inclusion of this amendment in this Bill in the Select Committee provided it could be properly worded by the drafting department. This question was pressed on the Select Committee and it had almost been accepted by the Select Committee, but as there was some objection taken to the wording—the way in which it had been put previously by me when it came up before the Council last week—I have changed it as best as I could. I would certainly accept any other verbal corrections that may be suggested by the Honourable the Law Member. I think I have been able to make myself clear as to the persons who are attempted to be excluded by my amendment and who are not now excluded by the proposal as modified by the Select Committee.

THE HONOURABLE SIR SANKARAN NAIR: This question was fully considered by the Select Committee. The Bill as it stands with reference to adoption marks a departure from the Hindu Law. This amendment is a further departure and we did not feel ourselves justified in departing from the Hindu law to a greater extent than we found absolutely necessary. Therefore I do not support this suggestion of the Honourable Member. I oppose the motion.

THE HONOURABLE THE PRESIDENT: The original question was:

"That clause 2, as reported by the Select Committee, do stand part of the Bill."

Since which an amendment has been moved:

"That for the proviso to clause 2, the following be substituted, namely:—'The sister's son shall include an adopted son, provided that such adoption is made by the sister and her husband jointly or, by the sister after her husband's death.'"

The question is that that amendment be made.

The motion was negatived.

Clause 2, as reported by the Select Committee, was added to the Bill.

THE HONOURABLE THE PRESIDENT: The question is:

"That clause 3 do stand part of the Bill."

THE HONOURABLE MR. S. R. DAS: Sir, I move:

"That in sub-clause (*b*) of clause 3, for the words beginning with the word 'possessed' and ending with the words 'from a male' the following be substituted:

'possessed by a female in property inherited by her from a male according to the school of Mitakshara law by which the male was governed'."

This amendment is intended merely to correct an error. The words which I desire to have substituted are the words which were accepted by the Select Committee. Unfortunately, by an error, the Bill, which was signed by the Select Committee and presented to the House the other day, did not embody this amendment which had been agreed to by the Select Committee. I am merely asking that these words, which were accepted by the Select Committee, should be substituted.

The motion was adopted.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: The next amendment in my name is covered by the amendment just adopted.

THE HONOURABLE THE PRESIDENT: The question is:

"That clause 3, as reported by the Select Committee, and as amended, do stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

THE HONOURABLE THE PRESIDENT: The question is:

"That clause 1, as amended by the Select Committee, do stand part of the Bill."

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: Sir, the amendment that stands in my name is a merely verbal one, namely, that instead of calling this Act the Hindu Law of Inheritance (Amendment) Act, 1928, the figure "8" be omitted; that is, in sub-clause (*1*) of clause 1 the figure "8" at the end be omitted.

12 NOON.

My reason for this amendment is this. This Bill will pass through the Council to-day, and will not be presented to the Assembly before the next year, 1929, so that it would be a misnomer to call it the Hindu Law of Inheritance (Amendment) Act, 1928. I want to omit the figure "8" so that the figure "9" or any other figure may be put in afterwards and passed by the Assembly.

THE HONOURABLE MR. S. R. DAS: I would omit "1928" altogether.

THE HONOURABLE SRIJUT RAMA PRASAD MOOKERJEE: I have no objection to that.

THE HONOURABLE THE PRESIDENT: The original question was:

"That clause 1, as reported by the Select Committee, do stand part of the Bill."

Since which an amendment has been moved:

"That in sub-clause (*1*) of clause 1 the date 1928 be omitted."

The question is that that amendment be made.

The motion was adopted.

THE HONOURABLE MR. MAHENDRA PRASAD: Sir, I move:

"That in sub-clause (2) of clause 1, after the word 'males' the words 'who die after the passing of this Act' be inserted."

When the question of reference of the Bill to Select Committee was being considered, the Honourable Mr. Ramadas Pantulu pointed out certain defects in the Bill, one of which defects was that the Bill sought to give retrospective effect. We have to see what the Select Committee have done in respect of that. No doubt they have removed the words "to which the succession opens after the 31st day of July, 1928", but I am afraid it does not make the position absolutely clear. In the case of a male who died 20 years ago and a female is in possession of the estate, it may be contended that the succession opens after the death of the widow. There might be some doubt as to whether this Bill applies to the case mentioned above. There are certain authorities in favour of the view that the husband lives for purposes of succession till the death of the widow. So, if this amendment is not made, then that will be a fruitful source of litigation as nothing has been stated in any of the clauses to make this point clear; and I therefore think that to make the point clear, it is necessary that this amendment should be made. In fact the Select Committee have accepted the principle already by taking away the words 'to which succession opens, etc.', as I have already said, and I do not think there should be any difficulty in accepting my amendment, which does not want anything more than what they want and what Sir Hari Singh Gour himself wanted, because he himself did not want to give it retrospective effect. All that I want is that it should be given effect to only in cases of property of males who die after it has been passed into law.

THE HONOURABLE MR. S. R. DAS: Sir, I think the Honourable Mover of this amendment is really unnecessarily apprehensive.

THE HONOURABLE MR. MAHENDRA PRASAD: I am not a lawyer; that is the reason.

THE HONOURABLE MR. S. R. DAS: The whole matter was very carefully gone into in Select Committee and the Honourable Member will find that there is absolutely no cause for apprehension at all. As he has pointed out, the words which might have made the Bill retrospective have been taken out, and nothing has been said as to when it is to come into effect, because it is an elementary principle of law, which I think even laymen understand, that an Act does not come into effect till it is passed, and till it is assented to by the Governor General, so that it is only after that that this Bill comes into effect: it cannot affect males who die before the Act comes into effect. It is wholly unnecessary to make the amendment.

THE HONOURABLE SIR SANKARAN NAIR: Sir, I also oppose the amendment. In fact my Honourable friend's speech was full of mistakes. The Bill does not deal with the question of interest at all in any form whatever, and it does not interfere with any vested interests. The Bill as it stood perhaps went a little further, and it was argued that it did interfere with vested interests (though I did not think so), and in order to remove that apprehension those words were removed and the words as they now stand were accordingly inserted. But what really lies behind the motion of my friend is that he wants to give a right to property to certain reversioners who live in the hope that they

might outlive the widow and so take the property. That is really what is behind the motion. The words are perfectly clear, and my friend's suggestion cannot for a moment be entertained that those who live in hopes of succeeding to the property of a certain person if they outlive the widow must be compensated; to do so would be against all principles of legislation. I oppose the motion.

The motion was negatived.

Clause 1, as reported by the Select Committee, and amended by the Council, was added to the Bill.

THE HONOURABLE THE PRESIDENT: The question is:

"That this be the Title and Preamble to the Bill."

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

"That in the Title and Preamble to the Bill the word 'deceased' be omitted."

That is quite unnecessary, Sir, and I move that it may be omitted.

The motion was adopted.

The Title and Preamble, as amended, were added to the Bill.

THE HONOURABLE SIR SANKARAN NAIR: Sir, I move that the Bill, as passed by the Legislative Assembly, and as amended by the Select Committee, and as further amended by this Council, be passed.

The motion was adopted.

THE HONOURABLE KHAN BAHADUR SIR MUHAMMAD HABIBULLAH (Leader of the House): Sir, I have to announce to the House that there is no more work to be placed before it.

THE HONOURABLE THE PRESIDENT: In those circumstances, the Council will now adjourn *sine die*.

The Council then adjourned *sine die*.

THE

# The Council of State Debates

## (Official Report)

Volume II, 1928

*(11th September to 26th September 1928)*

FIFTH SESSION

of the

## SECOND COUNCIL OF STATE

1928

CALCUTTA: GOVERNMENT OF INDIA
CENTRAL PUBLICATION BRANCH
1928

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THE HONOURABLE SIR MANMOHANDAS RAMJI, KT.

# Contents.


| | PAGES. |
|---|---|
| TUESDAY, 11TH SEPTEMBER, 1928— | |
| Members Sworn .. .. .. .. .. .. | 1 |
| Message from His Excellency the Governor General .. .. | 1 |
| Committee on Petitions .. .. .. .. .. .. | 2 |
| Questions and Answers .. .. .. .. .. .. | 2—26 |
| Condolence Speeches on the death of Sir Alexander Muddiman .. | 26—31 |
| Message from the Legislative Assembly .. .. .. .. | 31 |
| Governor General's assent to Bills .. .. .. .. | 31 |
| Bills passed by the Legislative Assembly laid on the Table .. .. | 31—32 |
| Congratulations to the Honourable Sardar Bahadur Shivdev Singh Uberoi .. .. .. .. .. .. .. | 32—33 |
| WEDNESDAY, 12TH SEPTEMBER, 1928— | |
| Questions and Answers .. .. .. .. .. .. | 35—40 |
| Resolution *re* levy of revenue tax, cess or fee on land held in private ownership—Withdrawn by leave of the Council .. .. .. | 40—54 |
| Resolution *re* alterations in the powers and procedure of the High Courts in India—Negatived .. .. .. .. .. .. | 54—57 |
| Statement of Business .. .. .. .. .. .. | 57—58 |
| MONDAY, 17TH SEPTEMBER, 1928— | |
| Questions and Answers .. .. .. .. .. .. | 59—89 |
| Resolution *re* the Report of the Agricultural Commission—Adopted, as amended .. .. .. .. .. .. .. | 89—105 |
| Resolution *re* revision of the time tests in the post office—Adopted, as amended .. .. .. .. .. .. .. | 105—09 |
| Hindu Inheritance (Removal of Disabilities) Bill—Passed .. .. | 109—16 |
| Hindu Law of Inheritance (Amendment) Bill—Referred to Select Committee .. .. .. .. .. .. .. | 116—33 |
| TUESDAY, 18TH SEPTEMBER, 1928— | |
| Bills passed by the Legislative Assembly laid on the Table .. | 135 |
| Motion *re* election of Members of the Council of State to sit with the Indian Statutory Commission—Adopted .. .. .. | 135—82 |
| Indian Mines (Amendment) Bill—Passed .. .. .. | 182—83 |
| Motion *re* election of a Panel for the Standing Committee for the Department of Commerce—Adopted .. .. .. .. .. | 184 |
| Statement of Business .. .. .. .. .. .. | 184 |
| WEDNESDAY, 19TH SEPTEMBER, 1928— | |
| Questions and Answers .. .. .. .. .. .. | 185—87 |
| Indian Succession (Amendment) Bill—Passed .. .. .. | 187—88 |

| | PAGES. |
|---|---|
| **FRIDAY, 21ST SEPTEMBER, 1928—** | |
| Questions and Answers .. .. .. .. .. .. | 189—96 |
| Hindu Law of Inheritance (Amendment) Bill—Report of Select Committee presented .. .. .. .. .. .. | 196—97 |
| Elections to the Panel for the Standing Committee for the Department of Commerce .. .. .. .. .. .. | 198 |
| Election of Members of the Council of State on the Central Committee to sit with the Indian Statutory Commission .. .. .. | 198—99 |
| Indian Trade Unions (Amendment) Bill—Passed .. .. .. | 199—200 |
| Indian Income-tax (Amendment) Bill—Passed .. .. .. | 200—01 |
| Indian Succession (Second Amendment) Bill—Passed .. .. | 201—02 |
| Indian Insurance Companies Bill—Passed .. .. .. .. | 202—09 |
| Repealing and Amending Bill—Passed .. .. .. .. | 209—12 |
| Madras Salt (Amendment) Bill—Passed .. .. .. .. | 212 |
| Match Industry (Protection) Bill—Passed .. .. .. .. | 212—14 |
| Procedure for the election of Members of the Central Committee to sit with the Indian Statutory Commission .. .. .. .. | 214—15 |
| **WEDNESDAY, 26TH SEPTEMBER, 1928—** | |
| Questions and Answers .. .. .. .. .. .. | 217—20 |
| Message from the Legislative Assembly .. .. .. .. | 220 |
| Hindu Law of Inheritance (Amendment) Bill—Passed, as amended .. | 220—33 |

# INDEX

## TO THE

# COUNCIL OF STATE DEBATES

## VOLUME II, 1928.

## A

ABDUL KARIM, THE HONOURABLE KHAN BAHADUR MAULVI—
Nomination of —— to the Panel of Chairmen. 1.

ABDUL RAHMAN—

Question *re* dismissal of ——, Loco. Fitter, Public Works Department, Delhi. 82-83.

ACCOUNTS—

Question *re* adoption of the system of —— suggested in the report of Sir Arthur Dickinson in State Railway workshops. 67.

ACT(S)—

Indian Companies ——.

Question *re* amendment of the ——. 63-64.

Indian Mines ——.

Question *re* names and qualifications of persons who constitute the Board of Examiners under the ——, etc. 2-3.

Indian Trade Unions—

Question *re* prevention of Government servants from joining or continuing to be members of associations, seeking registration under the ——. 13.

ADRA—

Question *re* provision of an intermediate class ladies' waiting room at ——. 21.

AGRICULTURAL COMMISSION—

Resolution *re* the Report of the ——. 89-105.

AJOYA—

Question *re* opening of a post office in ——, Thana Khejri, in the Midnapore district. 24-25.

AKBARKHAN, THE HONOURABLE MAJOR NAWAB MUHAMMAD—

Hindu Law of Inheritance (Amendment) Bill ——.

Motion to consider. 122.

Motion *re* election of Members of the Council of State to sit with the Indian Statutory Commission. 140, 141, 142, 163-64.

Resolution *re* the Report of the Agricultural Commission. 102-03.

AKRAM HUSAIN BAHADUR, THE HONOURABLE PRINCE A. M. M.—

Withdraws his candidature for election to the Central Committee to sit with the Indian Statutory Commission. 199.

ALLAHABAD—

Question *re*—

Pay and allowances of the task work delivery peons of the head telegraph office at ——. 218-19.

Remodelling of the East Indian Railway station at ——. 218.

ALLOWANCE(S)—

Question *re*—

Grant of conveyance —— to clerks of the Government of India not provided with quarters in New Delhi. 195-96.

Out-station —— for Railway Mail Service Officers. 15.

Pay and —— of the task work delivery peons of the head telegraph office at Allahabad. 218-19.

ALUMINIUM INGOTS AND SHEETS—

Question *re* taxation of ——. 66.

APPEALS—

Question *re* number of certain —— in the High Court, Calcutta. 25.

ARCHÆOLOGICAL SERVICE—

Question *re* scholarships for training of candidates for the ——. 217-18

ARICHA DACCA RAILWAY—

*See* " Railway(s)."

ARMY DEPARTMENT—

Question *re* diversion by the —— of sums sanctioned in the Army Budget from one branch of expenditure to another. 14-15.

ARTIFICIAL TEA—

Question *re* importation of ——. 5.

ASHTHANA, THE HONUORABLE MR. NARAYAN PRASAD—

Expressions of regret by —— on the death of the late Sir Alexander Muddiman. 29.

ASTHANA, THE HONOURABLE MR. NARAYAN PARASAD—*contd.*

Hindu Inheritance (Removal of Disabilities) Bill —

Consideration of clause 2. 115.

Hindu Law of Inheritance (Amendment) Bill—

Motion to refer to Select Committee. 128.

Consideration of clause 2. 225-26, 228.

Indian Succession (Amendment) Bill—

Motion to consider. 187.

Motion to pass. 188.

Question *re*—

Pay and allowances of the task work delivery peons of the head telegraph office at Allahabad. 218-19.

Remodelling of the East Indian Railway station at Allahabad. 218.

Revision of the list of voters of the Council of State in the United Provinces. 218.

Question (Supplementary) *re* grant of conveyance allowance to clerks of the Government of India not provided with quarters in New Delhi. 196.

ASSAM—

Question *re*—

Eradication of the water hyacinth from Bengal, —— and Bihar and Orissa. 4.

Regulations under which labour employed on the tea gardens in —— is recruited. 61.

Total value of exports during the last five years from the different ports of Bengal and ——, etc. 15-16.

ASSISTANT DIRECTOR OF SUPPLIES AND TRANSPORT, BOMBAY—

Question *re* qualifications required for the registration of meat contractors by the — —. 189.

ASSISTANT ENGINEER—

Question *re*—

Eligibility of Pandit Udho Ram, Sub-Divisional Officer, Public Works Department, Delhi, for the rank of —— or Executive Engineer. 194-95.

Promotion of subordinates of the Public Works Department, Delhi, to the posts of Executive Engineers or ——. 83.

ATTACHED OFFICES—

Question *re* office hours in the Government of India Secretariat and ——. 192.

AUSTRALIAN WHEAT—

Question *re* import of ——. 74, 220.

AUXILIARY FORCE (AMENDMENT) BILL—

*See* " Bill(s)."

AVIATION—

Question *re* financial commitments in respect of Civil ——. 65.

B

BACK BAY RECLAMATION, BOMBAY—

Question *re* taking over of block No. 8 on the ——, by the Government of Bombay on behalf of the Military Department. 62.

BAHADUR SHAH, *EX*-KING—

Question *re* tomb of the —— of Delhi at Rangoon. 190.

BAKULAHA—

Question *re* discontinuance of the present line between —— and Reote railway stations on the Bengal and North Western Railway. 185.

BAMANGACHI—

Question *re* firing on strikers at ——. 25.

BANKING—

Question *re* training of Indians in ——. 14.

BEEF—

Question *re* tenders for the supply of —— and mutton for troops in the Bombay district. 189-90.

BELGHURRIAH—

Question *re* fares between Sealdah and —— railway stations on the Eastern Bengal Railway. 80-81.

BENGAL—

Question *re*—

Eradication of the water hyacinth from ——, Assam and Bihar and Orissa. 4.

Relief for the famine-striken people of ——. 12.

Total value of exports during the last five years from the different ports of —— and Assam, etc. 15-16.

BENGAL AND NORTH WESTERN RAILWAY—

*See* " Railway(s)."

BENGAL CIRCLE—

Question *re* permanent town Inspectors of Post Offices attached to first class Head Post Offices in the ——, etc. 185-87.

BENGAL NAGPUR RAILWAY—

*See* " Railway(s)."

BIHAR AND ORISSA—

Question *re* eradication of the water hyacinth from Bengal, Assam and ——. 4.

BIJE SINGH—

Question *re* allegations against ——, sanitary darogha in the Health Department, New Delhi. 85.

BILL(S)—

Auxiliary Force (Amendment)—

Assent of the Governor General. 31.

Burma Salt (Amendment) —

Assent of the Governor General. 31.

Chittagong Port (Amendment)—

Passed by the Legislative Assembly. 31.

Assent of the Governor General. 31.

Governor General's assent to ——. 31.

Hindu Inheritance (Removal of Disabilities)—

Passed by the Legislative Assembly. 31-32.

Considered and passed. 109-116.

Hindu Law of Inheritance (Amendment) ——.

Passed by the Legislative Assembly. 31-32.

Consideration negatived. 116-123.

Reference to Select Committee adopted. 123-133.

Presentation of the Report of the Select Committee. 196-97.

Considered and passed. 220-33.

Indian Finance ——

Assent of the Governor General. 31.

Indian Income-tax (Amendment) —— (Amendment of section 5)—

Passed by the Legislative Assembly. 135.

Considered and passed. 200-201.

Indian Income-tax (Amendment)——(Amendment of sections 10, 14, etc.)—

Assent of the Governor General. 31.

Indian Insurance Companies ——.

Passed by the Legislative Assembly. 135.

Considered and passed. 202-09.

BILL(S)—*contd.*

Indian Merchant Shipping (Amendment)—

Assent of the Governor General. 31.

Indian Mines (Amendment)—

Passed by the Legislative Assembly. 31-32.

Considered and passed. 182-84.

Indian Securities (Amendment)—

Assent of the Governor General. 31.

Indian Succession (Amendment)—

Passed by the Legislative Assembly. 31-32.

Considered and passed. 187-88.

Indian Succession (Second Amendment)—

Passed by the Legislative Assembly. 135.

Considered and passed, as amended. 201-02.

Amendment made by the Council adopted by the Legislative Assembly. 220.

Indian Tariff (Amendment)—

Assent of the Governor General. 31.

Indian Territorial Farce (Amendment)—

Assent of the Governor General. 31.

Indian Trade Unions (Amendment)—

Passed by the Legislative Assembly. 135.

Considered and passed. 199-200.

Inland Bonded Warehouses (Amendment)—

Assent of the Governor General. 31.

Madras Salt (Amendment)—

Passed by the Legislative Assembly. 135.

Considered and passed. 212.

Match Industry (Protection)—

Passed by the Legislative Assembly. 135.

Considered and passed. 212-14.

Question *re*

——, before Parliament regarding the amendment of the constitution of the High Courts. 6.

Fate of —— passed by the Legislative Assembly in the Council of State. 7-12.

BILL(S)—*concld.*

Reserve Bank—

Question *re* the ——. 5.

Repealing and Amending—

Passed by the Legislative Assembly. 135.

Considered and passed. 209-12.

Steel Industry (Protection)—

Assent of the Governor General. 31.

*See* " Ruling(s)."

BOARD OF EXAMINERS—

Question *re* names and qualifications of persons who constitute the —— under the Indian Mines Act, etc. 2-3.

BOAT HIRE—

Question *re* —— granted to postal runners during the rainy season. 15.

BOMBAY—

Question *re*—

Qualifications required for the registration of meat contractors by the Assistant Director of Supplies and Transport, ——. 189.

Rate war in the charges for the transport of rice from Rangoon and ——. 64.

Taking over of block No. 8 on the Back Bay Reclamation, ——, by the Government of —— on behalf of the Military Department. 62.

BOMBAY DISTRICT—

Question *re* tenders for the supply of beef and mutton for troops in the ——. 189-90.

BOMBAY, GOVERNMENT OF—

Question *re* taking over of block No. 8 on the Back Bay reclamation, Bombay, by the —— on behalf of the Military Department. 62.

BONDED WAREHOUSES (AMENDMENT) BILL—

*See* " Inland —— " under " Bill(s)."

BRASS INGOTS AND SHEETS—

Question *re* taxation of ——. 66.

BRICKS—

Question *re* shortage of —— in the 8th Project Division, Delhi. 87.

BUDGET—

Question *re* diversion by the Army Department of sums sanctioned in the Army —— from one branch of expenditure to another. 14-15.

BUILDINGS—

Question *re* attraction of private capital for putting up —— in New Delhi. 68.

BURDON, THE HONOURABLE MR. E.—

Indian Income-tax (Amendment) Bill—

Motion to consider. 200.

Motion to pass. 201.

Madras Salt (Amendment) Bill—

Motion to consider. 212.

Motion to pass. 212.

BURMA—

Question *re* Railway between India and ——. 68-69.

BURMA SALT (AMENDMENT) BILL—

*See* " Bill(s)."

BUSINESS—

*See* " Statement of Business."

C

CALCUTTA—

Question *re*—

Number of certain appeals in the High Court, ——. 25.

Overworked staff in the postal Savings Bank Department of the General Post Office, ——. 76.

Reduction of telephone rates in ——. 77-78.

Refusal to grant to 17 clerks of the non-migratory portion of the office of the Director General of Posts and Telegraphs of the concessions granted in connection with the transfer of the headquarters from —— to Delhi. 193.

Scales of pay of clerks in certain specified offices in ——. 35.

Town Inspectors of Post Offices in ——. 186-87.

Transfer of clerks from —— for the Railway Clearing Accounts Office, Delhi, etc. 75-76.

CALCUTTA PORT TRUST—

Question *re* employment of Indians in the superior services of the —— 79-80.

CAPITAL—

Question *re* —

Amount of —— attracted from India for South African Orange Farms and New Zealand Forest Companies. 63.

Attraction of private —— for putting up buildings in New Delhi. 68.

CAPITAL AND REVENUE ACCOUNTS—

Question *re* separate ——for Government telephone lines. 65-66.

CENTRAL CIRCLE—

Question *re* number of post offices in an inspector's sub-division in the ——. 26.

CENTRAL COMMITTEE—

Nominations for election of Members of the Council of State to the —— to sit with the Indian Statutory Commission. 198-199.

Procedure for the election of Members of the —— to sit with the Indian Statutory Commission. 214-15.

CERTIFICATION—

Question *re* —— by the Governor General of the expenditure on the Simon Commission. 4-5.

CESS—

Resolution *re* levy of revenue tax —— or fee of land held in private ownership. 40-54.

CHARANJIT SINGH, THE HONOURABLE SARDAR—

Expression of regret by —— on the death of the late Sir Alexander Muddiman. 29.

Motion *re* election of Members of the Council of State to sit with the Indian Statutory Commission. 162-63.

CHIEF JUSTICE, PATNA HIGH COURT—

Question *re*—

Remarks contained in a recent judgment of the —— regarding the giving of false evidence. 191.

Remarks made by the —— in a case against Babu Jagat Narayan Lal, M.A., LL.B., M.L.C. 191.

CHINA—

Question *re* recovery from the War Office of the charges incurred in respect of the operations in ——. 20.

CHITTAGONG PORT (AMENDMENT) BILL—

*See* " Bill(s)."

CINEMA COMMITTEE—

Question *re* recommendations of the ——. 67.

CLERK(S)—

Question *re*—

Employment of Muslim —— in the Health Office, New Delhi. 87.

Grant of conveyance allowance to —— of the Government of India not provided with quarters in New Delhi. 195-96.

Scales of pay of —— in certain specified offices in Calcutta. 35.

CLERK(S)—*contd.*

Question *re—contd.*

Transfer of —— from Calcutta, for the Railway Clearing Accounts Office, Delhi, etc. 75-76.

CLOW, THE HONOURABLE MR. A. G.—

Indian Mines (Amendment) Bill—

Motion to consider. 182-83.

Consideration of clause 1. 183.

Motion to pass. 184.

Indian Trade Unions (Amendment) Bill—

Motion to consider. 199.

Motion to pass. 200.

Oath of Office. 1.

Resolution *re* revision of the time tests in the post office. 106-07.

COAL—

Question *re* reduction of railway freight on —— for internal consumption. 15.

COAL MINES—

Question *re* number of Europeans and Indians employed as Managers in the —— owned and managed by the State Railways, etc. 3-4.

COLLIERIES—

Question *re* —— owned by the East Indian Railway, etc. 76-77.

COMMERCE DEPARTMENT—

Election to the panel for the Standing Committee for the ——. 198.

Motion *re* election of a panel for the Standing Committee for the ——. 184.

COMMISSION(S)—

Motion *re* election of Members of the Council of State to sit with the Indian Statutory ——. 135-182.

Nominations for election of Members of the Council of State to the Central Committee to sit with the Indian Statutory ——. 198-99.

Procedure for the election of Members of the Central Committee to sit with the Indian Statutory ——. 214-15.

Question *re* certification by the Governor General of the expenditure on the Simon ——. 4-5.

Resolution *re* the Report of the Agricultural ——. 89-105.

COMMISSIONER, NORTHER INDIAN SALT REVENUE DEPARTMENT—

Question *re* stoppage of the recruitment of Muslims to the Office of the ——, etc. 87-88.

COMMITTEE(S)—

Nominations for election of Members of the Council of State to the Central —— to sit with the Indian Statutory Commission. 198-99.

Procedure for the election of Members of the Central —— to sit with the Indian Statutory Commission. 214-15.

Question *re*—

Number of cases dealt with by the Rates Enquiry ——, since its establishment. 64.

Recommendations of the Cinema ——. 67.

COMMITTEE ON PETITIONS—

Constitution of the ——. 2.

COMPANIES ACT—

*See* " Indian —— " under " Act(s) ".

CONGRATULATIONS—

—— by the Honourable the President to the Honourable Sardar Bahadur Shivdev Singh Uberoi. 32-33.

CONTAI—

Question *re* construction of a railway between —— and —— Road station. 22.

CONTRACT(S)—

Question *re* —— for the carriage of mails between England and India with the P. & O. Steam Navigation Company. 68.

CONTRACTORS—

Questions *re* —— of the Supply and Transport Department. 189.

Payment of the bills of —— by the Public Works Department, Delhi. 195.

Qualification required for the registration of meat —— by the Assistant Director of Supplies and Transport, Bombay. 189.

CONTROLLER OF PRINTING AND STATIONERY—

Question *re* memorial of the staff of the Office of the ——. 35-36.

CONVEYANCE ALLOWANCE—

Question *re* grant of —— to clerks of the Government of India not provided with quarters in New Delhi. 195-96.

CORBETT, THE HONOURABLE SIR GEOFFREY—

Indian Insurance Companies' Bill—

Motion to consider. 202-04, 208-09.

Consideration of clause 12. 209.

Motion to pass. 209.

CORBETT, THE HONOURABLE SIR GEOFFREY—*contd.*

Match Industry (Protection) Bill—

Motion to consider. 212-13.

Motion to pass. 214.

Motion *re* election of a panel for the Standing Committee for the Department of Commerce. 184.

COUNCIL OF STATE—

Message from His Excellency the Governor General nominating Members of the —— to be on the Panel of Chairmen. 1.

Motion *re* election of Members of the——to sit with the Indian Statutory Commission. 135-82.

Nominations for election of Members of the —— to the Central Committee to sit with the Indian Statutory Commission. 198-99.

Question *re*—

Fate of Bills passed by the Legislative Assembly in the ——. 712.

Revision of the list of voters of the —— in the United Provinces. 218.

CUSTOMS DUTY—

Question *re* reduction or abolition of the —— on paper and printing ink. 219-20.

CUSTOMS REVENUE—

Question *re* amount of —— derived from paper and printing ink during the year 1927-28. 62.

D

DADABHOY, THE HONOURABLE SIR MANECKJI—

Expressions of regret by —— on the death of the late Sir Alexander Muddiman. 28.

Hindu Law of Inheritance (Amendment) Bill ——

Motion to refer to Select Committee. 124-29.

Consideration of clause 2. 224.

Motion *re* election of Members of the Council of State to sit with the Indian Statutory Commission. 139, 146, 147, 149, 152, 155, 157, 162, 170, 175.

Resolution *re* levy of revenue tax, cess or fee on land held in private ownership. 50.

Withdraws his candidature for election to the Central Committee to sit with the Indian Statutory Commission. 199.

DAS, THE HONOURABLE MR. S. R.—

Hindu Inheritance (Removal of Disabilities) Bill ——.

Motion to consider. 112.

DAS, THE HONOURABLE MR. S. R.—*contd.*

Hindu Law of Inheritance (Amendment) Bill—

Consideration of clause 2. 226-27.

Consideration of clause 3. 231.

Consideration of clause 1. 231-232.

Motion *re* election of Members of the Council of State to sit with the Indian Statutory Commission. 147.

Repealing and Amending Bill—

Motion to consider. 209.

Consideration of Schedule I. 211.

Motion to pass. 212.

DEATH(S)—

Expressions of regret on the —— of the late Sir Alexander Muddiman. 26-31.

DELHI—

Question *re*—

Alleged harsh treatment of his Indian staff by Mr. J. L. Sale, Officiating Chief Engineer, ——, etc. 81-82.

Alleged nepotism in the Public Works Department, ——. 89.

Appointment of Mr. Mathur as Sub-Divisional Officer, 6th Division, ——. 84-85.

Dismissal of Abdul Rahman, Loco. Fitter, Public Works Department, ——. 82-83.

Eligibility of Pandit Udho Ram, Sub-Divisional Officer, Public Works Department, —— , for the rank of Assistant Engineer or Executive Engineer. 194-95.

Employment of Babu Rup Narain as Superintendent, W./III Section, Central Office, Public Works Department, ——. 87.

Employment of temporary subordinates in the Public Works Department, ——. 84.

Entertainment of the sons of certain Executive Engineers in the Public Works Department, —— , after their return from England. 86.

Increase of the grant to Princess Rounac Zamani Begum, grand-daughter of the *ex*-King of ——. 190-91.

Payment of the bills of contractors by the Public Works Department, ——. 195.

Permanent cadre of the Public Works Department. ——. 86.

Promotion of subordinates of the Public Works Department, —— , to the posts of Executive Engineers or Assistant Engineers. 83.

Qualified Muslim candidates for the posts of engineers in the Public Works Department, ——. 84.

DELHI—*contd.*

Question *re*—*contd.*

Refusal to grant to 17 clerks of the non-migratory portion of the office of the Director General of Posts and Telegraphs of the concessions granted in connection with the transfer of the headquarters from Calcutta to ——. 193.

Shortage of bricks in the 8th Project Division, ——. 87.

Technical and educational qualifications of Babu Durga Das of the Public Works Department, ——. 86.

Technical and educational qualifications of certain employees of the Public Works Department, ——. 88.

Tomb of the *ex*-King Bahadur Shah of —— at Rangoon. 190.

Transfer of clerks from Calcutta for the Railway Clearing Accounts Office, ——, etc. 75-76.

DELHI, *EX*-KING OF—

Question *re* increase of the grant to Princess Rounac Zamani Begum grand-daughter of the ——. 190-91.

DEPARTMENT OF COMMERCE—

Election to the Panel for the Standing Committee for the ——. 198.

Motion *re* election of a Panel for the Standing Committee for the —— 184.

DEPRECIATION—

Question *re* —— written off the purchase price of the Peninsular Locomotive Works at Jamshedpur. 20.

DESIKA CHARI, THE HONOURABLE MR. P. C.—

Motion *re* election of Members of the Council of State to sit with the Indian Statutory Commission. 165-171.

Nomination of —— as a member of the Committee on Petitions. 2.

Resolution *re* the Report of the Agricultural Commission. 101-02.

DETENUS—

Question *re* political ——. 4.

DHANBAD—

Questions *re* Professor of Geology in the Indian School of Mines, ——. 38-39.

DICKINSON, SIR ARTHUR—

Question *re* adoption of the system of accounts suggested in the report of —— in State Railway workshops. 67.

DIRECTOR GENERAL OF POSTS AND TELEGRAPHS—

Question *re*—

Location in a separate building of the Wireless Branch of the office of the ——. 192.

DIRECTOR GENERAL OF POSTS AND TELEGRAPHS—*contd.*
Question *re—contd.*
Location in Simla during the winter months of the Wireless Branch of the office of the ——. 193.
Position of the office of the ——. 192-93.
Refusal to grant to 17 clerks of the non-migratory portion of the office of the —— of the concessions granted in connection with the transfer of the headquarters from Calcutta to Delhi. 193.

DISMISSAL(S)—
Question *re*—
—— of Abdul Rahman, Loco. Fitter, Public Works Department, Delhi. 82-83.
—— of Ganda Singh, Sanitary Jamadar, New Delhi. 85.

DOCTOR OF SCIENCE—
Question *re* European Assistant Superintendents of the Geological Survey of India possessing the Degree of a ——. 37.

DURGA DAS, BABU—
Question *re* technical and educational qualifications of —— of the Public Works, Department, Delhi. 86.

E

EASTERN BENGAL RAILWAY—
*See* " Railway(s)."

EAST INDIAN RAILWAY—
*See* " Railway(s) ".

EDUCATION—
Question *re* —— of Indians in England. 37.

EDUCATIONAL FACILITIES—
Question *re* report of Mr. Jones, regarding —— afforded to the children of employees of the State Railways. 40.

EDUCATIONAL QUALIFICATIONS—
Question *re*—
Technical and —— of Babu Durga Das of the Public Works Department, Delhi. 86.
Technical and —— of certain employees of the Public Works Department, Delhi. 88.

ENGINEER(S)—
Question *re*—
Number of Muslim and non-Muslim gazetted ——, province by province. 194.
Qualifications for the post of an ——. 83.
Qualified Muslim candidates for the posts of —— in the Public Works Department, Delhi. 84.

ENGLAND—

Question *re*—

Contract for the carriage of mails between —— and India with the P. & O. Steam Navigation Company. 68.

Education of Indians in ——. 37.

Entertainment of the sons of certain Executive Engineers in the Public Works Department, Delhi, after their return from ——. 86.

EUROPE—

Question *re*—

Expenditure incurred on obtaining opinions from Palæontological experts in ——. 37.

Orders for locomotives, wagons, and spare parts placed on behalf of the Railway Board in the United Kingdom and on the continent of ——. 63.

EUROPEAN(S)—

Question *re*—

—— Assistant Superintendents of the Geological Survey of India possessing the degree of a Doctor. 37.

Number of —— and Indians employed as Managers in the coal mines owned and managed by the State Railways, etc. 3-4.

Number of —— and Indians employed as Medical Officers on the State Railways. 4.

EVIDENCE—

Question *re* remarks contained in a recent judgment of the Chief Justice of the Patna High Court regarding the giving of false ——. 191.

EXAMINATION(S)—

Question *re* —— for the promotion of postal officials. 15.

EXECUTIVE ENGINEER(S)—

Question *re*—

Eligibility of Pandit Udho Ram, Sub-Divisional Officer, Public Works Department, Delhi, for the rank of Assistant Engineer or ——. 194-95.

Entertainment of the sons of certain —— in the Public Works Department, Delhi, after their return from England. 86.

Promotion of subordinates of the Public Works Department, Delhi, to the posts of —— or Assistant Engineers. 83.

EXPENDITURE—

Question *re*—

Certification by the Governor General of the —— on the Simon Commission. 4-5.

Diversion by the Army Department of sums sanctioned in the Army Budget from one branch of —— to another. 14-15.

EXPORTS—

Questions *re* total value of —— during the last five years from the different ports of Bengal and Assam, etc. 15-16.

F

FALSE EVIDENCE—

Question *re* remarks contained in a recent judgment of the Chief Justice of the Patna High Court regarding the giving of ——. 191.

FAMINE-STRICKEN PEOPLE—

Question *re* relief for the —— of Bengal. 12.

FARIDPUR—

Question *re* construction of waiting rooms for female passengers and sheds for other passengers at —— station. 6.

FEMALE PASSENGERS—

Question *re* construction of waiting rooms for —— and sheds for other passengers at Faridpur station. 6.

FINANCE BILL—

*See* " Indian —— " under " Bill(s) ".

FINANCIAL COMMITMENTS—

Question *re* —— in respect of civil aviation. 65.

*FORWARD*—

Question *re* extracts in the " Memorial to the Members of the Indian Legislative Assembly in Session," which appeared in the ——, dated the 17th February, 1925. 39.

FREIGHT—

Question *re* reduction of railway —— on coal for internal consumption. 15.

FROOM, THE HONOURABLE SIR ARTHUR—

Expressions of regret by —— on the death of the late Sir Alexander Muddiman. 27-28.

Hindu Law of Inheritance (Amendment) Bill—

Motion to refer to Select Committee. 126-27.

Motion *re* election of Members of the Council of State to sit with the Indian Statutory Commission. 161-62.

FROOM, THE HONOURABLE SIR ARTHUR—*contd.*

Resolution *re* the Report of the Agricultural Commission. 104.

G

GANDA SINGH—

Question *re* dismissal of ——, Sanitary Jamadar, New Delhi. 85.

GENERAL POST OFFICE, CALCUTTA—

Question *re* overworked staff in the Postal Savings Bank Department of the ——. 76.

GEOLOGICAL SURVEY OF INDIA—

Question *re*—

Appointments of Assistant Superintendents of the —— made during the last two years. 36.

Appointments of Assistant Superintendents of the —— made in 1926. 36-37.

European Assistant Superintendent of the —— possessing the Degree of a Doctor. 37.

Promotions from the subordinate service to appointments of Assistant Superintendents of the ——. 38.

GEOLOGY, PROFESSOR OF—

Question *re* —— in the Indian School of Mines, Dhanbad. 38-39.

GLANCY, THE HONOURABLE MR. B. J.—

Oath of Office. 1.

GODFREY, THE HONOURABLE SIR GEORGE—

Motion *re* election of Members of the Council of State to sit with the Indian Statutory Commission. 176-78.

Nomination of —— to the Panel of Chairmen. 1.

Question *re*—

Depreciation written off the purchase price of the Peninsular Locomotive Works at Jamshedpur. 20.

Manufacture of underframes at the Peninsular Locomotive Works at Jamshedpur. 21.

GOVERNMENT HOUSE, NEW DELHI—

Question *re* materials for ——. 87.

GOVERNMENT OF INDIA—

Question *re*—

Grant of conveyance allowance to clerks of the —— not provided with quarters in New Delhi. 195-96.

Loans raised by the —— and Provincial Governments. 59.

GOVERNMENT OF INDIA—*contd.*

Question *re—contd.*

Publication at the beginning of every month of the figure indicating the Ways and Means position of the ——, etc. 60-61.

Sale of silver by the —— from 1st April 1927 to 30th June 1928. 59-60.

Settlement of the charges incurred by the —— on behalf of the War Office during the Great War. 19-20.

GOVERNMENT OF INDIA SECRETARIAT—

Question *re*—

Office hours in the —— and attached offices. 192.

Recruitment of the ministerial staff of the —— through the Public Service Commission. 73-74.

GOVERNMENT PUBLICATIONS—

Question *re* supply of advance copies of all —— to *New India*. 14.

GOVERNMENT SERVANTS—

Question *re* prevention of —— from joining or continuing to be members of associations, seeking registration under the Indian Trade Unions Act. 13.

GOVERNMENT TELEPHONE LINES—

Question *re* separate capital and revenue accounts for ——. 65-66.

GOVERNOR GENERAL, HIS EXCELLENCY THE—

——'s assent to Bills. 31.

Message from —— nominating Members of the Council of State to be on the Panel of Chairmen. 1.

Question *re* certification by —— of the expenditure on the Simon Commission. 4-5.

GOVIND DAS, THE HONOURABLE SETH—

Motion *re* election of Members of the Council of State to sit with the Indian Statutory Commission. 137-142, 144, 145, 149, 153, 154, 157, 169, 170, 171, 175.

GREAT WAR—

Question *re* settlement of the charges incurred by the Government of India on behalf of the War Office during the ——. 19-20.

## H

HABIBULLAH, THE HONOURABLE SIR MUHAMMAD—

Expressions of regret by —— on the death of the late Sir Alexander Muddiman. 26-27.

Motion *re* election of Members of the Council of State to sit with the Indian Statutory Commission. 135, 137, 180-82.

HABIBULLAH, THE HONOURABLE SIR MUHAMMAD—*contd.*

Resolution *re*—

The Report of the Agricultural Commission. 96-98, 104-05.

Levy of revenue tax, cess or fee on land held in private ownership. 40, 43-47, 48.

Statement of Business by —— 57-58, 184.

HAIG, THE HONOURABLE MR. H. G.—

Indian Succession (Second Amendment) Bill—

Motion to consider. 201.

Consideration of clause 1. 201.

Motion to pass. 202.

Resolution *re* alterations in the powers and procedure of the High Courts in India. 55-57.

HARPER, THE HONOURABLE MR. K. B.—

Oath of Office. 1.

HAYAT KHAN, THE HONOURABLE NAWAB MALIK MOHAMMAD—

Oath of Office. 1.

HEALTH DEPARTMENT, NEW DELHI—

Question *re* allegations against Bije Singh, Sanitary Darogha in the —— 85.

HEALTH OFFICE, NEW DELHI—

Question *re* employment of Muslim clerks in the ——. 87.

HIGH COURT(S)—

Question *re* Bill before Parliament regarding the amendment of the Constitution of the ——. 6.

Resolution *re* alterations in the powers and procedure of the —— in India. 54-57.

HIGH COURT, CALCUTTA—

Question *re* number of certain appeals in the ——. 25.

HIGH COURT JUDGES—

Question *re*—

Compulsory retirement of —— at 60. 23,

Pay of ——. 23.

HINDU INHERITANCE (REMOVAL OF DISABILITIES) BILL—

*See* "Bill(s)."

HINDU LAW OF INHERITANCE (AMENDMENT) BILL—

*See* "Bill(s)."

HINDU-MOSLEM RIOTS—

Question *re* prevention of the recurrence of —— at Kharagpur. 22-23.

HOWRAH—

Question *re* recent strike at Lillooah and ——. 12-13.

I

IMMIGRANT(S)—

Question *re* exemption of —— to India from the passport regulations. 63.

IMPERIAL AIRWAYS, LIMITED—

Question *re* the ——. 61-62

IMPORT(S)—

Question *re* —— of Australian wheat. 74, 220.

INCOME-TAX (AMENDMENT) BILL—

*See* " Indian —— " under " Bill(s) ".

INDIANS—

Question *re*—

Education of —— in England. 37.

Number of Europeans and —— employed as Managers in the coal mines owned and managed by the State Railways, etc. 3-4.

Number of Europeans and —— employed as Medical Officers on the State Railways. 4.

Training of —— in banking. 14.

INDIAN COMPANIES ACT—

*See* " Act(s) ".

INDIAN FINANCE BILL—

*See* " Bill(s) ".

INDIAN INCOME-TAX (AMENDMENT) BILL—

*See* " Bill(s) ".

INDIAN INSURANCE COMPANIES BILL—

*See* " Bill(s) ".

INDIAN MEDICAL SERVICE—

Question *re* temporary Indian Officers of the ——. 17-19.

INDIAN MERCHANT SHIPPING (AMENDMENT) BILL—

*See* " Bill(s) ".

INDIAN MINES ACT—

*See* " Act(s) ".

INDIAN MINES (AMENDMENT) BILL—

*See* " Bill(s) ".

INDIAN SCHOOL OF MINES, DHANBAD—

Question *re* Professor of Geology in the Indian School of Mines, Dhanbad. 38-39.

INDIAN SECURITIES (AMENDMENT) BILL—

*See* " Bill(s) ".

INDIAN STATUTORY COMMISSION—

Motion *re* election of Members of the Council of State to sit with the ——. 135-182.

Nominations for election of Members of the Council of State to the Central Committee to sit with the ——. 198-199.

Procedure for the election of Members of the Central Committee to sit with the ——. 214-15.

INDIAN SUCCESSION (AMENDMENT) BILL—

*See* " Bill(s) ".

INDIAN SUCCESSION (SECOND AMENDMENT) BILL—

*See* " Bill(s) ".

INDIAN TARIFF (AMENDMENT) BILL—

*See* " Bill(s) ".

INDIAN TERRITORIAL FORCE (AMENDMENT) BILL—

*See* " Bill(s) ".

INDIAN TRADE MISSION—

Question *re* Report of the ——. 13-14.

INDIAN TRADE UNIONS ACT—

*See* " Act(s) ".

INDIAN TRADE UNIONS (AMENDMENT) BILL—

*See* " Bill(s) ".

INLAND BONDED WAREHOUSES (AMENDMENT) BILL—

*See* " Bill(s) ".

INSPECTORS OF POST OFFICES—

Question *re*—

Permanent Town —— attached to first class Head Post Offices in the Bengal Circle, etc. 185-87.

Town —— in Calcutta. 186-87.

INSURANCE COMPANIES BILL—

*See* " Indian —— " under " Bill(s) ".

ISSURDI-PABNA-SADHUGANJ RAILWAY—

*See* " Railway(s) ".

J

JAFFER, THE HONOURABLE SIR EBRAHIM—

Expressions of regret by —— on the death of the late Sir Alexander Muddiman. 28-29.

Nomination of —— as a Member of the Committee on Petitions. 2.

Question *re*—

Contractors of the Supply and Transport Department. 189.

Increase of the grant to Princess Rounac Zamani Begum, granddaughter of the *ex*-King of Delhi. 190-91.

Qualifications required for the registration of meat contractors by the Assistant Director of Supplies and Transport, Bombay. 189.

Tenders for the supply of beef and mutton for troops in the Bombay district. 189-90.

Tomb of the *ex*-King Bahadur Shah of Delhi at Rangoon. 190.

JAGAT NARAYAN LAL, BABU—

Question *re* remarks made by the Chief Justice of the Patna High Court in a case against ——, M.A., LL.B., M.L.C. 191.

JAMSHEDPUR—

Question *re*—

Depreciation written off the purchase price of the Peninsular Locomotive Works at ——. 20.

Manufacture of underframes at the Peninsular Locomotive Works at ——. 21.

JOINT COMMITTEE(S)—

*See* " Ruling(s) ".

JONES, MR.—

Question *re* report of ——, regarding educational facilities afforded to the children of employees of the State Railways. 40.

JUDICIAL AND EXECUTIVE FUNCTIONS—

Question *re* separation of ——. 24.

K

KHAPARDE, THE HONOURABLE MR. G. S.—

Hindu Law of Inheritance (Amendment) Bill—

Motion to refer to Select Committee. 131-32, 133.

Consideration of clause 2. 224-25, 228.

KHAPARDE, THE HONOURABLE MR. G. S.—*contd.*

Motion *re* election of Members of the Council of State to sit with the Indian Statutory Commission. 149, 158-61.

Question *re* number of post offices in an inspector's sub-division in the Central Circle. 26.

Resolution *re*—

Revision of the time tests in the post office. 105-06, 107.

The Report of the Agricultural Commission. 103.

KHARAGPUR—

Question *re*—

Prevention of the recurrence of Hindu-Moslem riots at ——. 22-23.

Provision of an intermediate class ladies' waiting room at ——. 21.

L

LABOUR—

Question *re* regulations under which —— empolyed on the Assam tea gardens is recruited. 61.

LEGISLATIVE ASSEMBLY—

Question *re*—

Extracts in the "Memorial to the Members of the Indian —— in Session," which appeared in the *Forward*, dated the 17th February, 1925. 39.

Fate of Bills passed by the —— in the Council of State. 7-12.

*See* "Ruling(s)".

LILLOOAH—

Question *re* recent strike at —— and Howrah. 12-13.

LOANS—

Question *re* —— raised by the Government of India and Provincial Governments. 59.

LOCOMOTIVES—

Question *re* orders for ——, wagons and spare parts placed on behalf of the Railway Board in the United Kingdom and on the Continent of Europe. 63.

M

MACMILLAN, THE HONOURABLE MR. A. M.—

Oath of Office. 1.

MADRAS BEACH—

Question *re* doubling of the railway line from —— to Thambaram on the South Indian Railway. 16-17.

MADRAS SALT (AMENDMENT) BILL—

*See* " Bill(s)."

MAHENDRA PRASAD, THE HONOURABLE MR.—

Hindu Law of Inheritance (Amendment) Bill—

Motion to refer to Select Committee. 131.

Consideration of clause 2. 227, 229.

Consideration of clause 1. 232.

Motion *re* election of Members of the Council of State to sit with the Indian Statutory Commission. 144, 149, 150, 153.

Question *re*—

Grant of conveyance allowance to clerks of the Government of India not provided with quarters in New Delhi. 195-96.

Remarks contained in a recent judgment of the Chief Justice of the Patna High Court regarding the giving of false evidence. 191.

Remarks made by the Chief Justice of the Patna High Court in a case against Babu Jagat Narayan Lal, M.A., LL.B., M.L.C. 191.

Scholarships for training of candidates for the Archæological Service. 217-18.

Resolution *re* the Report of the Agricultural Commission. 99.

MAILS—

Question *re* contract for the carriage of —— between England and India with the P. & O. Steam Navigation Company. 68.

MANMOHANDAS RAMJI, THE HONOURABLE SIR—

Nomination of —— as a member of the Committee on Petitions. 2.

Question *re* loans raised by the Government of India and Provincial Governments. 59.

MAQBUL HUSAIN, THE HONOURABLE KHAN BAHADUR SHEIKH—

Oath of Office. 1.

MATCH INDUSTRY (PROTECTION) BILL—

*See* " Bill(s)."

MATHUR, MR.—

Question *re* appointment of —— as Sub-Divisional Officer, 6th Division, Delhi. 84-85.

MEAT CONTRACTORS—

Question *re* qualifications required for the registration of —— by the Assistant Director of Supplies and Transport, Bombay. 189.

MEDICAL OFFICER, STATE RAILWAYS—

Question *re* number of Europeans and Indians employed as ——. 4.

MEMORIAL(S)—

Question *re*—

Extracts in the "—— to the Members of the Indian Legislative Assembly in Session," which appeared in the *Forward*, dated the 17th February 1925. 39.

——of the staff of the office of the Controller of Printing and Stationery. 35-36.

MERCHANT SHIPPING (AMENDMENT) BILL—

*See* " Indian —— " under " Bill(s) ".

MESSAGE—

—— from His Excellency the Governor General nominating Members of the Council of State to be on the Panel of Chairmen. 1.

MIDNAPORE—

Question *re* raising of the platform at —— on the Bengal Nagpur Railway, etc. 191-92.

MIDNAPORE DISTRICT—

Question *re* opening of a post office in Ajoya, Thana Khejri in the ——. 24-25.

MILITARY DEPARTMENT—

Question *re* taking over of block No. 8 on the Back Bay Reclamation, Bombay, by the Government of Bombay on behalf of the ——. 62.

MINES—

Question *re* number of Europeans and Indians employed as Managers in the coal —— owned and managed by the State Railways, etc. 3-4.

MINES ACT—

*See* " Indian —— " under " Act(s) ".

MINES (AMENDMENT) BILL—

*See* " Indian —— " under " Bill(s) ".

MINISTERIAL STAFF—

Question *re* recruitment of the —— of the Government of India Secretariat through the Public Service Commission. 73-74.

MOOKERJEE, THE HONOURABLE SRIJUT RAMA PRASAD—

Hindu Law of Inheritance (Amendment) Bill—

Motion to refer to Select Committee. 129-31.

Consideration of clause 2. 221-22, 228, 229-30.

Consideration of clause 1. 231.

Indian Insurance Companies Bill—

Motion to consider. 202.

Consideration of clause 12. 209.

MOOKERJEE, THE HONOURABLE SRIJUT RAMA PRASAD—*contd.*

Indian Mines (Amendment) Bill—

Consideration of clause 1. 183.

Motion *re* election of Members of the Council of State to sit with the Indian Statutory Commission. 145, 171-76.

Oath of Office. 1.

Question *re* Report of Mr. Jones, regarding educational facilities afforded to the children of employees of the State Railways. 40.

Question (Supplementary) *re* reduction of telephone rates in Calcutta. 78.

Repealing and Amending Bill—

Consideration of Schedule I. 210-11.

MOTION(S)—

—— *re* election of the Panel for the Standing Committee for the Department of Commerce. 184.

—— *re* election of Members of the Council of State to sit with the Indian Statutory Commission. 135-182.

MUDDIMAN, THE LATE SIR ALEXANDER—

Expressions of regret on the death of —— . 26-31.

MUKHERJEE, THE HONOURABLE SRIJUT LOKENATH—

Question *re* —

Absence of Indians in the superior staff of the Security Printing Press, Nasik. 77.

Appointment of Assistant Superintendents of the Geological Survey of India made during the last two years. 36.

Appointments of Assistant Superintendents of the Geological Survey of India made in 1926. 36-37.

Collieries owned by the East Indian Railway, etc. 76-77.

Education of Indians in England. 37.

Employment of Indians in the superior services of the Calcutta Port Trust. 79-80.

European Assistant Superintendents of the Geological Survey of India possessing the Degree of a Doctor. 37.

Expenditure incurred on obtaining opinions from Palœontological experts in Europe. 37.

Extracts in the " Memorial to the Members of the Indian Legislative Assembly in Session," which appeared in the *Forward*, dated the 17th February 1925. 39.

Fares between Sealdah and Belghurriah railway stations on the Eastern Bengal Railway. 80-81.

MUKHERJEE, THE HONOURABLE SRIJUT LOKENATH—*contd.*

Question *re—contd.*

Overworked staff in the Postal Savings Bank Department of the General Post Office, Calcutta. 76.

Professor of Geology in the Indian School of Mines, Dhanbad. 38-39.

Promotion from the subordinate service to appointments of Assistant Superintendents of the Geological Survey of India. 38.

Reduction of telephone rates in Calcutta. 77-78.

Transfer of clerks from Calcutta for the Railway Clearing Accounts Office, Delhi, etc. 75-76.

MUSLIM(S)—

Question *re* —

Employment of —— as clerks in the Health Office, New Delhi. 87.

Number of —— and Non —— gazetted engineers, province by province. 194.

Qualified —— candidates for the post of engineers in the Public Works Department, Delhi. 84.

Stoppage of the recruitment of —— to the office of the Commissioner of the Northern India Salt Revenue Department, etc. 87-88.

MUTTON—

Question *re* tenders for the supply of beef and —— for troops in the Bombay district. 189-90.

N

NASIK—

Question *re* absence of Indians in the superior staff of the Security Printing Press, ——. 77.

NEPOTISM—

Question *re* alleged —— in the Public Works Department, Delhi. 89.

NEW DELHI—

Question *re* —

Allegations against Bije Singh, sanitary darogha in the Health Department, ——. 85.

Attraction of private capital for putting up buildings in ——. 68.

Cracks in the new Secretariat and other buildings in ——. 195.

Dismissal of Ganda Singh, sanitary jamadar, ——. 85.

Employment of Muslim clerks in the Health Office, ——. 87.

Grant of conveyance allowance to clerks of the Government of India not provided with quarters in ——. 195-96.

Materials for Government House, ——. 87.

*NEW INDIA—*

Question *re* supply of advance copies of all Government publications to ——. 14.

NEW ZEALAND FOREST COMPANIES—

Question *re* amount of capital attracted from India for South African Orange Farms and ——. 63.

NORTHERN INDIA SALT REVENUE DEPARTMENT—

Question *re* stoppage of the recruitment of Muslims to the office of the Commissioner of the ——, etc. 87-88.

**O**

OATH OF OFFICE—

Clow, The Honourable Mr. Andrew Gourlay. 1.

Glancy, the Honourable Mr. Bertrand James. 1.

Harper, the Honourable Mr. Kenneth Brand. 1.

Hayat Khan, the Honourable Nawab Malik Muhammad. 1.

Macmillan, the Honourable Mr. Archibald Morven. 1.

Maqbul Husain, the Honourable Khan Bahadur Sheikh. 1.

Mookerjee, the Honourable Srijut Rama Prasad. 1.

Thompson, the Honourable Sir John Perronet. 1.

OIL COMPANIES—

Question *re* safeguards recommended by the Tariff Board against the fixing of monopolistic charges by agreements between various ——. 65.

OIL INDUSTRY—

Question *re* report of the Tariff Board on the ——. 5.

**P**

PALÆONTOLOGICAL EXPERTS—

Question *re* expenditure incurred on obtaining opinions from —— in Europe. 37.

PANEL OF CHAIRMEN—

Message from His Excellency the Governor General nominating Members of the Council of State to be on the ——. 1.

PAPER—

Question *re* —

Amount of customs revenue derived from —— and printing ink during the year 1927-28. 62.

Reduction or abolition of the customs duty on —— and printing ink 219-20.

PARLIAMENT—

Question *re* Bill before —— regarding the amendment of the constitution of the High Courts. 6.

PASSENGERS—

Question *re* construction of waiting rooms for female —— and shed for other —— at Faridpur station. 6.

PASSPORTS—

Question *re* relaxation of the existing regulations regarding —— in India. 219.

PASSPORT REGULATIONS—

Question *re* exemption of immigrants to India from the ——. 63.

PATNA HIGH COURT—

Question *re* —

Remarks contained in a recent judgment of the Chief Justice of the Patna High Court regarding the giving of false evidence. 191.

Remarks made by the Chief Justice of the —— in a case against Babu Jagat Narayan Lal, M.A., LL.B., M.L.C. 191.

PAY—

Question *re* —

—— and allowances of the task work delivery peons of the head telegraph office at Allahabad. 218-19.

—— of High Court Judges. 23.

Scales of —— of clerks in certain specified offices in Calcutta. 35.

P. & O. STEAM NAVIGATION COMPANY—

Question *re* contract for the carriage of mails between England and India with the ——. 68.

PENINSULAR LOCOMOTIVE WORKS—

Question *re* —

Depreciation written off the purchase price of the —— at Jamshedpur. 20.

Manufacture of underframes at the —— at Jamshedpur. 21.

PEONS—

Question *re* pay and allowances of the task work delivery —— of the head telegraph office at Allahabad. 218-19.

PLATFORM—

Question *re* raising of the —— at Midnapore on the Bengal Nagpur Railway, etc. 191-92.

POLITICAL DETENUS—

Question *re* ——. 4.

PORT(S)—

Question *re* total value of exports during the last five years from the different —— of Bengal and Assam, etc. 15-16.

POSTAL OFFICIALS—

Question *re* examination for the promotion of —— . 15.

POSTAL RUNNERS—

Question *re* boat hire granted to —— during the rainy season. 15.

POSTAL SAVINGS BANK DEPARTMENT—

Question *re* overworked staff in the —— of the General Post Office, Calcutta. 76.

POST OFFICE(S)—

Question *re* —

Number of —— in an inspector's sub-division in the Central Circle. 26.

Opening of a —— in Ajoya, Thana Khejri, in the Midnapore district. 24-25.

Permanent Town Inspectors of —— attached to first class Head ——in the Bengal Circle, etc. 185-87.

Town Inspectors of —— in Calcutta. 186-87.

Resolution *re* revision of the time tests in the ——. 105-09.

POSTS AND TELEGRAPHS, DIRECTOR GENERAL OF—

Question *re* —

Location in a separate building of the Wireless Branch of the office of the —— . 192.

Location in Simla during the winter months of the Wireless Branch of the office of the —— . 193.

Position of the Office of the —— . 192-93.

Refusal to grant to 17 clerks of the non-migratory portion of the office of the —— of the concessions granted in connection with the transfer of the headquarters from Calcutta to Delhi. 193.

PRESIDENT, THE HONOURABLE THE—

Congratulations by —— to the Honourable Sardar Bahadur Shivdev Singh Uberoi. 32.

Expressions of regret by —— on the death of the late Sir Alexander Muddiman. 30-31.

PRINTING AND STATIONERY, CONTROLLER OF—

Question *re* memorial of the staff of the office of the —— . 35-36.

PRINTING INK—

Question *re* —

Amount of customs revenue derived from paper and —— during the year 1927-28. 62.

Reduction or abolition of the customs duty on paper and —— . 219-20.

PROFESSOR OF GEOLOGY—

Question *re* —— in the Indian School of Mines, Dhanbad. 38-39.

PROTECTION—

Question *re* —— of the wire nail industry. 26.

PROVINCIAL GOVERNMENTS—

Question *re* loans raised by the Government of India and ——. 59.

PUBLIC SERVICE COMMISSION—

Question *re* recruitment of the ministerial staff of the Government of India Secretariat through the ——. 73-74.

PUBLIC WORKS DEPARTMENT, DELHI—

Question *re* —

Alleged nepotism in the ——. 89.

Dismissal of Abdul Rahman, loco fitter, ——. 82-83.

Eligibility of Pandit Udho Ram, Sub-Divisional Officer, ——, for the rank of Assistant Engineer or Executive Engineer. 194-95.

Employment of Babu Rup Narain, as Superintendent, W-III Section, Central Office. ——. 87.

Employment of temporary subordinates in the ——. 84.

Entertainment of the sons of certain Executive Engineers in the —— after their return from England. 86.

Payment of the bills of contractors by the ——. 195.

Permanent cadre of the ——. 86.

Promotion of subordinates of the —— to the posts of Executive Engineers or Assistant Engineers. 83.

Qualified Muslim candidates for the posts of engineers in the ——. 84.

Technical and educational qualifications of Babu Durga Das of the ——. 86.

Technical and educational qualifications of certain employees of the ——. 88.

## Q

QUARTERS—

Question *re* grant of conveyance allowance to clerks of the Government of India not provided with —— in New Delhi. 195-96.

## R

RAILWAY(S)—

Aricha-Dacca—

Question *re* construction of the ——. 6.

**RAILWAY(S)**—*contd.*

Bengal and North Western—

Question *re* discontinuance of the present line between Bakulaha and Reote railway stations on the ——. 185.

Bengal Nagpur—

Question *re* raising of the platform at Midnapore on the ——, etc. 191-92.

Eastern Bengal —

Question *re* fares between Sealdah and Belghurriah railway stations on the —— . 80-81.

East Indian —

Question *re* —

Collieries owned by the ——, etc. 76-77.

Remodelling of the —— station at Allahabad. 218.

Issurdi-Pabna-Sadhuganj—

Question *re* the —— project. 6.

Question *re* —

Construction of a —— between Contai and Contai Road Station. 22.

Control exercised by the Railway Board over the stores purchased by the different ——. 67.

Policy of the Railway Board in the matter of purchasing of stores made by the different ——. 220.

—— between India and Burma. 68-69.

Strikes on ——. 69-73.

State—

Question *re* —

Adoption of the system of accounts suggested in the report of Sir Arthur Dickinson in —— workshops. 67.

Extension of workshops on ——. 66.

Number of Europeans and Indians employed as Managers in the coal mines owned and managed by the ——, etc. 3-4.

Number of Europeans and Indians employed as Medical Officers on the ——. 4.

Report of Mr. Jones, regarding educational facilities afforded to the children of employees of the ——. 40.

South Indian—

Question *re* doubling of the railway line from Madras Beach to Tambaram on the ——. 16-17.

RAILWAY BOARD—

Question *re*—

Control exercised by the —— over the stores purchased by the different railways. 67.

Orders for locomotives, wagons and spare parts placed on behalf of the —— in the United Kingdom and on the Continent of Europe. 63.

Policy of the —— in the matter of purchasing of stores made by the different Railways. 220.

RAILWAY CLEARING ACCOUNTS OFFICE, DELHI—

Question *re* transfer of clerks from Calcutta for the ——. 75-76.

RAILWAY FREIGHT—

Question *re* reduction of —— on coal for internal consumption. 15.

RAILWAY LINE—

Question *re* doubling of the —— from Madras Beach to Thambaram on the South Indian Railway. 16-17.

RAILWAY MAIL SERVICE OFFICERS—

Question *re* out-station allowance for ——. 15.

RAILWAY SLEEPERS—

Question *re* ——. 74-75.

RAILWAY WORKSHOPS—

Question *re* —

Adoption of the system of accounts suggested in the report of Sir Arthur Dickinson in State ——. 67.

Closing of ——. 66-67.

RAINY SEASON—

Question *re* boat hire granted to postal runners during the ——. 15.

RAMADAS PANTULU, THE HONOURABLE MR. V.—

Expressions of regret by —— on the death of the late Sir Alexander Muddiman. 27.

Hindu Inheritance (Removal of Disabilities) Bill—

Motion to consider. 111-112.

Hindu Law of Inheritance (Amendment) Bill—

Motion to refer to Select Committee. 123-26, 132, 133.

Motion *re* election of Members of the Council of State to sit with the Indian Statutory Commission. 135-36, 140, 155-58, 161-167, 178.

Question *re*—

Permanent Town Inspectors of Post Offices attached to first class Head Post Offices in the Bengal Circle, etc. 185-87.

RAMADAS PANTULU, THE HONOURABLE MR. V.—*contd.*

Question *re—contd.*

Town Inspectors of Post Offices in Calcutta. 186-87.

Repealing and Amending Bill —

Consideration of Schedule I. 211.

Resolution *re* —

Levy of revenue tax, cess or fee on land held in private ownership. 49-52.

The Report of the Agricultural Commission. 93-95.

RAMA RAU, THE HONOURABLE RAO SAHIB DR. U.—

Hindu Law of Inheritance (Amendment) Bill—

Consideration of the Title and the Preamble. 233.

Motion *re* election of Members of the Council of State to sit with the Indian Statutory Commission. 168-179.

Question *re*—

Doubling of the railway line from Madras Beach to Thambaram on the South Indian Railway. 16-17.

Recovery from the War Office of the charges incurred in respect of the operations in China. 20.

Settlement of the charges incurred by the Government of India on behalf of the War Office during the great War. 19-20.

Temporary Indian Officers of the Indian Medical Service. 17-19.

Resolution *re* —

Levy of revenue tax, cess or fee on land held in private ownership. 40-43, 45, 53-54.

The Report of the Agricultural Commission. 100.

RAMPAL SINGH, THE HONOURABLE RAJA SIR—

Nomination of —— as a member of the Committee on Petitions. 2.

RAM SARAN DAS, THE HONOURABLE RAI BAHADUR LALA—

Hindu Inheritance (Removal of Disabilities) Bill —

Motion to consider. 111, 114.

Consideration of clause 2. 115.

Motion *re* election of Members of the Council of State to sit with the Indian Statutory Commission. 179--80.

Nomination of —— as Chairman of the Committee on Petitions. 2.

Nomination of —— to the Panel of Chairmen. 1.

Resolution *re* levy of revenue tax, cess or fee on land held in private ownership. 48-49.

RANGOON—

Question *re*—

Rate war in the charges for the transport of rice from —— and Bombay. 61.

Tomb of the *ex*-King Bahadur Shah of Delhi at——. 190.

RATES ENQUIRY COMMITTEE—

Question *re* number of cases dealt with by the —— since its establishment. 64.

RATE WAR—

Question *re*——in the charges for the transport of rice from Rangoon and Bombay. 64.

RAY CHAUDHURY, THE HONOURABLE MR. KUMAR SANKAR—

Hindu Inheritance (Removal of Disabilities) Bill—

Motion to consider. 111.

Consideration of clause 2. 114.

Motion *re* election of Members of the Council of State to sit with the Indian Statutory Commission. 163.

Question *re*—

Bill before Parliament regarding the amendment of the constitution of the High Courts. 6.

Boat hire granted to postal runners during the rainy season. 15.

Certification by the Governor General of the expenditure on the Simon Commission. 4-5.

Construction of the Aricha-Dacca Railway. 6.

Construction of waiting rooms for female passengers and sheds for other passengers at Faridpur station. 6.

Diversion by the Army Department of sums sanctioned in the Army Budget from one branch of expenditure to another. 14-15.

Eradication of the water hyacinth from Bengal, Assam and Bihar and Orissa. 4.

Examination for the promotion of postal officials. 15.

Fate of Bills passed by the Legislative Assembly in the Council of State. 7—12.

Firing on strikers at Bamangachi. 25.

Importation of artificial tea. 5.

Memorial of the staff of the office of the Controller of Printing and Stationery. 35-36.

Names and qualifications of persons who constitute the Board of Examiners under the Indian Mines Act, etc. 2-3.

RAY CHAUDHURY, THE HONOURABLE MR. KUMAR SANKAR—*contd.*

Question *re—contd.*

Number of certain appeals in the High Court, Calcutta. 25.

Number of Europeans and Indians employed as Managers in the coal mines owned and managed by the State Railways, etc. 3-4.

Number of Europeans and Indians employed as Medical Officers on the State Railways. 4.

Out-station allowances for Railway Mail Service officers. 15.

Political detenus. 4.

Prevention of Government servants from joining or continuing to be members of associations seeking registration under the Indian Trade Unions Act. 13.

Protection of the wire nail industry. 26.

Recent strike at Lillooah and Howrah. 12-13.

Reduction of railway freight on coal for internal consumption. 15.

Relief for the famine-stricken people of Bengal. 12.

Report of the Indian Trade Mission. 13-14.

Report of the Tariff Board on the oil industry. 5.

Scales of pay of clerks in certain specified offices in Calcutta. 35.

Supply of advance copies of all Government publications to the *New India*. 14.

The Issurdi-Pabna-Sadhuganj Railway project. 6.

The Reserve Bank Bill. 5.

Total value of exports during the last five years from the different ports of Bengal and Assam, etc. 15-16.

Training of Indians in banking. 14.

Resolution *re* alterations in the powers and procedure of the High Courts in India. 54-55, 57.

REGULATIONS—

Question *re*——under which labour employed on the Assam tea gardens is recruited. 61.

Relaxation of the existing —— regarding passports in India. 219.

REOTE—

Question *re* discontinuance of the present line between Bakulaha and —— railway stations on the Bengal and North Western Railway. 185.

REPEALING AND AMENDING BILL—

*See* " Bill(s) ".

REPETITION—

*See* " Ruling (s) ".

REPORT(S)—

Question *re* —

Adoption of the system of accounts suggested in the——of Sir Arthur Dickinson in State Railway workshops. 67.

——of Mr. Jones, regarding educational facilities afforded to the children of employees of the State Railways. 40.

of the Indian Trade Mission. 13-14.

the officer appointed to investigate the question of making India self-supporting in the matter of salt supply. 22.

——of the Tariff Board on the oil industry. 5.

Resolution *re* the——of the Agricultural Commission. 89—105.

RESERVE BANK BILL—

*See* " Bill(s) ".

RESOLUTION(S)—

—— *re* alterations in the powers and procedure of the High Courts in India. 54—57.

——*re* levy of revenue tax, cess or fee on land held in private ownership. 40—54.

revision of the time tests in the Post Office. 105—09.

the Report of the Agricultural Commission. 89—105.

*See* also " Ruling(s) ".

RETIREMENT—

Question *re* compulsory——of High Court Judges at 60. 23.

REVENUE ACCOUNTS—

Question *re* separate capital and —— for Government telephone lines 65-66.

REVENUE TAX—

Resolution *re* levy of——cess of fee on land held in private ownership. 40—54.

RICE—

Question *re* rate war in the charges for the transport of——from Rangoon and Bombay. 64.

RIOTS—

Question *re* prevention of the recurrence of Hindu-Muslim——at Kharagpur. 22-23.

ROUNAC ZAMANI BEGUM, PRINCESS—

Question *re* increase of the grant to——, grand daughter of the *ex*-King of Delhi. 190-91.

RULING(S)—

Bill (s)—

Consideration—

Motion for circulation of a Bill, passed by the other House, not in order. 123.

Joint Committee—

Admissibility of a Motion for election of Members to a——where other House has refused to appoint such a Committee (Indian Statutory Commission). 136-37.

Legislative Assembly—

Council of State has its own rules and its own procedure and is not bound by action of——. 137.

Repetition—

——on a Motion moved in a previous Session, in order. 140.

Resolution(s)—

Admissibility of a motion for election of Members to a Joint Committee in pursuance of a——to that effect where other Chamber has refused to appoint such a Committee. (Indian Statutory Commission). 136-37.

Adoption of a——merely a recommendation to the Government. 104.

RUPEE TENDERS—

Question *re* resolution *re*——. 65.

RUP NARAIN, BABU—

Question *re* employment of——as Superintendent, W-III Section Central Office, Public Works Department, Delhi. 87.

## S

SALE, MR. J. L.—

Question *re* alleged harsh treatment of his Indian staff by ——, officiating Chief Engineer, Delhi, etc. 81-82.

SALT SUPPLY—

Question *re* report of the officer appointed to investigate the question of making India self-supporting in the matter of——. 22.

SANKARAN NAIR, THE HONOURABLE SIR—

Hindu Inheritance (Removal of Disabilities) Bill—

Motion to consider. 109-10, 112—14.

Consideration of Clause 2. 115.

Motion to pass. 116.

SANKARAN NAIR, THE HONOURABLE SIR—*contd.*

Hindu Law of Inheritance (Amendment) Bill—

Motion to consider. 116—123.

Motion to refer to Select Committee. 127-28.

Presentation of the Report of the Select Committee. 196-97.

Motion to consider, as amended by Select Committee. 220.

Consideration of clause 2. 222—24, 228, 230.

Consideration of clause 1. 232.

Motion to pass. 233.

Resolution *re* levy of revenue tax, cess or fee on land held in private ownership. 47.

SAVINGS BANK DEPARTMENT—

Question *re* overworked staff in the postal——of the General Post Office, Calcutta. 76.

SCHOLARSHIPS—

Question *re*——for training of candidates for the Archæological Service. 217-18.

SEALDAH—

Question *re* fares between——and Belghurriah railway stations on the Eastern Bengal Railway. 80-81.

SECRETARIAT—

Question *re*—

Cracks in the new——and other buildings in New Delhi. 195.

Office hours in the Government of India——and attached offices. 192.

SECURITIES (AMENDMENT) BILL—

*See* " Indian —— " under " Bill(s) ".

SECURITY PRINTING PRESS, NASIK—

Question *re* absence of Indians in the superior staff of the ——. 77.

SETHNA, THE HONOURABLE SIR PHIROZE—

Indian Income-tax (Amendment) Bill—

Motion to consider. 200.

Indian Insurance Companies Bill—

Motion to consider. 204-08.

Motion *re* election of Members of the Council of State to sit with the Indian Statutory Commission. 146—49, 150, 152.

Nomination of——to the Panel of Chairmen. 1.

SETHNA, THE HONOURABLE SIR PHIROZE—*contd.*

Question *re* —

Adoption of the system of accounts suggested in the Report of Sir Arthur Dickinson in State Railway workshops. 67.

Amendment of the Indian Companies Act. 63-64.

Amount of capital attracted from India for South African Orange Farms and New Zealand Forest Companies. 63.

Amount of customs revenue derived from paper and printing ink during the year 1927-28. 62.

Attraction of private capital for putting up buildings in New Delhi. 68.

Closing of railway workshops. 66-67.

Contract for the carriage of mails between England and India with the P. and O. Steam Navigation Company. 68.

Control exercised by the Railway Board over the stores purchased by the different railways. 67.

Exemption of immigrants to India from the passport regulations. 63.

Expenditure on the Vizagapatam Harbour. 73.

Extension of workshops on State Railways. 66.

Financial commitments in respect of civil aviation. 65.

Import of Australian wheat. 74, 220.

Number of cases dealt with by the Rates Enquiry Committee since its establishment. 64.

Orders for locomotives, wagons and spare parts placed on behalf of the Railway Board in the United Kingdom and on the Continent of Europe. 63.

Policy of the Railway Board in the matter of purchasing of stores made by the different Railways. 220.

Publication at the beginning of every month of the figure indicating the Ways and Means position of the Government of India, etc. 60-61.

Railway between India and Burma. 68-69.

Railway sleepers. 74-75.

Rate war in the charges for the transport of rice from Rangoon and Bombay. 64.

Recommendations of the Cinema Committee. 67.

Recruitment of the ministerial staff of the Government of India Secretariat through the Public Service Commission. 73-74.

SETHNA, THE HONOURABLE SIR PHIROZE—*concld.*

Question *re* —*contd.*

Reduction or abolition of the customs duty on paper and printing ink. 219-20.

Regulations under which labour employed on the Assam tea gardens is recruited. 61.

Relaxation of the existing regulations regarding passports in India. 219.

Resolution *re* rupee tenders. 65.

Safeguards recommended by the Tariff Board against the fixing of monopolistic charges by agreements between various oil companies. 65.

Sale of silver by the Government of India from 1st April 1927 to 30th June 1928. 59-60.

Separate capital and revenue accounts for Government telephone lines. 65-66.

Strikes on railways. 69-73.

Taking over of block No. 8 on the Back Bay Reclamation, Bombay, by the Government of Bombay on behalf of the Military Department. 62.

Taxation of brass and aluminium ingots and sheets. 66.

The Imperial Airways, Limited. 61-62.

Resolution *re* the Report of the Agricultural Commission. 89-93, 99, 103-04.

SHEDS—

Question *re* construction of waiting rooms for female passengers and —— for other passengers at Faridpur station. 6.

SILVER—

Question *re* sale of —— by the Government of India from 1st April 1927 to 30th June 1928. 59-60.

SIMLA.—

Question *re* location in —— during the winter months of the Wireless Branch of the office of the Director General of Posts and Telegraphs. 193.

SIMON COMMISSION—

Question *re* Certification by the Governor General of the expenditure on the ——. 4-5.

SINGH, THE HONOURABLE MAHARAJADHIRAJA SIR RAMESHWARA, ——, OF DARBHANGA—

Hindu Inheritance (Removal of Disabilities) Bill—

Motion to consider. 110-111.

SINHA, THE HONOURABLE MR. ANUGRAHA NARAIN—

Question *re* discontinuance of the present line between Bakulaha and Reote railway stations on the Bengal and North Western Railway. 185.

SLEEPERS—

Question *re* railway. 74-75.

SOUTH AFRICAN ORANGE FARMS—

Question *re* amount of capital attracted from India for —— and New Zealand Forest Companies. 63.

SOUTH INDIAN RAILWAY—

*See* "Railway(s)."

STANDING COMMITTEE(S)—

Election to the Panel for the —— for the Department of Commerce. 198.

Motion *re* election of a Panel for the —— for the Department of Commerce. 184.

STATEMENT OF BUSINESS—

—— by the Honourable Khan Bahadur Sir Muhammad Habibullah. 57-58, 184.

STATE RAILWAYS—

*See* "Railway(s)".—

STEEL INDUSTRY (PROTECTION) BILL—

*See* "Bill(s)".—

STORES—

Question *re*—

Control exercised by the Railway Board over the —— purchased by the different railways. 67.

Policy of the Railway Board in the matter of purchasing of —— made by the different Railways. 220.

STRIKERS—

Question *re* firing on —— at Bamangachi. 25.

STRIKE(S)—

Question *re* —

Recent —— at Lillooah and Howrah. 12-13.

—— on railways. 69-73.

SUBORDINATES—

Question *re* promotion of —— of the Public Works Department, Delhi, to the posts of Executive Engineers or Assistant Engineers. 83.

SUBORDINATE SERVICE(S)—

Question *re* promotions from the —— to appointments of Assistan Superintendents of the Geological Survey of India. 38.

SUCCESSION (AMENDMENT) BILL—

*See* " Indian —— " under " Bill(s) ".

SUCCESSION (SECOND AMENDMENT) BILL—

*See* " Indian —— " under " Bill(s) ".

SUHRAWARDY, THE HONOURABLE Mr. MAHMOOD—

Question *re* —

Allegations against Bije Singh, sanitary darogha in the Health Department, New Delhi. 85.

Alleged harsh treatment of his Indian staff by Mr. J. L. Sale, Officiating Chief Engineer, Delhi, etc. 81-82.

Alleged nepotism in the Public Works Department, Delhi. 89.

Appointment of Mr. Mathur as Sub-divisional Officer, 6th Division, Delhi. 84-85.

Compulsory retirement of High Court Judges at 60. 23.

Construction of a railway between Contai and Contai Road station. 22.

Cracks in the New Secretariat and other buildings in New Delhi. 195.

Dismissal of Abdul Rahman, loco fitter, Public Works Department, Delhi. 82-83.

Dismissal of Ganda Singh, sanitary jamadar, New Delhi. 85.

Eligibility of Pandit Udho Ram, Sub-Divisional Officer, Public Works Department, Delhi, for the rank of Assistant Engineer or Executive Engineer. 194-195.

Employment of Babu Rup Narain as Superintendent, W-III Section, Central Office, Public Works Department, Delhi. 87.

Employment of Muslim clerks in the Health Office, New Delhi. 87.

Employment of temporary subordinates in the Public Works Department, Delhi. 84.

Entertainment of the sons of certain Executive Engineers in the Public Works Department, Delhi, after their return from England. 86.

Establishment of a Supreme Court in India. 23.

Location in a separate building of the Wireless Branch of the Office of the Director General of Posts and Telegraphs. 192.

Location in Simla during the winter months of the Wireless Branch of the Office of the Director General of Posts and Telegraphs. 193.

SUHRAWARDY, THE HONOURABLE MR. MAHMOOD—*contd.*

Question *re*—

Materials for Government House, New Delhi. 87.

Number of Muslim and Non-Muslim gazetted engineers, province by province. 194.

Office hours in the Government of India Secretariat and attached Offices. 192.

Opening of a post office in Ajoya, Thana Khejri in the Midnapore District. 24-25.

Pay of High Court Judges. 23.

Payment of the bills of contractors by the Public Works Department, Delhi. 195.

Permanent cadre of the Public Works Department, Delhi. 86.

Position of Director General, Posts and Telegraphs' Office. 192-93.

Preferential treatment to candidates for civil employ on the score of war services. 83.

Prevention of the recurrence of Hindu-Moslem riots at Kharagpur. 22-23.

Promotion of subordinates of the Public Works Department, Delhi, to the posts of Executive Engineers or Assistant Engineers. 83.

Provision of an intermediate class ladies' waiting room at Adra. 21.

Provision of an intermediate class ladies' waiting room at Kharagpur. 21.

Qualifications for the post of an engineer. 83.

Qualified Muslim candidates for the posts of engineers in the Public Works Department, Delhi. 84.

Raising of the platform at Midnapore on the Bengal Nagpur Railway, etc. 191-92.

Refusal to grant to 17 clerks of the non-migratory portion of the office of the Director General of Posts and Telegraphs of the concessions granted in connection with the transfer of the headquarters from Calcutta to Delhi. 193.

Report of the officer appointed to investigate the question of making India self-supporting in the matter of salt supply. 22.

Separation of Judicial and Executive functions. 24.

Shortage of bricks in the 8th Project Division, Delhi. 87.

Stoppage of the recruitment of Muslims to the office of the Commissioner of the Northern India Salt Revenue Department, etc. 87-88.

Technical and educational qualifications of Babu Durga Das of the Public Works Department, Delhi. 86.

Technical and educational qualifications of certain employees of the Public Works Department, Delhi. 88.

SUPPLIES AND TRANSPORT, ASSISTANT DIRECTOR OF, BOMBAY.—

Question *re* qualifications required for the registration of meat contractors by the ——. 189.

SUPPLY AND TRANSPORT DEPARTMENT—

Question *re* contractors of the ——. 189.

SUPREME COURT—

Question *re* establishment of a —— in India. 23.

T

TARIFF BILL—

*See* " Indian —— " under " Bill(s) ".

TARIFF BOARD—

Question *re*—

Report of the —— on the oil industry. 5.

Safeguards recommended by the —— against the fixing of monopolistic charges by agreements between various oil companies. 65.

TASK WORK DELIVERY PEONS—

Question *re* pay and allowances of the —— of the head telegraph office at Allahabad. 218-19.

TEA—

Question *re* importation of artificial ——. 5.

TEA GARDENS—

Question *re* regulations under which labour employed on the —— in Assam is recruited. 61.

TECHNICAL QUALIFICATIONS—

Question *re*—

Educational and —— of Babu Durga Das of the Public Works Department, Delhi. 86.

Educational and —— of certain employees of the Public Works Department, Delhi. 88.

TELEGRAPH OFFICE, ALLAHABAD—

Question *re* pay and allowances of the task work delivery peons of the head ——. 218-219.

TELEPHONE LINES—

Question *re* separate capital and revenue accounts for Government ——. 65-66.

TELEPHONE RATES—

Question *re* reduction of —— in Calcutta. 77-78.

TENDER(S)—

Question *re* —— for the supply of beef and mutton for troops in the Bombay District. 189-90.

TERRITORIAL FORCE (AMENDMENT) BILL—

*See* " Indian —— " under " Bill(s) ".

THAMBARAM—

Question *re* doubling of the railway line from Madras beach to —— on the South Indian Railway. 16-17.

THOMPSON, THE HONOURABLE SIR JOHN—

Expressions of regret by —— on the death of the late Sir Alexander Muddiman. 29-30.

Oath of Office. 1.

TIME TESTS—

Resolution *re* revision of the —— in the post office. 105--09.

TOMB—

Question *re* —— of the *ex*-King Bahadur Shah of Delhi in Rangoon. 190.

TRADE UNIONS ACT—

*See* " Indian —— " under " Act(s) ".

TRADE UNIONS (AMENDMENT) BILL—

*See* " Indian —— " under " Bill(s) ".

TROOPS—

Question *re* tenders for the supply of beef and mutton for —— in the Bombay District. 189-90.

## U

UBEROI, THE HONOURABLE SARDAR BAHADUR SHIV DEV SINGH—

Congratulations by the Honourable the President to ——. 32-33.

Motion *re* election of Members of the Council of State to sit with the Indian Statutory Commission. 152-55, 166.

Reply by the —— to the congratulations of the Honourable the President. 32-33.

Resolution *re* levy of revenue tax, cess or fee on land held in private ownership. 52-53.

UDHO RAM, PANDIT—

Question *re* eligibility of ——, Sub-Divisional Officer, Public Works Department, Delhi, for the rank of Assistant Engineer or Executive Engineer. 194-95.

UMAR HAYAT KHAN, THE HONOURABLE COLONEL NAWAB SIR—

Hindu Law of Inheritance (Amendment) Bill ——. [Consideration of clause 2. 225.

UMAR HAYAT KHAN, THE HONOURABLE COLONEL NAWAB SIR—*contd.*

Motion *re* election of Members of the Council of State to sit with the Indian Statutory Commission. 142-46.

Resolution *re*—

Levy of revenue tax, cess or fee on land held in private ownership. 47-48.

The Report of the Agricultural Commission. 98-99.

UNDERFRAMES—

Question *re* manufacture of —— at the Peninsular Locomotive Works at Jamshedpur. 21.

UNITED KINGDOM—

Question *re* orders for locomotives, wagons and spare parts placed on behalf of the Railway Board in the —— and on the Continent of Europe. 63.

UNITED PROVINCES—

Question *re* revision of the list of voters of the Council of State in the —— 218.

VERNON, THE HONOURABLE MR. H. A. B.—

Motion *re* election of Members of the Council of State to sit with the Indian Statutory Commission. 148, 178-79.

VIZAGAPATAM HARBOUR—

Question *re* expenditure on the ——. 73.

VOTERS—

Question *re* revision of the list of —— of the Council of State in the United Provinces. 218.

## W

WAGONS—

Question *re* orders for locomotives, —— and spare parts placed on behalf of the Railway Board in the United Kingdom and on the Continent of Europe. 63.

WAITING ROOMS—

Question *re*—

Construction of —— for female passengers and sheds for other passengers at Faridpur Station. 6.

Provision of an intermediate class ladies' —— at Adra. 21.

Provision of an intermediate class ladies' —— at Kharagpur. 21.

WAR OFFICE—

Question *re*—

Recovery from the —— of the charges incurred in respect of the operations in China. 20.

Settlement of the charges incurred by the Government of India on behalf of the —— during the Great War. 19-20.

WAR SERVICES—

Question *re* preferential treatment to candidates for civil employ on the score of ——. 83.

WATER HYACINTH—

Question *re* eradication of the —— from Bengal, Assam and Bihar and Orissa. 4.

WAYS AND MEANS POSITION—

Question *re* publication at the beginning of every month of the figure indicating the —— of the Government of India, etc. 60-61.

WHEAT—

Question *re* import of Australian ——. 74, 220.

WINTER MONTHS—

Question *re* Location in Simla during the —— of the Wireless Branch of the office of the Director General of Posts and Telegraphs. 193.

WIRELESS BRANCH—

Question *re*—

Location in a separate building of the —— of the office of the Director General of Posts and Telegraphs. 192.

Location in Simla during the winter months of the —— of the office of the Director General of Posts and Telegraphs. 193.

WIRE NAIL INDUSTRY—

Question *re* protection of the ——. 26.

WORKSHOPS—

Question *re*—

Adoption of the system of accounts suggested in the report of Sir Arthur Dickinson in State Railway ——. 67.

Closing of Railway ——. 66-67.

Extension of —— on State Railways. 66.

Z

10703

ZUBAIR, THE HONOURABLE SHAH MUHAMMAD—

Motion *re* election of Members of the Council of State to sit with the Indian Statutory Commission. 144, 145.

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