

19th January, 1922

THE
LEGISLATIVE ASSEMBLY DEBATES
(Official Report)

SECOND SESSION

OF THE
LEGISLATIVE ASSEMBLY, 1922



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CONTENTS.

	PAGE
TUESDAY, 10TH JANUARY, 1922	
New Year's Greetings.	
Oath.	
Statements laid on the Table.	
Questions and Answers.	
Unstarred Questions and Answers.	
Address of Welcome to H. B. H. the Prince of Wales.	
Statement of Government Business.	
Resolution <i>re</i> : the Abandonment of the Policy of Repression.	
Congratulation of Honours.	
Panel of Chairman.	
Committee on the Functions of the Deputy President.	
Ruling on Standing Order No. 38.	
Notice of Motion under Rule 11.	
Motion for Adjournment.	
The Indian Electricity (Amendment) Bill.	
The Indian Factories (Amendment) Bill.	
WEDNESDAY, 11TH JANUARY, 1922	1489-1512
Statements laid on the Table.	
Amendment of Standing Orders.	
Resolution <i>re</i> : Policy of Repression.	
THURSDAY, 12TH JANUARY, 1922	1513-1560
Oath.	
Resolution <i>re</i> : Indigenous Systems of Medicine.	
Resolution <i>re</i> : Indian Mercantile Marine.	
Resolution <i>re</i> : Prevention of Overcrowding in Railways.	
MONDAY, 16TH JANUARY, 1922	1561-1612
Oaths.	
Questions and Answers.	
Unstarred Questions and Answers.	
Statement laid on the Table.	
Address of Welcome to H. R. H. the Prince of Wales.	
Select Committee on Standing Orders.	
The Code of Criminal Procedure (Amendment) Bill.	
The Delhi University Bill.	
• Vol. II—Pt. II.	

TUESDAY, 17TH JANUARY, 1922	1613-1656
Unstarred Questions and Answers. Select Committee on Standing Orders. The Civil Marriage (Amendment) Bill. Message from the Council of State. The Civil Marriage (Amendment) Bill. The Mussalman Waqfs Registration Bill. The Code of Criminal Procedure (Amendment) Bill. The Code of Civil Procedure (Amendment) Bill. The Interest Act 1839 Amendment Bill.	
WEDNESDAY, 18TH JANUARY, 1922	1657-1736
Oaths. The Civil Marriage (Amendment) Bill. The Indian Emigration Bill. The Indian Income-tax Bill. Resolution <i>re</i> : abandonment of the Policy of Repression.	
THURSDAY, 19TH JANUARY, 1922	1737-1789
Unstarred Questions and Answers. Ballot for Bills. Statement of Government Business. Resolution <i>re</i> : Committee on certain sections of the I. P. C. and C. P. C. Resolution <i>re</i> : Elected Standing Committees with the Government of India.	
FRIDAY, 20TH JANUARY, 1922	1791-1813
Governor General's Assent to Bills passed by the Legislature. The Civil Marriage (Amendment) Bill.	
TUESDAY, 24TH JANUARY, 1922	1815-1889
Questions and Answers. Unstarred Questions and Answers. Messages from the Council of State. Resolution <i>re</i> : Committees on Currency and Exchange. Resolution <i>re</i> : the abolition of Impressed Labour, Conveyance and Provision.	
WEDNESDAY, 25TH JANUARY, 1922	1891-1941
Statement laid on the Table. The Code of Civil Procedure (Amendment) Bill. The Delhi University Bill. The Indian Income-tax Bill.	

THURSDAY, 23TH JANUARY, 1922

Situation in Guntur.
Statement laid on the Table.
Questions and Answers.
Situation in Guntur.
Statement of Government Business.
Governor General's Assent to Bills passed by the Legislature.
Resolution *re* : Votable and Non-votable items in the Budget.
Resolution *re* : Export of Manures and Oil Seeds.
Message from the Council of State.

SATURDAY, 28TH JANUARY, 1922 1991-2050

The Delhi University Bill.
The Indian Income-tax Bill.
Amendment of Standing Orders.
The Police (Incitement to Disaffection) Bill.
The Civil Procedure (Amendment) Bill.
The Indian Emigration Bill.

TUESDAY, 31ST JANUARY, 1922 2051-2073

Questions and Answers.
Unstarred Questions and Answers.
Arrangement of Government Business.
The Code of Criminal Procedure (Amendment) Bill.
The Land Acquisition (Amendment) Bill.
The Code of Criminal Procedure (Amendment) Bill.

WEDNESDAY, 1ST FEBRUARY, 1922 2075-2102

Bills passed by the Council of State.
The Indian Lunacy (Amendment) Bill.
Resolution *re* : Women's Franchise.

FRIDAY, 3RD FEBRUARY, 1922 2103-2151

Questions and Answers.
Statement of Business.
Resolution *re* : Examination of the Indian Penal Code.
Resolution *re* : Reduction of Madras Contribution to Central Government.
Resolutions withdrawn.
Resolution *re* : Separation of the Andhra Districts from the Madras Presidency.
Resolution *re* : Committee of Inquiry on Expulsion from Cantonnments.
Presentation of Report of Select Committee on Standing Orders.
Resolution *re* : Committee on Retrenchment.

	PAGE
MONDAY, 6TH FEBRUARY, 1922	2153-2220
Questions and Answers.	
Unstarred Questions and Answers.	
Motion for Adjournment.	
The Civil Procedure (Amendment) Bill.	
The Benares Hindu University (Amendment) Bill.	
The Indian Emigration Bill.	
TUESDAY, 7TH FEBRUARY, 1922	2221-2243
The Indian Limitation (Amendment) Bill.	
The Code of Civil Procedure (Amendment) Bill.	
Resolution <i>re</i> : Suppression of Traffic in Women and Children.	
The Code of Civil Procedure (Amendment) Bill.	
Discussions in Select Committee.	
WEDNESDAY, 8TH FEBRUARY, 1922	2245-2282
Presentation Ceremony and Royal Durbar.	
The Indian Lunacy (Amendment) Bill.	
Resolution <i>re</i> : Committee on New Arms Rules, 1920.	
Disturbances in the United Provinces.	
Resolution <i>re</i> : Withdrawal of Martial Law in Malabar.	
Disturbances in the United Provinces.	
THURSDAY, 9TH FEBRUARY, 1922	2283-2312
Oath.	
Question and Answer.	
Unstarred Question and Answer.	
Statement of Business.	
Resolution <i>re</i> : Improvement of Medical Education in India.	
Resolution <i>re</i> : Equality of Status for Indians in Africa.	
SATURDAY, 11TH FEBRUARY, 1922	2343-2392
Questions and Answers.	
Unstarred Questions and Answers.	
Governor General's Assent to the Benares Hindu University (Amendment) Bill.	
Resolution <i>re</i> : Indianisation of the Services.	
MONDAY, 13TH FEBRUARY, 1922	2393-2428
Oath.	
Questions and Answers.	
Unstarred Questions and Answers.	
Motions for Adjournment.	
The Civil Procedure (Amendment) Bill.	
The Delhi University Bill.	
The Special Laws Repeal Bill.	
The Indian Criminal Law Amendment Repealing Bill.	
Amendment of Standing Orders.	
Time for Balloting.	

WEDNESDAY, 22ND FEBRUARY, 1922 2499-2498

Questions and Answers.
 Unstarred Questions and Answers.
 Message from the Secretary of State.
 The Indian Limitation (Amendment) Bill.
 The Civil Procedure (Amendment) Bill.
 The Delhi University Bill.

THURSDAY, 23RD FEBRUARY, 1922 2499-2558

Questions and Answers.
 Government Policy in regard to Non-co-operation Movement.
 Governor General's Assent to Bills.
 Statement of Legislative Business.
 Resolution *re*: Technical Training of Indian and Anglo-Indian
 Youths.
 Resolution *re*: E. and P. Service and Military Officers in Judicial or
 Administrative Posts.
 Messages from the Council of State.

MONDAY, 27TH FEBRUARY, 1922 2559-2615

Statements laid on the Table.
 Questions and Answers.
 Unstarred Questions and Answers.
 Amendment of Standing Order.
 The Indian Income-tax Bill.
 The Indian Ports (Amendment) Bill.
 Resolution *re*: India's participation in the British Empire Exhibi-
 tion.
 Resolution *re*: Prohibition of Traffic in Mipor Girls.

LEGISLATIVE ASSEMBLY.

Thursday, 19th January, 1922.

The Assembly met in the Assembly Chamber at Eleven of the Clock. Mr. President was in the Chair.

UNSTARRED QUESTIONS AND ANSWERS.

RATES AND STANDARDS OF RAILWAYS IN INDIA AS COMPARED WITH FOREIGN COUNTRIES.

198. Sir P. S. Sivaswamy Aiyer : (a) With reference to the statement in paragraph 2 of the Report of the Railway Committee, 1921, will the Government be pleased to furnish a statement showing the railway rates and fares in the United States, Japan and the principal European States for which information may be available ?

(b) What are the other countries in which railway rates and fares are about the same level as the Indian Railway rates and fares ?

(c) Is the Government in a position to state whether in point of efficiency and providing for the convenience of the public the railway systems in the countries referred to in clauses (a) and (b) are superior or not to the Indian railway systems ?

Colonel W. D. Waghorn : (a) A statement giving such information as is available in regard to passenger fares and goods rates with a view to comparison is laid on the table.

(b) The passenger fares and goods rates in India were lower than those in any other country in the year 1917-18 (the latest for which these comparative figures are available), Japan approaching most closely to India in respect of passenger fares and Canada in respect of goods rates. In other countries the passenger fares and goods rates were considerably higher than those in India.

(c) Government are not in possession of sufficient information to justify the expression of an opinion on this point.

Statement showing average receipts per passenger mile by railways of different countries calculated in cents (American).

	1918 or 1917-18 Receipts per passenger mile.
United States of America	2.45
Holland	2.27
Canada	2.10
South Australia	1.44
Norway, 1916-17	1.42
Switzerland	1.33
New South Wales	1.21
Japan	0.67
India	0.51

Statement showing average receipts per ton mile by railways of different countries calculated in cents (American).

	1918 or 1917-18. Receipts per ton mile.
United States of America	0·86
Holland	2·13
Canada	0·74
South Australia	2·64
Norway, 1916-17	2·29
Switzerland	3·17
New South Wales	1·86
Japan	0·87
India	0·62

FORFEITURE OF 'RELIGIOUS FATWAS OF THE ULAMAS.'

199. Mr. Mohammad Faiyaz Khan: (1) With reference to the reply* given by the Government to the Question No. 73, *re* the forfeiture of the leaflet entitled 'The Religious Fatwas of the Ulamas,' asked by the Honourable Syed Reza Ali in the Council of State on September 6th, as promised by Honourable Mr. H. D. Craik to supply further information on the subject if desired by any other Honourable Member, will the Government be pleased to state (a) if it consulted any Maulvi or Maulvis as to whether the said leaflet was based on the Islamic Doctrines or not; (b) if it did consult any Maulvi or Maulvis, what are their names?

(2) Is it a fact that the said Fatwa was drawn up and signed by 500 Ulamas of all parts of India?

(3) Is it a fact that on 8th August, 1921, the joint offices of the Jamiatul Ulama and Khilafat Committee at Delhi were searched, and that 812 copies of the Fatwa were confiscated and removed by the Police?

(4) If the Fatwa or a part of the Fatwa of the Jamiatul Ulama was not proscribed, then why were the offices of the Khilafat Committees and the Jamiatul Ulama searched under the orders of the Delhi Government?

(5) If the confiscation took place under some misunderstanding of facts, then why was not the mistake rectified immediately and the confiscated copies returned?

(6) Are the Government aware that the Jamiatul Ulama have challenged that each and every item of the said proscribed Fatwa is based upon clear and unequivocal Qoranic injunctions and the Traditions of the Holy Prophet (may peace be bestowed on him)?

The Honourable Sir William Vincent: (1) (a) and (b). No.

(2) So far as is known, there were two editions of the Fatwa, one issued soon after the Ulamas Conference in November 1920 with 116 signatures and the second edition with 463 signatures, from various parts of India.

(3) Yes. The copies confiscated were copies of the second edition.

(4) and (5). It is understood that the Honourable Member questions the legality of the action of the Police in searching the offices and seizing the

* *Vide* Council of State Debates, Volume II, page 122.

copies referred to. If he will refer to section 12 of the Indian Press Act, he will see that the Police are entitled to seize a document which has been proscribed wherever it is found. Before the date of the search another Local Government had issued a notification proscribing the leaflet and any document containing the matter of the leaflet. The action of the Delhi Police was therefore legal.

(6) Yes, but several other pronouncements by persons describing themselves as Ulamas have appeared from time to time in the Press and elsewhere, challenging the accuracy of the statements made and the injunctions contained in the Fatwa.

ADOPTION OF RESOLUTIONS OF THE INDIAN LEGISLATURE.

200. Rai Sahib Lakshmi Narayan Lal: (a) Will the Government be pleased to state which of the Resolutions of the Indian Legislature during the last two sessions have been adopted by the Government and what practical steps, if any, have so far been taken in respect thereof?

(b) Will the Government be pleased to state the reasons for non-adoption in respect of each of the Resolutions not adopted by the Government?

(c) Will the Government be pleased to consider the advisability of regularly publishing these statements?

The Honourable Dr. T. B. Saprú: With reference to part (a) the Honourable Member is referred to the statements laid on the table on the 16th instant in reply to a similar question put by Mr. Agnihotri in September last. Further information covered by part (a) and the rest of the question will take some time to collect, and when it is complete the reply to the Honourable Member's question will be laid on the table.

BALLOT FOR BILLS.

Mr. President: I have to announce that the ballot for Bills for the 7th of February, which was previously fixed for 10-30 on Monday morning, the 23rd, is postponed to 10-30 on Tuesday morning, the 24th, owing to the cancellation of Monday's meeting. A circular will be issued without delay to Honourable Members.

STATEMENT OF GOVERNMENT BUSINESS.

The Honourable Sir William Vincent (Home Member): Sir, may I make a statement of the legislative business for the 25th of January. It is proposed on that date to take into consideration the Report of the Joint Committee on the Indian Income-tax Bill and, if the Assembly agrees, to pass the Bill as amended. It is also proposed, if time permits, to take into consideration the Report of the Select Committee on the Indian Emigration Bill and, if the Assembly agrees, to pass the Bill as amended. If time permits,

[Sir William Vincent.]

there may be a motion to refer the Delhi University Bill, which was introduced on the 16th of January, to a Joint Committee of both Chambers.

RESOLUTION *RE*: APPOINTMENT OF A COMMITTEE TO EXAMINE SECTIONS 124-A, 153-A AND 500 OF THE INDIAN PENAL CODE AND SECTION 108 OF THE CRIMINAL PROCEDURE CODE.

Rai Sahib Lakshmi Narayan Lal (Bihar and Orissa : Nominated Non-Official) : Sir, the Resolution which I am going to move stands as follows :

'This Assembly recommends to the Governor General in Council that a Committee be appointed to examine sections 124-A, 153-A and 500 of the Indian Penal Code and section 108 of the Criminal Procedure Code and to report in what manner these sections should be amended so that the rights of the State and the public or any section or member thereof may be safeguarded against abuse of their power by journalists, while, at the same time, protection is afforded to the latter against unwarrantable and unreasonable interference by either judicial or executive authority.'

This is a very important Resolution for the consideration of this House. The liberty of the press is a *sine qua non* for the healthy growth of a nation. Even after the inauguration of the Reforms the Indian Legislature will be greatly handicapped in the due discharge of its responsibility without the aid of a free press for boldly bringing to notice the real state of affairs obtaining in the country. I do not mean to say that there should be no reasonable restraint for controlling the press, but what I mean is that the press should enjoy a reasonable protection against arbitrary action. An eminent judge in addressing the jury was pleased to observe :

'You should recollect that to the public political articles great latitude is given. Dealing, as they do, with the affairs of the day, such articles, if written in a fair spirit and *bona fides*, often result in the production of great public good. Therefore, I advise and recommend you to deal with these publications in a spirit of freedom and not to view them with an eye of narrow criticism. You should not look merely to a strong word or a strong phrase but to the whole article. You should recollect that you are the guardians of the liberty of the press and that, whilst you will check its abuse, you will preserve its freedom.'

I ask myself and all the Honourable Members of this House : 'Does the press of India enjoy this freedom. The Indian press has been labouring under great disadvantages which should not be perpetuated after the inauguration of the Reforms. It is a matter of great satisfaction that the Government have been pleased to take this important matter into their kind consideration. We are grateful to the Government for appointing a Committee to examine the Press and Registration of Books Act, 1867, and the Indian Press Act, 1910, and the Newspapers (Incitements to Offences) Act, 1908. We are also thankful to the Honourable Members of the Committee for giving the care and attention which the importance of the matter deserves, and for recommending the repeal of the Indian Press Act, 1910, and the Newspapers (Incitements to Offences) Act, 1908. But it is evident that, although the repeal of these Acts is very necessary, their repeal will not entirely remove the real grievances of the Indian press so long as sections 124-A, 153-A and 500 of the Indian Penal Code and section 108 of the Criminal Procedure Code, which have been applied with varying degrees of rigour at different times, are not placed on a proper footing so that the freedom of the press will be preserved while its abuse may at the same time be checked.'

There is a genuine popular demand for improving those sections of the Indian Penal Code and Criminal Procedure Code in the light of the new constitutional position created by the Reforms. This improvement is necessary for the growth of a healthy spirit of responsibility in the present, as well as for the gradual evolution of responsible government. The principle underlying the recommendation for the repeal of the Press Act of 1910 and the Newspapers (Incitements to Offences) Act, 1908, substantially support the necessity for some such modification of the provisions of the sections covered by my Resolution as may sufficiently improve them to suit the altered circumstances created by the Reforms, and the committee of inquiry sought to be appointed shall find out and recommend the modifications which it may deem expedient to be made for such improvement.

These sections can be improved in many ways—for instance, in order to have some check over vexatious complaints against journalists, provision can be made that the complaints shall be ordinarily made at the place where the paper is published, or at least the Courts may be invested with powers to determine the place for trial after hearing the representations of the accused. It is very hard for the journalists to be tried in Courts far removed from the places of their publication, and it is necessary that some provision be made for removing this hardship.

Then again, in order that journalists may not suffer on account of any antagonistic attitude of any executive authority, it may be provided that all transaction instituted by an executive authority should have the previous sanction of a majority of the Governor's Council, including the Ministers. Or it may be provided that every journalist against whom a prosecution is instituted by an executive authority should have the option of claiming trial by jury in a Sessions Court if he so desires.

There is considerable public opinion in favour of these provisions and a reference to the debate on the Bill for the amendment of the Indian Penal Code will show that there was considerable public opinion in favour of jury trial even at that time, which should be given effect to at least now after the inauguration of the new Reform Scheme in which, in the words of His Excellency Lord Chelmsford, the author of the Reform Scheme, for the first time the principle of autocracy which had never been wholly discarded in all earlier reforms, was definitely abandoned.

I crave the indulgence of the House while I quote some portions of the said debate covering the matter under discussion. The Honourable Mr. Allan Arthur, representing the European Mercantile Community, while supporting the Bill, was pleased to observe as follows :

'With reference to the remarks made by the Honourable Mr. Chambers with regard to giving Magistrates and Presidency Magistrates power to try sedition cases under section 124-A, I feel bound to mention that there is a strong feeling against giving Magistrates such powers under this section.'

Again, the Honourable Rai Bahadur P. Ananda Charlu in opposing the Bill made the following observations :

'Even assuming that it is the English Law, it would produce no harm in the face of an effective guarantee which exists in England, for, under the system by which a criminal is tried in England, an unanimous verdict of a jury of 12 men is among other safeguards a great protection. Well has Abbot C. J. said that it is one of the peculiar advantages of our (English) jurisprudence that the conclusion is to be drawn by the unanimous judgment and conscience of 12 men conversant with the affairs and business of life. With such a

[Rai Sahib Lakshmi Narayan Lal.]

guarantee as this, the most stringent law must be sufficiently innocuous. If I may be pardoned a simile, this guarantee is like a coat of mail, against which the most rigid law will, like the sharpest sword, fail to do undue harm; with that armour the sharpest sword may be a negligible weapon. Without it, as in this country, it will prove nothing less than a veritable sword of Damocles.

And the Honourable Mr. Sayani while opposing the Bill was also pleased to observe similarly. He said :

'But the proper course is that the rigour of the law should be softened and its provisions should be so hemmed in as to prevent the law from operating harshly. It must also be remembered that India is a peculiar country and that it is inexpedient to put it under all the rigorous measures of Europe, and that if it is necessary to import some of these measures, care should be taken that simultaneously with the introduction of such measures all the concomitant safeguards obtaining in Europe should also be introduced. It is inadmissible, for example, to work the proposed law relating to seditious offences and offences against public tranquillity without at the same time giving the accused the privileges which are given in England where a grand jury, consisting of the fellow subjects of the accused, has first to find a true bill, then the accused has to be tried before a jury of his fellow subjects and the persons prosecuting him, the persons giving evidence against him, the persons judging him, are all his fellow subjects, and the whole thing moreover is keenly watched by a strong public opinion, and lastly, Parliament is near at hand to put in an immediate and effective interference.'

With these remarks I commend my Resolution to the consideration of this House. It is a very modest one. It is simply for the appointment of a Committee to consider what are the principal modifications which should be introduced under such circumstances.

Dr. H. S. Gour (Nagpur Division : Non-Muhammadan) : While I generally sympathise with the intention of the Mover of this Resolution, I feel that it is ill-conceived. My learned friend who has moved this Resolution is probably not aware that the object he has in view cannot be attained by a mere amendment of the Indian Penal Code, and if such an object were possible it would not achieve its purpose so far as regards offences to which the journalists as a body are subject. It seems to have been assumed by the learned Mover of the Resolution that these offences are directed against journalists; but if he refers to his Penal Code and to the Code of Criminal Procedure he will find that these are general offences which are not particularly directed against journalists. Section 124-A and its analogue, section 153-A, are intended to punish all persons who disseminated seditious or other matter which is either defamatory of the State or is calculated to arouse racial hostilities. Section 500 of the Indian Penal Code punishes defamation, and I do not think the Mover of this Resolution can say that only journalists commit the offences comprised in these three sections. I, therefore, submit that the amendment of these three sections and also of section 108, which is cognate to section 124-A of the Indian Penal Code, would not serve the purpose. But assuming for the sake of argument that what he really intends is the amendment of the processual law, he wants first of all a safeguard as regards the place of the trial of the journalist. Let me remind the Honourable Mover of this Resolution that, so far as regards journalists in this country, they are exactly in the same position, as regards the place of trial, as journalists in England, and he who defames a person or a body of persons in England is liable to be prosecuted in any place where the defamation was published. While journalists are entitled to a reasonable protection, the Mover must not forget that the party aggrieved is equally entitled to a reasonable protection. And if a journalist in Rangoon were to defame

Member of this House in Delhi does the Honourable Mover suggest that in order to enable him to embark on a prosecution at Rangoon he has to travel all the way to Rangoon and lay the offending journalist by the heels there? He further suggests that the sanction of the Governor acting with his Executive Council and Ministers must be a *conditio sine qua non* to a prosecution. I venture to submit that this is a requirement of law which obtains in no place in the jurisprudence of any of the colonies or of England; and I do not see why the journalists in this country should be given a special immunity. Lastly, he says there should be an extension of trial by jury.

Now, as a general question I am in entire sympathy with him. But if he desires the offending journalist should have a special privilege of trial by jury, I beg to demur. The question of trial by jury is at present agitating the public mind and is under consideration by a Sub-Committee of this House, and I have no doubt that when the conclusions of that Sub-Committee are published they will satisfy the public mind. The Honourable Mover says that in England the sharp sword of the Legislature is blunted by the action of the Government. My submission is that nothing that the Mover has said will in the slightest degree blunt the sharp sword of the Penal Code, and the only blunting weapon that is required is the amendment of the Code of Criminal Procedure; and, as I have already said, that course is under discussion. I said at the beginning of my remarks that I was in general sympathy with the Mover of this Resolution. Now, Sir, section 124-A and section 153-A of the Indian Penal Code were not an original part of the Code; they were subsequently added, and I admit that the additions to the Indian Penal Code at a later stage were not the subject of that careful examination to which the Penal Code itself was subjected; and I certainly commend the proposition of the Honourable Mover to the Leader of the House for consideration. The whole of the Penal Code is over 60 years old, and I strongly feel that the whole of it requires to be re-cast and a fresh up-to-date re-drafted Code is what the country requires. There are a number of sections of the Indian Penal Code which require redrafting, and the fact that there are no less than 7,000 cases interpreting various sections, phrases and words of the Code scattered throughout the law reports of this country, is my best justification for asking the Honourable the Home Member to take into consideration the early revision of the Indian Penal Code. Numerous amending Acts load our statute book, which must be purged of these amending Acts. What the country requires is one complete Criminal Code which the Judges can understand, which the people can understand, and which requires no adventitious aid of the law reports to explain and administer. Section 500 of the Indian Penal Code is the section dealing with defamation. When Lord Macaulay's Committee was drafting the Indian Penal Code, a question was agitated as to whether defamation of character should be made a penal offence. In England slander and libel is not criminally punishable except in certain cases. But for the reasons which the Law Commissioners gave, defamation was made a criminal offence, and I think subsequent events have justified their decision. So much for the three sections of the Indian Penal Code.

Turning now to section 108 of the Criminal Procedure Code, the Honourable Mover must remember that it is a preventive section. Its utility is manifest. It punishes nobody, but ensures the public against a repetition of the offence of which the delinquent has been found guilty. We cannot purge from the Code Criminal Procedure offences dealing with such and similar preventive action.

[Dr. H. S. Gour.]

We have sections 107, 108 and 110, not to mention sections 143, 144 and 145. All these provisions of the Code of Criminal Procedure are intended to be used as a preliminary warning to offenders, and they have a wholesome effect upon the persons brought to book. All the same, when the new Code of Criminal Procedure comes up for consideration, these sections will be before this House, and it will be time for it to consider as to how far the amendments proposed and made by the Select Committee now sitting upon that Code require alteration. I therefore think that the Honourable the Home Member might accept the principle of the Resolution, but in the terms in which it is worded, I submit, it is unacceptable.

The Honourable Sir William Vincent (Home Member) : Sir, it is not often that I fail entirely to understand what the object of the Mover of a Resolution is and what line he is going to take, but on this occasion I must confess I have fallen into that mistake, and the reason is not very far to seek. We in the Home Department have been delving and diving into sections 124-A, 153-A and section 108 of the Criminal Procedure Code, the language used and the reasons for these enactments, and so forth, and now from the Mover's speech I find that he has not suggested one single amendment which touches one of those sections. There is not—I challenge any lawyer in this House to contradict me—in the speech of the Mover any single statement which relates to those sections. He has proposed certain amendments in the Code of Criminal Procedure, as was pointed out by the last speaker, but not a single indication of the particular sections specified in his Resolution.

In the opening part of his remarks, the Mover, however, made a statement I cannot allow to pass unchallenged. He said that the two Committees which had recently sat, one on the Press Act and the other on Repressive Measures or the so-called repressive measures now on the Statute Book, suggested an amendment of those sections of the Penal Code. I was a member of those Committees. Dr. Gour was on one; Mr. Seshagiri Ayyar was also a member, if I remember aright, and there were many others here who were on those Committees. I cannot remember anything in the reports submitted by these bodies which suggested an amendment of these sections of the Penal Code.

Now let me turn to the particular recommendations which the Honourable Mover suggests. The first suggestion regarding the place of trial has already been dealt with, I think, sufficiently by that learned lawyer, Dr. Gour. May I remind the Assembly also that it is not always that the publisher of a paper finds it convenient to have his case heard in the place where the paper is published. I remember the case of a famous gentleman, Mr. Mahomed Ali, who was not at all anxious to have a case against him tried in Delhi if he could avoid it; he took his application down to Calcutta.

The next point that the Mover raised related to previous sanction. He suggested that the previous sanction of the Governor in Council should be taken to all sedition cases. Now, that is the law at present, but the only addition is section 196 of the Criminal Procedure Code; it is the Governor in Council or the Local Government that sanctions a prosecution. He, however, suggested that the sanction of Ministers should also be obtained to such prosecutions. Now, that may be a very desirable change when the constitution is altered. But every one in this Assembly knows that, although it is permissible and desirable to consult the Ministers on reserved subjects,

the responsibility for administering those subjects must, under the present constitution, rest with the Governor in Council. That is a correct statement of the constitutional position at present.

And now, Sir, I turn to the proposal regarding section 500 of the Penal Code. When I saw the terms of the Resolution, in fact up till this morning till I read it again, my idea was that the mention of section 500 in connection with sections 124-A and 153-A of the Penal Code, and section 108 of the Code of Criminal Procedure, was a misprint. I thought the Honourable Member really meant section 505, but it was not so, for he says that he intends to get an amendment of section 500 which deals with ordinary defamation. Now, why a newspaper should be entitled to any special protection, in regard to defamation in this country, any more than a private person, I cannot understand. To defame a private person is one thing, and for a newspaper to publish a libellous letter addressed to 20 people is another. But why should special protection be given to the newspaper in circumstances of that kind?

The Honourable Member went on to suggest that all cases under the sections he mentions should be tried by a jury. Now, that is a matter again which is mainly not one needing legislation and certainly not an amendment of the Penal Code. It is largely a matter for the Local Governments to decide and on which the local Councils can make their wishes felt. As a matter of fact, trials before the High Courts are now held under section 124-A, I believe with the aid of a jury, and the law does provide very considerable safeguards in all such trials. In the first place, no one can prosecute under section 124-A or under any of these sections without the previous sanction of the Governor in Council, and that is always only given after very careful consideration and examination by the best legal authorities available. I can testify to that. I have had reason, even recently when prosecutions under these sections have been under consideration, to know that the utmost care is taken to get the best legal advice. There is also another safeguard against injustice in the Code already, in that an appeal from a conviction under section 124-A lies to the High Court direct. So that not only is there this previous sanction, but there is also the additional protection afforded, in that the appeal is heard by two Judges of the High Court. Sir, I notice that Dr. Gour has used the debate to suggest that this Resolution might be made the basis for a revision of the whole Penal Code. I think that is stretching the scope of this Resolution unreasonably. I thought that we were here to deal with certain sections relating to sedition. I understand, however, that there is a body, called the Statute Law Revision Committee, of which the Honourable Dr. Gour is a member, and I hope I am revealing no secret when I say—I have been told un-officially—that the question of the consolidation of the various Acts now making up the Penal Code is under the consideration of that eminent lawyer, Dr. Gour. But when he supported this proposal by the argument that Courts would thus avoid multiplicity of rulings, why, surely the Honourable Member must be laughing at the Assembly. What country in the world with any system of law has escaped a great mass of judge-made law, a mass which is of the greatest value to every one? If, moreover, there are some thousand rulings under the Penal Code, there are hundreds of thousands of rulings under every civil Act, which do afford, I venture to say, a very salutary aid to those who have to interpret those laws in Courts.

As to the amendment of the particular sections mentioned in the Resolution, I do not think it is necessary for me to deal with the provisions of the

Sir William Vincent.]

law, because no one has really attacked them. If any one does so later, I may have to deal with the point. But any one who reads actually the judgment, for instance, of Mr. Justice Fletcher in the well known case of Manmohan Ghose will see what protection the law does afford at present to journals under section 124-A. In that case, a man was accused under section 124-A of sedition and attack on racial political parties. After a careful examination of the whole facts, Mr. Justice Fletcher laid down a very salutary principle, which, I believe, has been accepted by the Courts in India, namely, that any reasonable criticism, even severe and unfair criticism, is permitted so long as there is no attempt to excite hatred and contempt of Government. I do not want to enter into the matter at length. It really has not been raised, and if I have to do so, I will do it at a later stage.

There is, however, one point, Sir, to which I would refer, and that is the question of amending sections 124-A and 153-A of the Indian Penal Code and section 108 of the Code of Criminal Procedure at the present juncture. I do not believe there are any Members of this Assembly who would say that this is an opportune moment for undertaking such a task. We have in Committee now recommended the revision and repeal of a large number of so called repressive measures. We have before this Assembly the question of repealing the Press Act. I want to ask this Assembly to consider carefully whether they wish further to weaken the authority of Government by any proposal to amend the law relating to sedition. In conclusion, I venture to suggest to the Mover that his Resolution is really misconceived, and that the object which he seeks to attain could not be secured by the methods which he proposes. Moreover, to appoint a Committee at this moment to revise the law relating to sedition could, in my opinion, only create an impression that this Assembly is seeking to weaken the hands of Government in dealing with a dangerous political crisis, when many men are openly advocating not only disloyalty, not only civil disobedience, but even violent uprisings against the authority of the Crown.

Mr. Muhammad Yamin Khan (Meerut Division : Muhammadan Rural) : Sir, I am equally at a loss, like the Honourable Sir William Vincent, to know why an amendment of section 500 of the Indian Penal Code has been proposed. Section 500 of the Indian Penal Code only provides the punishment for defamation. An amendment of that section without an amendment of section 499 which defines defamation will be absolutely unnecessary. I cannot see how section 500 can be amended which only provides the punishment. I suppose most of the Members of this Honourable House are aware of this section, but for the information of those who might not have seen the section, I might read it. The section runs as follows :

‘Whoever defames another shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.’

I am at a loss to see why the Honourable gentleman wishes to amend this section. Is it because he thinks that the punishment which is provided is not sufficient? I think that the simple imprisonment for two years which is provided in this section is the only thing that can be amended. To allow

anybody to live in jail for two years at the expense of Government—that seems to be the unnecessary portion that I can think of. Section 499 really gives the definition of defamation, for which punishment is provided in section 500.

I have known, Sir, that there is really a difficulty about section 499. That section has been discussed, but I find that most of the Honourable High Courts are silent on that point. That is really a very contested point and requires that the Legislature should explain or re-draft the section in such a way that there will be no ambiguity in the minds of the Courts while deciding cases of a complex nature which come up before them. Take, for instance, a witness going into the witness box. He starts defaming a person. Under the Indian Evidence Act, he is quite at liberty to say (what he likes) when he is questioned about certain facts, but he is not protected under this section. That has led to great difficulty, undoubtedly, as far as the case law is concerned. The Honourable the High Court of Allahabad decided this question a few years ago and dealt with the point in a very elaborate judgment, but I think that point also is not very clear. If this section requires any change, it requires a change only on that point. Otherwise, for the purpose which my Honourable friend suggests, I think it is hardly necessary that we should change the section at all. As regards sections 124-A and 153-A, I quite agree with the Honourable the Home Member that this is not the time when we should ask for their being amended. While we are asking for a repeal of the repressive laws, there should be some measure of protection under which the Government can proceed against the acts of those persons who commit sedition. ('Hear, hear.') We should not take away this weapon, because if this is taken away and the repressive laws are also repealed, there will be very little law remaining for the Government to protect the law-abiding citizens and preserve law and order in the land. As regards section 108 of the Criminal Procedure Code, I think that requires a little change, but it is inopportune for this Assembly to suggest what change there should be in that section before we have got the report of the Select Committee which is dealing with the whole of the Criminal Procedure Code, and therefore we had better wait till we get the report of that Committee. My Honourable friend, Dr. Gour, has pointed out that these are preventive sections, namely, sections 107, 108 and 110 of the Criminal Procedure Code. We know that there is a large volume of conflicting decisions on section 110, and there are so many different rulings of the various High Courts as to the real and correct view which the Legislature took at the time of its passing, that they are really bewildering. Again, section 110 cannot be amended without section 117 and section 118 of the Criminal Procedure Code. But that matter is to be dealt with later on by the Select Committee which is sitting to revise the Criminal Procedure Code. I quite agree with my Honourable friend, Dr. Gour, that the whole of the Indian Penal Code really requires reconsideration and amendment on certain sections. The Honourable the Home Member has pointed out that this Resolution cannot be made the basis of overhauling the whole of the Indian Penal Code. That is true, but I think that my Honourable friend mentioned only casually, simply drawing the attention of the Government and of the Honourable the Law Member to this point. He did not mean that this Resolution should be made the basis of it, but from what I could gather, the matter came to his mind at the moment he mentioned it and he pointed out that that requires some consideration too, and I

[Mr. Muhammad Yamin Khan.]

think he is quite right. Anybody who is practising on the criminal side can understand the difficulty one is in when one reads the various decisions of the High Courts on the sections of the Indian Penal Code. Therefore, while I have every sympathy with the Honourable Mover of this Resolution, I regret I cannot support it.

Mr. T. V. Seshagiri Ayyar (Madras : Nominated Non-Official) : I rise to say that I do not in the least agree with the motion which has been put before the House. I want to speak entirely in the interests of journalists; and I shall address my remarks to this House solely from the point of view of journalism; from their point of view I do not think this motion is well-conceived. I do not think that the press is now enjoying full liberty under the law. If the Press law is repealed, I feel no doubt that the press in this country would have as good facilities for carrying on its work as the press in any other part of the civilised world. There are difficulties, and there have been difficulties, not because of the stringency of the law or of the wording of it, but because of the spirit in which the law has been administered. For example, while the Committee of which I happened to be a member has recommended that the Press law should be repealed and while the Government has brought in a Bill for its repeal, we find that pending repeal the law is being applied by various Magistrates and various provinces. That shows, not that there is anything wrong with the law, but that there is a spirit abroad which is not prepared to treat the press as indulgently as it should be treated. I think, Sir, that the amendments suggested are absolutely unnecessary for preserving the liberty of the press. The liberty of the press will be safeguarded so long as the spirit of the administrators is not adverse to freedom of speech. As against an abuse of the law you can never make amendments. The law is there, and the only recourse to correct abuses which we can have is to a higher tribunal which will set the Magistrate or the Sessions Judge right. It is not possible by amending the law in any way to make it so perfect that it would not be abused, and therefore I think, in the interests of journalism it is not desirable that this motion should be accepted by this House.

There are one or two observations made in the course of the previous speeches which I should like to refer to. For example, the Mover said that it is desirable that a man who writes in a particular place should be tried in that place alone and should not be compelled to defend himself in any other place. The Honourable the Home Member has given exceedingly good reasons and my friend, Dr. Gour, has also given good reason why such a suggestion cannot be accepted, and I wish to suggest on behalf of journalists that they would not like that the law should be so stringent as to say that there should be a trial only in the place where the writing takes place, because the atmosphere there may become so very tense that the journalist may not get a fair and impartial trial. The journalist himself may desire to move the proper authorities to remove the case from the place where the article was written to some other place where the atmosphere will be quieter and where he can get a fair trial. Therefore it is undesirable in the interests of journalists that there should be a fixed rule that the case should be tried only in the place where the article was written.

There is only one other observation that I wish to make. That does not very much concern the matter before us. An observation has fallen from my

Honourable friend Dr. Gour, that the Indian Penal Code should be amended totally, and that the whole Code should be re-cast. Sir, I have been brought up in the tradition that the best drafted legal enactment in the whole of British India is the Indian Penal Code. ('Hear, hear'). It is not disparagement to the various successors of Thomas Babington Macaulay to say that none of the other enactments has approached the carefulness and the scrutiny which that great man has employed in drafting the Indian Penal Code, and any attempt made to re-cast it will be regarded by a large portion of the thinking public as a work which should, in no circumstances, be undertaken.

Therefore I hope that the Statutory Law Revision Committee, to which the Honourable the Home Member has referred, would not take upon itself this impossible task of recommending a revision of the Indian Penal Code. It would be a disastrous day when some apprentice hand takes upon himself the task of re-casting one of the most monumental legal works in India. I hope no such attempt will be made. There may be necessity, now and then, to revise portions of the Code, but to undertake a wholesale alteration of the Penal Code is a stupendous task which should not be attempted. It cannot be either in the interests of the litigant public or of the lawyers; and I hope that no such attempt will be made by the Statutory Law Revision Committee.

Mr. B. H. Jatkar (Berar): Sir, the amendments which stand in my name are as follows:

(a) After the word 'Committee' add the words 'consisting of at least $\frac{2}{3}$ th non-officials'.

(b) For the word and figures 'section 108' substitute the words and figures 'sections 107, 108 and 144'.

(c) After the word 'amended' insert the words 'or repealed'.

(d) Omit the words 'the State and' and the words 'against abuse of their power by journalists while at the same time protection is afforded to the latter'.

The amended resolution will read thus:

'This Assembly recommends to the Governor General in Council that a Committee consisting of at least $\frac{2}{3}$ th non-officials be appointed to examine sections 124-A, 153-A and 500 of the Indian Penal Code and sections 107, 108 and 144 of the Criminal Procedure Code and to report in what manner these sections should be amended or repealed so that the rights of the public or any section or member thereof may be safeguarded against unwarrantable and unreasonable interference by either judicial or executive authority'.

The principal part of my amendment is about including sections 107 and 144 of the Criminal Procedure Code. It is, I think, very doubtful whether the Joint Committee which is considering this subject will consider these sections also, because I think in last session the question was raised whether the Joint Committee would be at liberty to consider the provisions in respect of which no change has been suggested in the draft. I believe it was Mr. Ginwala who suggested that. These two sections and particularly section 144 of the Criminal Procedure Code have been very freely used recently and the latter section has been worse in its operation than the Seditious Meetings Act itself. In spite of what has been said by my Honourable friend, Mr. Samarth, yesterday, it is extremely doubtful if this section 144 was ever meant to give such wide powers to the Magistrate to stop public meetings and to gag the mouth of public speakers. Wholesale areas in a tahsil or district or sub-division have been banned under this section arbitrarily. In some cases the powers were used so

[Mr. B. H. Jatkar.]

mischievously as to provoke a breach of the peace. I know of a case in my own province where a police officer, with an order in his pocket actually allowed a public meeting to be called, allowed the people to gather and, just when the proceedings were commenced, came up with this order and stopped the meeting. The House can imagine what the sentiments of the people were who had assembled there, and it was only due to self-restraint of the people shown in walking away quietly that violence was averted. Such exercise of power was never meant to be given by section 144 when it was enacted. The exercise of power under 144 proves a great temptation to break the law and promote civil disobedience, which is very natural when a large number of people who are assembled for a public meeting are dispersed on the spur of the moment by an order under section 144. I therefore think that this section at least should be amended or repealed, so as to confine the provisions of that section to the purpose for which it was meant. With these words, Sir, I recommend these amendments to the consideration of the House.

Mr. President : I will take the first of the Honourable Member's amendments which raises the question of the composition of the Committee. I will put the other amendments separately. The first amendment is that the words 'consisting of at least $\frac{3}{4}$ th non-officials' be inserted after the word 'Committee'. The question is that that amendment be made.

(Rai Sahib Lakshmi Narayan Lal rose to speak.)

Mr. President : Does the Mover rise to express an opinion on the amendment?

Rai Sahib Lakshmi Narayan Lal : Am I required to speak on the amendment? I do not accept the amendment.

Mr. P. P. Ginwala (Burma: Non-European) : Which part of the amendment are you referring to?

Mr. President : Was not the Honourable Member in the House when I put the amendments in the name of Mr. Jatkar?

Mr. P. P. Ginwala : I did not follow you.

Mr. President : The amendment I put to the House was :

'After the word 'Committee' add the words 'consisting of at least $\frac{3}{4}$ th non-officials'.'

The question is that that amendment be made.

The motion was negatived.

Mr. President : Further amendment moved :

'For the word and figures 'section 108' substitute the words and figures 'sections 107, 108 and 144'.'

Mr. P. P. Ginwala : My Honourable friend, Dr. Gour, and the Honourable the Home Member appeared to me to be somewhat 'previous'—if I may be permitted to use an American expression—when they opposed the original Resolution moved by my learned friend on my left. I can quite understand my Honourable friend Dr. Gour doing so because he thinks it his duty to enlighten the House on all questions of law, and therefore he is expected

to be in a hurry to enlighten it, and sometimes he is in such a hurry that he does not even have the time to prepare himself. Perhaps it is pardonable in a gentleman so learned, who has written so much and who has read so much, but I cannot imagine, Sir, how it is that he has not even the time to look at the agenda before he rises to oppose a proposition. If he had examined the agenda and just waited a little, he would have had ample opportunity of enlightening the House upon the Resolution in the light of the amendment that has been since proposed by my Honourable friend Mr. Jatkar. Sir, I rise to support the amendment of my Honourable friend, Mr. Jatkar, because it involves a substantial question of principle which I raised at the last Simla session. The Honourable the Home Member may remember that he was moving a Resolution before the House to refer to what I may call the obsolete Criminal Procedure Code Amendment Bill to a Select Committee. I wanted to move an amendment by which I wanted to confer on the Select Committee the power to make suggestions for the amendment of the whole Code. He took objection to that on the ground of short notice, and the objection was upheld as I had not given two days' notice. I had to abide by that. Subsequently, I gave notice of a Resolution asking that instructions be conveyed to the Select Committee on those lines. That Resolution was ruled out of order because it offended against the Standing Orders. I shall raise that point when the Standing Orders are under consideration, but the point still remains that there are important sections of the Criminal Procedure Code which, as my learned friend has pointed out, will not receive careful examination because of the decision given by the Chair that an amending Bill confines itself to the sections covered by the amending Bill.

I shall deal only with section 144, for that, I think, is the most poisonous in the armoury of what is known as the ordinary law of the land, and has been used, I submit, Sir, in a most poisonous fashion in some of the provinces. I will go so far as to say that, if this section was sufficiently abused, the Executive Government could do without any extraordinary law. This section was used, in my province, in substitution of the Seditious Meetings Act, and meetings were stopped for two months in the town of Rangoon under its provisions. It was used recently in substitution of this moribund Press Act which is about to be repealed, in my province. Newspapers were forbidden to write on certain topics—I will not mention those topics for the present—but it is a fact that this section was used with a vengeance for this purpose. I say, Sir, that these provisions have been horribly misused and it is time that this House examined these provisions. It is no use the Honourable Home Member telling us that we have to be careful in recommending the repeal of these provisions. We know very well that it would be dangerous for us to deprive the Executive Government of some protection, but we do object to a provision of the law being misapplied and distorted, when people have no remedy against such misapplication or distortion, and the right of appeal to the High Court is denied. A District Magistrate or other Magistrate may make the order, and the order stands. Of course, when you are prosecuted for disobeying the order and you are convicted under the Indian Penal Code, you may have the right of appeal and question the propriety of this order, but by that time you probably have suffered jail, and nothing would be gained even if the High Court decided it was unfair and set it aside.

Now, Sir, I shall deal briefly with section 500 of the Indian Penal Code. The Honourable the Home Member always, I am glad to see, stretches a point to

[Mr. P. P. Ginwala.]

find out what an Honourable Member intends when his Resolution is otherwise not clear, but unfortunately to-day he did not go far enough in this direction—for, had he done so, he would have found that the Honourable Mover meant section 499 though he referred to section 500. Taking 499 as the section intended, I submit that that section requires amendment. The Honourable Member from Madras says that journalists are sufficiently protected under the present law. His reputation as a judge entitles him to the greatest weight, but his opinion, I submit, is not supported by authority. If a newspaper in this country reports the proceedings of a public meeting at which defamatory statements are made, and even if the report is absolutely correct, still the newspaper is liable to be prosecuted for defamation. In this House we have by statute the fullest liberty of speech, but if a newspaper gives a correct report of our proceedings including some defamatory statements, it runs the risk of being prosecuted. Of course, the law says you must be careful, you must take legal advice as to whether you are justified in reporting such statements. That may be so, but all the same, newspapers should have the right of protection, such as they have in England where special Acts were passed several years ago for the protection of newspapers which made substantially correct reports of proceedings at public meetings. This, I submit, is a real grievance, which ought to be remedied without further delay, because now-a-days innumerable meetings take place throughout the country, and newspapers have got to make reports and newspapers have got to run the risk of being prosecuted for giving a substantially correct account of what is said at these meetings. I submit we should examine this law in detail, not only for the protection of newspapers but in the interest of the public. Sir, I would ask the Honourable the Home Member to read section 500 as if it was section 499 and accept the Resolution with the amendment moved by my Honourable friend, Mr. Jatkar.

Rao Bahadur T. Rangachariar (Madras City: Non-Muhammadan Urban): Sir, I rise to speak on this amendment, as I feel I am in a large measure responsible for authorising the use of those sections in the Code and in a position to know of the abuse and misuse of sections 107 and 144 of the Criminal Procedure Code during the last few months. There does not pass a week, when I go to my club, when the finger of scorn is not pointed to me, "here is Rangachariar's ordinary law; notices under section 144 are served on the whole public and a whole city and a whole area, prohibiting public meetings, prohibiting public speakers from speaking and such other various acts." Sir, I little anticipated that the sections could have been used in the way in which they have been used. I know of a case, Sir, in which the District Magistrate was passing down a street in the Northern Circars. He saw a house flying the *swadeshi* flag. It pained his eyes. Section 144 came to his rescue, and he pulled down the flag. It was disobeyed a number of times, and people were sent to jail. I know section 144 was used against picketing in several cases; it was used by a Sub-Magistrate who had a personal quarrel with his neighbour. Unfortunately, Sir, these non-co-operators treat all Courts with indifference; they would not test the validity of these orders, and therefore they never came to the Courts in order to have these extraordinary things tested. Section 107 again has been used in a novel manner, even for the purpose of arresting a passenger in a train—a passenger who was travelling from one end to another was arrested simply because there was no time for a warrant to be issued to arrest him. Thirdly, Sir, such misuse and abuse could

have been disavowed by the Government, but I have not seen a single notification of any Local Government or of the Government of India in that matter. Well, Sir, we did not protest against such abuse and misuse because we know troublous times were before us and it would not have been right on our part to raise any difficulties. But having waited so long, and having hoped that the Government should have taken steps themselves to have prevented such abuse and misuse of these sections, I think the time has come when some steps ought to be taken in that direction. But, Sir, I do not think that the remedy proposed by my Honourable friend, the Mover of this amendment, is the proper remedy.

I have myself given notice of an amendment to sections 107 and 144, which will come up next month, to provide a safeguard against the misuse and abuse of those powers by providing that the matter must be sent up to the High Court in each case where these sections are used for prohibiting public meetings or dealing with political agitation, even without the application of parties; so that the High Court may have the power of examining the proceedings and setting them right in case of misuse or abuse. That Bill will come up as soon as the notice expires, and I dare say it will be examined carefully by the Select Committee which will be appointed and necessary amendments will be made in those sections. I do not think it is necessary that a Committee should be appointed. So many of us here are lawyers and it is open to us to suggest what amendments should be made in the various sections which have been mentioned in the Bill. Therefore, Sir, I do not think it is necessary to appoint a Committee to examine these sections. I merely stood up here to point out that these sections are being misused and require amendment.

The Honourable Sir William Vincent: Sir, I only want in reply to deal with one or two points raised, I believe, by Mr. Ginwala. The original proposition that came before us and on which I spoke, did not include section 144 of the Criminal Procedure Code. That section was first mentioned in the amendment of Mr. Jatkar. I think section 107 was also first introduced in that amendment. Therefore, if I was premature in speaking on the original motion, it was not for the reasons mentioned by Mr. Ginwala, who simply attacks these two sections, which came under discussion after I had spoken. I still affirm, and I have no doubt I have the support of this Assembly, all that I said regarding the original motion. I observed that Dr. Gour was also attacked for speaking prematurely. He was, however, let down more lightly on the ground that it was his duty to enlighten this Assembly on points of law. I do not know how he appreciates the compliment. I noticed that another Member, when Dr. Gour's suggestion about consolidating the Penal Code was under discussion, suggested that it was undesirable that a prentice hand should be allowed to take this work in hand. Now, I hope the Honourable Dr. Gour will not think that I was in any way a party to the suggestion that he, the author of monumental works on Hindu Law and the Criminal Codes, is a prentice hand.

And now as to this amendment relating to sections 107 and 144, I still submit that the appointment of a Committee is unnecessary. In the first place, we have this Bill of Mr. Rangachariar's coming in and, in the second place, both these sections are being amended in the Bill now before a Joint Committee of this House and the Council of State. I do not know what the ruling of the President of that Committee will be, but if it is that any amendments can be

[Sir William Vincent.]

made in sections of the Code which it is proposed to modify in the Bill, then the points raised by Mr. Ginwala can very well be considered at that time : if indeed Mr. Rangachariar's motion has not rendered that unnecessary.

There is one point, however, in Mr. Ginwala's statement which is deserving of very careful consideration. I admit that the law in this country does differ from the law in England, in regard to the protection given to newspapers publishing accurate reports of public meetings, and I will undertake on behalf of the Government to have that question carefully examined by the Government. But I submit to this Assembly that, in view of the facts that have been put forward, as no one has given any reasons for the amendment of sections 124-A, 153-A and 500 and also having regard to the fact that you have already separate proposals before you for the amendment of sections 107 and 144, it would be idle for this Assembly to recommend the appointment of a Committee to examine those matters.

Mr. President : The amendment moved is :

* For the word and figures ' section 108 ' substitute the words and figures ' sections 107, 108 and 144 '.

The motion was negatived.

Mr. President : A further amendment moved is :

' After the word ' amended ' insert the words ' or repealed ' .

The motion was negatived.

Mr. President : A further amendment moved is :

' To omit the words ' the State and ' and the words ' against abuse of their power by journalists, while at the same time protection is afforded to the latter ' .

The motion was negatived.

Rai Sahib Lakhshmi Narayan Lal : Sir, I may say a few words in reply to what the Honourable Members of this House have been pleased to say in connection with my Resolution. Most of the Honourable Members I find are in sympathy with the spirit of my Resolution ; but still I am sorry to see that they are not ready to support it as it stands. It has been suggested by my Honourable friend and colleague, Dr. Gour, that the sections do not apply to journalists only. I know that ; but that is no reason why the Resolution which relates to journalists only should not be accepted. The sections may apply to others, but when a Resolution has been moved with regard to certain sections in so far as they relate to journalists, and if a case is made out, it should not be lost on that ground alone. Then it has been also suggested by more than one Honourable Member that it is better to amend the whole of the Indian Penal Code and the Criminal Procedure Code. I welcome such a suggestion, but that is also no reason why a particular Resolution regarding particular sections should not be adopted if there are grounds for amending the same ; the more so, because the House is fully aware that there are a good many Resolutions relating to amendment of certain sections of the Indian Penal Code and the Criminal Procedure Code which have already been adopted by this House.

Then it has been said by some Honourable Members that no case has been made out for these amendments. I beg most respectfully to submit that I have suggested some amendments, and though they are not exhaustive, still in

my opinion, when those amendments are introduced, they will go a great way to remove the grievances of the journalists. It has been said by some Honourable Member of the House that if the place for the trial of the journalist is the place of publication of his paper, then the complainant, who may be an inhabitant of a distant place, will suffer. I have not suggested that the trial should be at the place of publication of the paper. If possible, let this amendment be made, if it is not convenient to have the trial at that place, the Courts may be empowered to fix a place convenient both to the complainant as well as to the accused. The paper may be published at Calcutta or at Allahabad or at Delhi and the complainant may be in Ceylon. Is it proper to try the journalist in Ceylon? Is it not the greatest possible hardship for that journalist to look after that trial at Ceylon or in any such part of British India? An amendment like that is very innocent. I do not think it affects the powers that the Executive possesses at present for controlling the journalists or for meeting sedition. Simply some provision has to be made for the convenience of the journalists. Otherwise, Honourable Members will find that a paper can be harassed in a thousand and one places, because his case is not like that of an individual complainant. His paper is published in every part of British India. He can be tried in Ceylon, at Madras, at Bombay, in every distant corner of British India. These things are fit to be considered by a Committee, and a Committee will be the proper and competent body to consider these matters. It has also been said that in the present political situation of the country it is not advisable to amend these sections. I most respectfully submit that my Resolution does not seek to repeal any of these sections. I have simply moved that a Committee may be appointed to consider whether any provision can be made for the convenience of the journalists or not. When the Government has found it necessary to repeal the Press Act, I do not think there is any good in taking away one fetter of the press and keeping another. I have not even stated what the personnel of the Committee should be. The personnel has been left to the Government. Expert lawyers may form that Committee and examine these sections and take everything into consideration and recommend such modifications as may find acceptance.

Mr. President : The question is :

‘This Assembly recommends to the Governor General in Council that a Committee be appointed to examine sections 124-A, 153-A and 500 of the Indian Penal Code and section 108 of the Criminal Procedure Code and to report in what manner these sections should be amended so that the rights of the State and the public or any section or member thereof may be safeguarded against abuse of their power by journalists, while, at the same time, protection is afforded to the latter against unwarrantable and unreasonable interference by either judicial or executive authority.’

The motion was negatived.

RESOLUTION *RE*: ELECTED STANDING COMMITTEES WITH THE GOVERNMENT OF INDIA.

Mr. K. C. Neogy (Dacca Division : Non-Muhammadan Rural) : Sir, I beg to move the Resolution that stands in my name and which runs as follows :

‘This Assembly recommends to the Governor General in Council that Standing Committees, elected by the Members of the Legislature, be associated with the different departments of the Government of India other than the Army and the Foreign and Political Departments.’

[Mr. K. C. Neogy.]

Sir, this Resolution has been ridiculed by a leading Indian journal as an instance of the inability of certain Members of the Indian Legislature to discriminate between legislative and executive functions.

Rao Bahadur T. Rangachariar (Madras City: Non-Muhammadian Urban): Name?

Mr. K. C. Neogy: The '*Pioneer*.' I do not claim the infallibility of the '*Pioneer*', but, if I have erred in this matter, I can claim that I have erred in very good company. The suggestion was first of all made by Mr. Montagu and Lord Chelmsford in their Report on Indian Constitutional Reforms. Subsequently, it formed the subject-matter of considerable discussion by Provincial Governments as also the Government of India, and I shall try to show to this House that at least at one time the Government of India were not altogether unfriendly to this suggestion. Then, Sir, above everything else we have got a conditional recommendation made by the Joint Select Committee, which was appointed to consider the Government of India Bill, which goes to say:

'It may often greatly assist the political education of India if Standing Committees of the legislative bodies are attached to certain Departments of Government, but they only express this opinion on the understanding that the appointment of such Committees, their composition, and the regulations which govern their procedure, shall be matters wholly and exclusively within the discretion of the Governor General.....'

Therefore, Sir, I am not quite ashamed of my Resolution. As I do not claim any originality in the idea underlying this Resolution, I propose to use as few words of mine as possible in its support.

First of all, let us turn to the Montagu-Chelmsford Report. In paragraph 235 of the Report, Mr. Montagu and Lord Chelmsford say with reference to the proposal of having Standing Committees in the Provincial Governments, as follows:

'Our next proposal is intended to familiarise other elected Members of the Legislative Councils, besides Ministers, with the processes of administration; and also to make the relations between the executive and legislative more intimate. We propose that to each department or group of departments, whether it is placed under a Member of the Executive Council or under a Minister, there should be attached a Standing Committee elected by the Legislative Council from among their own Members. Their functions would be advisory. They would not have any administrative control of departments. It would be open to the Government to refuse information when it would be inconsistent with the public interest to furnish it. We do not intend that all questions raised in the course of day-to-day administration should be referred to them; but that they should see, discuss and record for the consideration of Government their opinions upon all questions of policy, all new schemes involving expenditure above a fixed limit, and all annual reports upon the working of the departments, and so on.

Later on in paragraph 285, they make a suggestion that similar Standing Committees should be associated with the different Departments of the Government of India as well. They say:

'We wish to apply the procedure of Standing Committees, described in the last chapter, as far as may be to both portions of the Indian Legislature. The Committees would be drawn jointly from the Assembly and the Council of State. We do not overlook the difficulties entailed by the nature of many of the subjects with which the Central Government is concerned, and also by the comparative infrequency with which, owing to considerations of distance, such Committees can assemble. The fact that many matters of ordinary internal administration will in future be left to provincial Governments also limits the scope of

utility of Standing Committees in the Central Legislature. We would leave it to the Government of India to decide with what Departments Standing Committees can be associated ; and to the Member in charge to decide what matters can be referred to the Committee. Our idea is that the non-official Members of the Assembly and Council of State might elect by ballot in proportion to their respective strength two-thirds of the Members of each Committee, while Government nominates the remaining one-third. It is obvious that these Committees cannot play such an important part in the work of the Government as the Committees which we have suggested in the provinces. It will be difficult to obtain their assistance in practice, except during the session or immediately before or after it, but we think there should be no difficulty ordinarily in obtaining their views on important new projects, whether legislative or administrative. Their functions might be determined by regulations to be made by the Governor General in Council.'

Then, Sir, we come next to the first despatch which was sent out from here by the Governor General in Council in regard to the Reforms. Referring to the question of associating Standing Committees with the Departments in the Provinces, the Government of India state first of all the several objections that have been urged against the proposal, and then they say :

'These apprehensions seem to us exaggerated. This idea of Standing Committees was first put forward as a means of associating the Legislature with an irresponsible executive ; and even after the appointment of Ministers had been proposed, it was decided to retain them as a means of providing a certain number of people with some acquaintance of administrative methods, as a means of training them to fill the office of Ministers. We propose, therefore, to retain them ; but we wish to make it perfectly clear that we do so only for educative purposes.'

The Government of India, thereafter, took exception to the proposal in so far as it affected the Government of India itself. In paragraph 120 of the first despatch, the Government of India say :

'We come next to the devices proposed for establishing a closer connection between the Executive and the Legislature in the Government of India. These are akin to those we have already considered in connection with the provinces. The proposal that Standing Committees of the Government of India should be set up has met with little opposition. We have in paragraph 92 stated the arguments which have been urged against the establishment of such Committees. In their application to provincial Committees we considered that the objections had been exaggerated, but in the case of Committees of the Central Legislature we feel that they apply with much greater weight. There would be much more difficulty in arranging the assembly of Committees in Delhi and Simla than at provincial headquarters. Delays would also be more serious and vexatious than are likely to occur in the provinces, nor in view of the nature of the business done is there the same justification for the Committees as there is in the provinces.'

Later on they say :

'Our present purpose is to develop responsible government in the provinces ; but the Government of India is to remain amenable to Parliament, and there is therefore no need to introduce into it an arrangement which we can justify in the provinces only on the ground of its educative value.'

So, the Government of India do not seem to think that we here have any claim to political education so far as these Standing Committees can give it.

In his note of dissent Sir Sankaran Nair took quite a different view.

'I do not agree,' says he, 'with my colleagues in discarding the provision about appointing Members of the Assembly to positions analogous to that of Parliamentary Under Secretaries or the Standing Committees. At present, or under the new scheme, there is no means of non-official Members acquiring that knowledge which can be acquired only by holding an office. The knowledge of Indians in the public services will not be available to non-officials for criticism of Government proposals. The Ministers will have intimate knowledge only of the transferred departments, and that also only in the provinces. These Under Secretaryships and Standing Committees will enable the non-officials to acquire that

[Mr. K. C. Neogy.]

information which they would otherwise lack. In the earlier stages of discussion, it was generally admitted that these would form a good training ground for future administrators. It is undesirable, therefore, to drop them.'

The first despatch is dated the 5th of March, 1919. It seems that later on the Government of India somewhat modified their views on this matter, because we find that, when, on the 13th of October 1919, Lord (then Sir James) Meston was called in for the third time before the Joint Parliamentary Committee as a witness on behalf of the Government of India, he mentioned that he had received some additional instructions on certain points, and on page 544 of the Evidence Volume we find that he stated that—

'In regard to the Standing Committees with the Government of India and the Parliamentary Under Secretaries they (the Government of India) would ask that, if those institutions are accepted by the Joint Committee, an exception should be made in the case of two Departments, the Army Department and the Foreign and Political Department.'

Well, Sir, my demand to-day is nothing more nor less than this, that the position which Lord Meston took up on the 13th of October, 1919, should be maintained. Then Sir, I have already read out the Report of the Joint Select Committee which shows that, after Lord Meston's evidence on this point, the Joint Committee made a recommendation that these Standing Committees would be a useful instrument for the political education of non-official Members, although the Committee have left the various questions relating to the constitution and appointment and other things to the discretion of the Governor General.

Sir, since coming to this House, I made an inquiry on the 1st of March as to what was intended to be done in regard to this proposal to associate Standing Committees of the Indian Legislature with the different departments of the Government of India, and the reply was as follows :

'A Standing Finance Committee of this Assembly has been appointed. It is not proposed, at present at any rate, to appoint any other Standing Committee of the Legislature.'

So I did not lose heart, and I have brought forward this Resolution to-day. Now, Sir, so far as the question of principle is concerned, I think that by the appointment of the Standing Finance Committee, the Government stand committed. And, if I remember aright, the Honourable the Finance Member paid a glowing compliment to the Standing Finance Committee in Simla for the valuable assistance that it had rendered to his Department in connection with the supplementary estimates. Therefore, Sir, it seems to me that some, at least, of the apprehensions which found expression in the Government of India despatch are baseless. As I promised I would not use very many words of my own to commend this Resolution to this House, I do not propose to speak further.

Mr. Sambanda Mudaliar (Salem and Coimbatore, *cum* North Arcot : Non-Muhammadan Rural) : Sir, I rise to support the Resolution which has just been moved by Mr. Neogy. I think the principle of appointing Committees is rather familiar to many of us here. Under the Municipalities Act and even under the Local Boards Act, various Committees are appointed, such as Finance Committees, Sanitation Committees and various other Committees, and the function of these Committees is to advise the Executive in their work of administration. Such Committees, if appointed here, will, I daresay, be of the greatest use. If I am correct, I remember having seen in the papers that the Madras

Provincial Government has recently appointed two or three Committees, such as Abkari Committee, Forest Committee and other similar Committees also ; and I think that the same experiment may also be made here. As the learned Mover has just said, the Standing Finance Committee's work has been appreciated by the Honourable the Finance Member himself, and I therefore do not see why similar Committees should not be appointed, the members of which may associate themselves with the various other Executive Council Members who are in charge of different portfolios. I think that this would be a very good thing. Moreover, the appointment of these Committees will have an educational value also, because it will be a training ground for Honourable Members who will be able to accustom themselves to official business also and acquire a grasp of principles. If such Honourable Members should ever rise to be Ministers or Executive Councillors, they will be better acquainted with official business than they are at present. For such men it would afford an excellent training in the principles of the art of Government, so that, in the event of their being subsequently appointed to these high offices, they will find the work easy. I therefore heartily support this Resolution.

Mr. J. N. Mukherjee (Calcutta Suburbs : Non-Muhammadan Urban) : Sir, I also rise to support the Resolution which has been moved by my friend, Mr. Neogy, and for the reason which he has placed before this House. I will just supplement that reason by one or two observations which occur to me at the present moment. Apart from the educative effect of the motion, if carried, I may submit to this House that here is an opportunity for the Government to show the country that it is quite willing to associate the people in the administration of the country without any sacrifice of official power and authority. That is a very weighty consideration so far as I am concerned, and the Government cannot afford to lose such an opportunity under circumstances which I have had the honour of pointing out to this House. I therefore hope that there will be no opposition to this Resolution and that it will be carried by this House.

Bai D. C. Barua Bahadur (Assam Valley : Non-Muhammadan) : Sir, I beg to support this Resolution most heartily. Unless opportunities are given to the Members of this House and to the members of the public at large to learn the art of Government, how can the Reforms be expected to be successful? It is very important that this Resolution should have the cordial support of the Government also, so that the desired object be attained, namely, that the people may be fitted to govern themselves. If the request should be refused, then, Sir, a good opportunity will be lost both by the people and by the Government. In these circumstances I beg to support the Resolution.

Mr. J. F. Bryant (Madras : Nominated Official) : Sir, I merely wish to call attention to a statement made by the Honourable Member behind me (Mr. Mudaliar). He quoted the analogy of Madras, and he led us to believe that the Standing Committees there were elected by the Madras Council. My belief is that Committees, where they exist in Madras, are nominated by Government, which is a very different thing.

Mr. Sambanda Mudaliar : Sir, I never said that the Said Committees were elected.

The Honourable Sir William Vincent (Home Member) : Sir, the Mover of the Resolution, Mr. Neogy, has very properly put before the Assembly full citations from the Montagu-Chelmsford Report and also from the first despatch of the Government of India on Constitutional Reform in relation

[Sir William Vincent.]

to this subject. Some of the points which are made in that first despatch are of the nature of practical criticism, with which I will deal later. The first point, however, to which I wish to draw attention is that under the Joint Committee's Report the question as to whether these Standing Committees should be appointed or not, is left entirely to the discretion of the Governor General in the case of the Government of India. When I came to scrutinise this Resolution, I was a little doubtful as to whether it was primarily the function of the Governor General in Council to advise the Governor General as to what his duties were. I still doubt it, and, if we had detected the objection in time, perhaps we should have pressed it further, but it is too late to do so now. The practical objections or rather practical criticisms—for there are no insuperable objections as regards these Committees—are numerous. In the first place, there is the difficulty of getting people to attend. Now, we have at present a Standing Finance Committee; we have also at the moment a Committee sitting on the privileges of European British subjects in criminal proceedings; I believe I am right in saying that, on a date fixed for the meeting of the Standing Finance Committee the other day, three members were present.

Rao Bahadur T. Rangachariar: That was most exceptional. On the other hand, we sacrificed a lot of time in attending these meetings frequently. I refer to it only because the Honourable Member has referred to it.

1 P.M.

The Honourable Sir William Vincent (Home Member): I have no knowledge of the particular circumstances: I am merely stating the facts. I daresay they are capable of explanation and I am quite sure that Mr. Rangachariar would not neglect a public duty of that character if it was avoidable, and I did not mean to suggest it. But there is the fact that you cannot get men to attend Committees regularly. As to the Committee relating to the removal of racial distinctions in criminal proceedings, I had fixed tentatively the 4th of January for a meeting of that body; immediately I got protests from non-official Members, and quite reasonable protests, saying that they could not come up when the sessions were not sitting. During the sessions the difficulties are equally great; you know what is happening now. That very Committee is sitting to-day; it sat yesterday and half of us were unable to get away to attend it. Yesterday four witnesses were examined and Dr. Gour and myself, who were members—unimportant members no doubt, but still members—were unable to get down there to hear them at all.

Members of the Assembly are also aware that during the session, a great part of the time is taken up with Select Committees on Bills; and I think the Secretary to this Assembly will find it very difficult indeed to fit in time for them without attempting to find time for numerous Departmental Committees. Another point which this Assembly has to consider, is whether there is a sufficient number of men in this Chamber who are prepared to sacrifice their time and attend frequently in Delhi and in Simla, for some time, to deal with the ordinary problems of administration. There is an essential difference in this respect between the provinces and the Government of India. In the provinces you can get men, generally in the Presidency towns, in the headquarters of the province or in the immediate neighbourhood, who can come and attend Committees when required, but it is very difficult to get men to come up from Madras or Assam or some other of the remote provinces, to Delhi or Simla to attend Committees of this kind when required.

There is another point to which I want to draw attention, though it also is not an insuperable objection. It is the increased work which such Committees impose on the Secretariat. Now, the Secretariat of the Government of India, at the present moment, is over-worked to an extent that I do not believe is realised by any Member of this Assembly. Our officers are at work early in the morning and late at night; they take home work to do at night and many of them—I believe my Honourable colleagues will bear me witness in this House—are on the point of breaking down. If you propose to appoint Standing Committees which they will have to attend, they will have to procure papers, issue circulars, record conclusions and make various inquiries; those, therefore, who want to see such Committees must be prepared to pay for a considerable increase in the Secretariat staff. Whether it is desirable or how far it is desirable to do that in the present financial position, is not a matter for me to deal with.

Then there is a third point, *viz.*, that the appointment of Standing Committees of this kind must lead to great delay in disposing of cases. They cannot meet oftener, say, than once in two months; you could not expect a gentleman from Madras to come up oftener than once in two months to Simla for this purpose.

Now all these are not purely theoretical objections that I have evolved myself. They are practical criticisms which deserve careful attention. May I cite also to the Assembly what the experience of these Committees in other countries has been? I have had inquiries made as to the effect of this system in France and America. Speaking of America, Lord Bryce said:

‘The scrutiny to which the departmental Committees subject the department is so close and consistent as to occupy much of the time of the officials and seriously interfere with their duties. Not only are they often summoned to give evidence, they are required to furnish minute reports on matters which a Member of the Congress could ascertain for himself. Nevertheless the House Committees are not certain to detect abuses or peculation, for special Committees of the Senate have repeatedly unearthed dark doings which had passed unsuspected the ordeal of a House investigation.’

He goes on to say:

‘This system destroys the unity of the House as a legislative body; it prevents the capacity of the best members from being brought to bear on any one piece of legislation, however important; it cramps debate; it lessens the cohesion and harmony of legislation. It gives facility for the exercise of underhand and even corrupt influence. It reduces responsibility. It lowers the interest of the nation in the proceedings of the Congress. It throws power into the hands of the Chairmen of Committees. They practically become a second set of Ministers before whom the departments tremble and who, though they can neither appoint nor dismiss a postman nor a tide-waiter, can by legislation determine the policy of the branch of administration which they oversee.’

These are not my criticisms. But I put them to the Assembly as the observations of a great authority. Nor in any case would Committees of this Assembly exercise the same power, under the present system at any rate; but these are criticisms which this Assembly, I think, will do well to weigh. As regards Europe, the committee system is stated by a competent observer, Professor Lowell, to have sapped the authority of the Ministry and weakened the Government in more than one nation of Continental Europe. He also cites Monsieur Dupriez in his work on Ministers of the principal countries of Europe and America as painting in very strong colours the evils of the French Committee system. This writer points out how little influence the Ministers have with the Committees who often regard them almost as the

[Sir William Vincent.]

representatives of a hostile power in the State. He shows that, while the Ministers have no right to be present at Committee meetings and are invited to attend only when they wish to express their views, the Committees claim the right to examine the administrative officers, insist on seeing books and papers and volunteer advice. Indeed, he goes on sarcastically to remark at the end that the Government and the Committee are never in perfect accord except when the former submits to the latter. Now, that would not be the case exactly here, because any Committees appointed would be advisory. But at the same time any Member of the Government might be put in a very difficult position by members of a Committee. They ask for papers and the Government says 'No, they are not going to be put before you'. 'Very well, my friend,' the Committee say, 'you wait till we get the Assembly down on you; you are not going to accept our views on the subject; we will see what the Assembly has to say to that.' In this way a Committee could in fact establish indirectly very great control over the Executive Government, a control which is not contemplated by the Government of India Act at all. I admit, on the other hand, the assistance of Committees has proved eminently useful to Government on many occasions, and I do not want to depreciate the value of the Committees with which I have been associated—Committees such as the Repressive Laws Committee, the Press Committee, this Committee which is now sitting, where, I believe, matters will be thrashed out satisfactorily regarding these racial distinctions. Similarly, I myself think and have thought for some time that, in the Home Department a committee to examine proposals for legislation generally would be of very great value. At present Dr. Sapru and I have to deal with a great number of Bills submitted by non-officials, of which it is very difficult indeed to form an opinion. Now, I cannot but think that the association of a number of eminent Members from this Assembly would be of the greatest assistance to Government in considering questions of that kind; I believe also the question has been considered as to whether a Committee might not be of any use in relation to other subjects, such as railways, but I have no authority to speak about that. I suggest, therefore, to this Assembly that the proper way to utilise the services of Members of the Assembly is not to appoint Committees in the manner suggested, but in some cases to appoint *ad hoc* Committees, if I may use that term, for the investigation of particular questions, and in other cases, to appoint general Committees to deal with particular subjects in any Department. As I said now, in the Home Department it would be quite impossible for us to carry on our current work in the political section with the assistance of a Committee. We have to act at once, and, indeed, a great deal of the papers with which we deal are of a very confidential character. But there are many subjects, at any rate there are some subjects certainly, in which the assistance of a Committee might be very useful. That, however, is only my personal opinion. As I said, the matter is really one for decision by His Excellency. In the conclusion of his speech the Mover referred to the Standing Finance Committee and suggested that that affords a precedent for appointing Standing Committees in the various Departments. Now I venture to put it to this Assembly that there is no analogy between the two bodies. The Standing Finance Committee is a very different thing from a Standing Committee attached to a Department. I understand, for instance, that the Finance Committee has nothing whatever to do with anything on the revenue side. It merely examines certain items of expenditure which are in any case coming before the Assembly in the

form of Budget grants at a later stage. With the more intricate and scientific side of the Finance Department's work, or indeed with the connection between the Finance Department and the Local Governments, I think the Standing Finance Committee has no concern whatever. It is a mistake, therefore, to suppose that the Standing Finance Committee would afford a precedent for appointing Standing Committees to take part in the whole of the work of any particular Department. Indeed, in my Department, and I am sure in other Departments as well, for instance, in the Foreign and Political Department, it will be quite impossible to have a Standing Committee to deal with all the various subjects with which we are in touch. There is another Committee now already in existence, namely, the Statute Law Revision Committee, on which some of the Members of this Assembly sit. That is a very small Committee, I think there are about five members, but even they find it very hard indeed to attend to their duties on that Committee without sacrificing a considerable amount of time which they find it difficult to do, having regard to their private business. In the circumstances, I suggest that the Assembly would be wise in recommending a trial of a Committee or Committees on particular subjects, but certainly not Standing Committees attached to all the Departments in the Government of India. If you have Committees of seven or eight attached to each Department, this would involve a burden on the time of the Members of this Assembly which they could not possibly bear. Further, I suggest the real method in which a Legislature ought to exercise control over the Executive is that which obtains in Great Britain. You have there, I suppose, the most powerful and the most successful form of legislative constitution. The Parliament is able to bring the greatest influence to bear on the Legislature in many ways which are perfectly open to this Assembly. I believe that it would be to the benefit of the Government of this country, whether democratic or in its present form, that the Assembly should follow British lines in that respect rather than adopt American or French lines. It may be possible for Committees, such as are proposed, to do admirable work in the provinces, but now and in the future, when India acquires a greater measure of responsible Government, I believe that it will always be essential that the Central Executive Government should be a strong Government, able to come to rapid decisions and see immediately that they are carried out, and that the control of the Legislature over the Government should be exercised as it is in the British Parliament. Perhaps some Honourable Members of this Assembly are aware of the advice that John Stuart Mill, the great constitutional authority, gave on these points. He said that :

'When a public body knows what it is fit for and what it is unfit for, it will more and more understand that it is not its business to administer, that it is its business to see that the administration is done by proper persons and to keep them to their duties. * * * It is more consistent with the capacity of a popular Assembly, to see that the business is transacted by the most competent persons; confining its own direct intervention to the enforcement of real discussion and the publicity of the reasons offered *pro* and *con*; the offering of suggestions to those who do the work, and the imposition of a check upon them if they are disposed to do anything wrong.'

That is a method in which, I believe, this Assembly could properly act. I have in my mind a statement made by Sir Sivaswamy Aiyer yesterday. Honourable Members will remember that Dr. Gour suggested that before the Executive Government had taken action in regard to certain activities of the non-co-operation party, we should have obtained the direct assent of this Assembly. Sir Sivaswamy Aiyer then seemed to me to get at the point at

[Sir William Vencent.]

once, and he said that this was not the constitutional way of looking at it; it is necessary that Government should have power to act immediately and decisively, and the proper way in which control is to be exercised by this Chamber is by attacking, criticising, opposing and even censuring the Government in the House on its action later if it considers that it has done wrong.

I hope that if I give the Mover of this Resolution the assurance that I have given, namely, that the Government are prepared to consider this question of appointing tentatively a Committee on particular subjects, he will not find it necessary to press this Resolution further. To appoint Standing Committees to every Department of Government, even if the Army and Foreign and Political Departments are excluded, will be imposing upon the Members of the Assembly a greater task than they can possibly carry out, and will involve great delay and considerable expense and dislocation of the public business.

Dr. H. S. Gour (Nagpur Division : Non-Muhammadan) : Sir, it is very refreshing to hear the very sympathetic, though very disappointing, reply of the Honourable the Home Member, but as a practised speaker and a lawyer, he must be aware of the weakness of his case, because he knows that the argument of *non possumus* is resorted to by people who have nothing better to say. Let me place before this Assembly the various reasons he has given for opposing this very modest and reasonable Resolution. I have categorised them, and I propose to deal with his several objections in their order.

The first objection of the Honourable the Home Member is this. He says : 'Gentlemen, I speak in your own interests and for the dignity of your own House.' Quoting Mill and Bryce, he says : 'You will not attend'. He gives two instances of Committees in which there has been an absence of members. Now, I am a member of both. First of all, referring to the Racial Distinctions Committee, the Honourable the Home Member said that out of deference to the official members, he fixed provisionally the 4th of January as the date for the assembly of that Committee at Delhi. But he quite unconsciously forgot to mention as to when he intimated that date to the members concerned. He knows that the majority of the members are busy lawyers and would he be surprised to hear that he did not give more than 48 hours' notice for some members to come up from long distances? He could not therefore be surprised if he found that the members were not ready to employ an aeroplane service to reach Delhi within 48 hours of the notice given to them. As regards the Statute Law Revision Committee, does the Honourable the Home Member know that the notice given to the members of that Committee was even shorter? I appeal to my colleague, Munshi Iswar Saran, to verify the fact. We were in Calcutta and we were told at the last moment that the Committee would meet on a certain date. So far from there being any anxiety to shirk the work of these two very important Committees, there is every desire to serve upon them, but the shortness of the notice given to the members accounts for the absence of some of them. That is with reference to the two instances which the Honourable the Home Member has given.

Then, secondly, he mentioned the question of cost which would be necessarily involved in having to increase the Secretariat work. I think this is an old chestnut, a stale argument with which this House is very familiar. Meetings take place for three days and four days

a month, and when protests after protests are made by this Assembly we are being treated to this argument that the Secretariat is insufficient to cope with the work of this Assembly. My Honourable friend has not told us what would be the increased cost and whether this Assembly would not be prepared to defray the extra cost involved and the Honourable the Finance Member has not got up and said that, if the proposal of the Honourable Mr. Neogy is carried, he will not survive the shock or that the British Indian Exchequer will have to sue for insolvency. I therefore submit that the question of cost need not detain us.

Then comes the question of delay. Now, Sir, the Honourable the Home Member may take an assurance from the Members of this House that, far from there being any delay, it will facilitate the disposal and despatch of work. At present the work is done by the Departments concerned. It is then discussed and agitated and re-agitated in this House, and I am perfectly certain that the Honourable the Home Member will himself admit that much of this time, while the Assembly and the Council of State are in session, is spent on the floor of this House. All that time would be saved. (*Mr. N. M. Samarth*: How?) I hear an ejaculation from a most unexpected quarter, from a gentleman who proceeded to England and could not be unaware of the confabulations and deliberations of the Joint Parliamentary Committee. It is there stated that, if Council Secretaries are appointed, they will bring the Government nearer to the Assembly and save the time of the permanent officials, and the Standing Committees will thresh out matters and thereafter explain to this House what the permanent officials have now to do. After this statement, it is a question of addition and subtraction, and I can be sure that my Honourable friend, the interjector, is not above it.

Now, Sir, I pass over the two eminent authorities which the Honourable the Home Member has cited. But I beg to ask the Honourable the Home Member: 'How far are we from America?' If I were to ask you, Sir, to open the windows because it is warm, the Honourable the Home Member would read to me the latest Reuter's telegram and say: 'No. There are snow storms in London. You cannot open the windows here'. He might just as well have cited Bryce to apply to the entirely anomalous, unprecedented constitution of this transitory body called the Legislative Assembly. Neither Mill nor Bryce nor any constitutional lawyer ever thought of the weird constitution of which this India of transition is for the time being possessed.

Now, Sir, I think his argument was moving in crescendo. The last argument was really his real argument and that was that the appointment of Under-Secretaries or Parliamentary Secretaries and Standing Committees . . .

The Honourable Sir William Vincent: May I make a correction? I never said anything about Council Secretaries. I was purely dealing with Standing Committees.

Dr. H. S. Gour: That the appointment of Standing Committees means so much loss of power. That is the crux of the whole case. He should have put that argument first. But he brought you, in his extremely subtle way, to the reception of that argument by first of all appealing to you in your own interests not to join this Parliamentary Committee, and he told you how you will lose your time and how precious your time is and how, after all the discharge of public duties and the onerous responsibilities that you bear upon your shoulders you would not suffer from a hunchback if you came and

[Dr. H. S. Gour.]

sat on these Standing Committees. If these arguments do not convince you, then he asks you to remember that the appointment of the Standing Committees would be incompatible with the present system of the Government of India and that it was not contemplated by the Government of India Act. Now that is the real question. That is the real issue, and upon that I join issue with the Honourable the Home Member. If the House of Commons and the British Parliament had been convinced of the reasons given by the Government of India in its despatch of the 5th March, that the appointment of these Committees and the association of the Members of the two Houses with the practical work of administration of the country, would detract from the bureaucratic character of the Central Government and was incompatible with it, then they would not have made a provision, which they have in the Government of India Act, for the appointment of Standing Committees. I, therefore, submit that the fact that this is part of the statute law betokens a desire on the part of the British Parliament that the people of this country must be trained in the practical art of administration, and out of deference to the objections of the Government of India and of the then head of that Government, the question was left to the discretion of the Governor General. I submit the mere fact that there is a provision made in the Act, the mere fact that the question was debated and examined by a responsible body and the conclusion is registered in the solemn Act of the British Parliament is my best justification to support this Resolution, and the burden of proof is upon the Government to show why they should not appoint Standing Committees. Then, Sir, we are told, 'We are perfectly prepared to throw at you odd crumbs from the rich man's table, but we would not admit you to our dinner table. We will give you small jobs to do and you should be satisfied because we can safely entrust you only with such doles as we can make from time to time.' Now, Sir, I submit, I ask the Honourable the Home Member, has he really and seriously considered what it means? Do you think that the Honourable Members of this House will be content to serve for such purposes and on Committees which the Departments may call upon them to do, when they have been expressly denied, as they have been denied to-day, the right and privilege of being associated with the various departments of the Government of India? I think, Sir, the fact that we have come here and have worked upon the Committees upon which we were appointed, the fact that we have done our best for the purpose of furthering the Reforms, the fact that we have done our best for upholding the executive Government, should be our best justification for asking that Government to give us, at any rate, an opportunity of learning the practical art of government. (*An Honourable Member*: 'Hear, hear.') You will remember the other day a discussion was raised in this House on the question of further reforms, and the English newspapers and the '*Statesman*' said that the Assembly lacked administrative experience. I ask this House to see that if these Standing Committees are appointed, the administrative inexperience from which it suffers would be soon dispelled.

One word more and I have done. The Honourable the Home Member quoted Mill. I am a student of Mill. May I ask the Honourable the Home Member to read the portion in that very book where he points out that this system applies to constitutions where the final and ultimate decision rests with the representatives of the people. Is that so here? Are we the final judges of all actions of the Executive Government? And as we are not the final

judges of the policy of the Executive Government, and as we are being trained to administer our country, I think both wisdom and expediency demand and dictate that this Resolution should be accepted by the Government.

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

The Assembly re-assembled after Lunch at Half Past Two of the Clock. Mr. President was in the Chair.

The Honourable Sir Malcolm Hailey (Finance Member): Sir William Vincent gave the House this morning some of the reasons for objecting to this Resolution, and entered into some of the difficulties we should have to encounter were we to put into force the procedure which has been recommended by it. I am for the present concerned rather with the criticisms which were directed by Dr. Gour against the speech of my Honourable friend. Now, Sir, this is an important question and one which may have great influence on the practical working of Government, and I must register a protest against any proposal to set aside those objections with the airy gesture adopted by Dr. Gour. It is all very well to tell us, Sir, that *non-possumus* is a weak argument in legal circles and that every lawyer knows it to be a weak argument. I am not very well versed in the arguments which that astute body uses to dispose of its opponents, but I do know that in the practical affairs of life *non-possumus* is a final argument, for if a scheme cannot be carried out for practical reasons, then it falls to the ground. It is all very well, Sir, for Dr. Gour to resent Sir William Vincent quoting to us the conclusions of Bryce in regard to the working of the committee system in the United States or warning us of the failure of that system in France. I am astonished that any one here should brush aside so lightly the lessons to be learnt from the constitutional history of other countries, for to do so would deprive us of one of the greatest safeguards that we can ourselves adopt to obviate difficulties in the development of our own constitution and its conventions. Nor is it possible to accept what he has said regarding the difficulty pointed out by Sir William Vincent in securing the regular attendance of members of our Select Committees with a view to the proper despatch of the business of those Committees. It may be well assumed that I am not opposed in any way whatever to the fullest association of the Members of the House in the work of Government; I should be the last person to resent the suggestion that it is desirable to educate the Members of the House in administrative work. I took the earliest opportunity myself of asking the House to constitute a Standing Finance Committee to deal with certain definite classes of our expenditure work. As far as that is a concession of principle, I am willing to stand by it. I have been associated with that Committee throughout and have derived the utmost assistance from it; equally I believe that the Members of that Committee in the course of their many and arduous labours have learnt much regarding the administrative work of Government. But the fact remains that we have had no little difficulty in securing a full attendance not only at the meetings of that Committee but of many other Committees with which we are associated. If you need any further proof of that, Sir, may I read from a paper which I placed on the table of the House yesterday? It is the Report of the Select Committee of both Houses on the Income-tax Bill, a measure of no little

[Sir Malcolm Hailey.]

importance to the country. I quote it in particular reference to the remark of Dr. Gour. One of the paragraphs reads as follows :

‘Dr Gour and Mr. Narayan Das Girdhardas were unable to attend the meetings of the Committee.’

Now, Sir, that Committee assembled only a few days before this session, and it sat throughout the earlier meetings of this session. That other important work engaged the energies of my Honourable friend at the time, I am well aware; he has given his time freely to Government and Committees of this Assembly; I merely adduce this fact as illustrating the truth of the contention that difficulties do actually occur in securing full attendance on these Committees. I ask you now to magnify the problem and imagine what would be the difficulties if we were to ask this House to give us something between 50 and 60 Members to attend constantly at the headquarters of Government and assist in its current work. For, Sir, if a Standing Committee is to be associated with each Department of Government, as suggested by the Resolution, and is to take a serious grasp of the work of that Department, it must take part in the current work of the Department. The work of Government is continuous; you cannot always isolate questions of policy and questions of detail; they are inter-woven and involve a continuous series of connected decisions. Many of the matters dealt with are urgent. It would be quite impossible for us to defer, until some convenient occasion such as the meetings of this Assembly, the many an important questions with which the Department has to deal in its current operations. Let me repeat, Sir, that to carry out this proposal in full would require the attendance of at least 50 or 60 Members practically throughout the year at the headquarters of the Government of India. Now, Sir, attach what value you will to the legal value of the argument of *non-possumus*; my reply is that I have there a practical *non-possumus* which must be faced. So much for the working difficulties of the proposal. As Sir William Vincent pointed out, they may not necessarily be insuperable, and he put before you an alternative; but before I come to that, I desire to put before the House in somewhat fuller detail what constitutes the work of a department, and to analyse the exact value which the Standing Committee would afford both to the operations of Government and as to the education to the Members of this House. I take by preference my own Department, though this is in some sense an exceptional case. For, Sir, while the operations of other Departments only come up for occasional review (this is perhaps less true of the Home Department than of other Departments) by means of Resolutions and questions, my Department is one which stands in a peculiar position, for once a year the whole of our operations come under review and very complete review by this House. We have to explain what we have done with the money voted by the House during the past year. We have to explain whether our anticipations of revenue have been fulfilled or not. We have to explain to it why and how in any particular case we have exceeded the grants made to us. We have to lay before the House a very complete scheme of operations, not only of revenue and expenditure, but of ways and means finance for the coming year. We have to justify this to the House, and we have to obtain practically every penny of it in the form of a direct demand for a grant. In this sense my Department stands on a special basis, and the Assembly is to this extent already associated very fully with its operations. But it has much in common with

other Departments, and the lessons to be drawn from examining the work of that Department will be of general value. One branch of that Department is concerned purely with expenditure work. Proposals for new expenditure are first examined in full detail in that branch, and if they are passed by the Department, come before the Standing Finance Committee. But I wish to point out that this is work of great volume and great detail. It would be quite impossible for any Committee to sit with us day by day and go through the whole of the great volume of cases that come up to us. It is not possible to do more than to assemble a Committee to go through the more important cases which have passed through the scrutiny of our Department and have been admitted by it.

The second branch of my Department is concerned with such matters as financial rules, financial regulations and relations with the Provincial Governments. Now, Sir, while on questions of general financial policy the advice of a Committee might be both of importance and of interest, yet I think it will be granted that few Members of this House would care to attend day after day and month after month purely for the purpose of revising financial rules and financial regulations. Then comes a very important branch, I mean that relating to what we call pure finance, that is all those questions relating to the provision of ways and means, the adjustment of remittance transactions, the paper currency issue, the raising of loans, and the provision of every day finance by means of Treasury Bills, advances from the Bank, and the like. Now, that is work which demands that we should frequently take immediate action; a great part of it is conducted by telegraphic communication; there are frequent consultations with experts, and part of the work is of a class which must essentially be conducted with the utmost secrecy. I put it to any business Member of this House whether it would be possible for us to lay before a Committee meeting at considerable intervals of time proposals for increasing or lowering the rate of Treasury Bills, whether it would be possible for us to discuss with any Committee the terms on which we propose to issue a loan. It would astonish me to learn that such matters are put before a Committee in any country in the world, and would ask any Member of the House to say whether in his opinion such proposals could reasonably be discussed with a Committee. Yet if a Standing Committee were to be associated with the current work of the Department, that is the class of work which would come before it.

(A voice: Not necessarily—who wants them?)

Then what else would you place before it?

Now, Sir, I have analysed the work which is discharged in my Department; as I have pointed out its operations are continuous and while they occasionally involve questions of policy, it is difficult to isolate policy and its execution. I am free to admit that on important questions of policy it might be well to seek the advice of a Committee convened for the purpose. But I maintain that for the current work of the Department and for the ordinary administrative work of the Department, a Committee is not a suitable form of assistance. I maintain, further, that it would be impossible to keep with us a Committee of sufficient numbers really to represent the opinion of this House, or carry weight with it. That is a practical and outstanding difficulty to which myself can see no solution whatever. And let me repeat again, Sir, that in pronouncing this difficulty to be insuperable, I am not speaking as an intransigent opponent of the general

[Sir Malcolm Hailey.]

principle that Members of this House should be associated in the work of Government, for, as I said before, I have given proof, and practical proof, to the contrary.

I have made one reservation, Sir, and that is, on questions of general policy the work of a Committee would frequently be of the very greatest assistance to us. I can well conceive that in many Departments it would be of the highest value if a Committee—a Standing Committee if necessary—were appointed to deal with definite subjects. I can well conceive, for instance, that in connection with the Department of Commerce it may be well that there should be a Standing Committee to advise Government on many questions of policy relating to railways. I am not going to make any suggestions to my Honourable friend Mr. Sarma, but I can well conceive that emigration is a subject on which a Committee could frequently advise with excellent results, because emigration is a subject dealing largely with questions of policy. Here negotiations have to be carried on with other Governments and Dominions, and time is available for the full discussion of such questions: the questions of policy involved are of the very deepest interest to this House. On such points, therefore, namely on points of policy, I can well imagine that it would be of the greatest value if Committees dealing with definite subjects were appointed. But what I do protest against, Sir, is any suggestion that Standing Committees should be appointed to deal with the current and everyday work of a Department. That, Sir, is my point: and again I say, when I make that point, I base my objections to the Resolution on the safe ground of practicability: and I appeal to Members of this House, as practical men, not to support a proposition, which, as it stands, would be of so little assistance to the House and so entirely unworkable in practice.

Mr. N. M. Samarth (Bombay: Nominated Non-Official): Sir, I see a great deal of force in what the Honourable the Home Member as well as the Honourable the Finance Member have pointed out to us in their speeches. I think the original proposal of having Standing Committees associated with the Government of India had nothing to do really with the current business of the Departments, and the idea was really to associate Standing Committees in order that they may advise the different Departments, except the Army and Foreign and Political Departments, and to that extent I take it that the Government of India will be pleased to recommend to His Excellency the Governor General the appointment of such Committees. And I may remind the Honourable the Home Member and the Honourable the Finance Member that, whatever their views were before, when Sir James Meston went to give evidence, the President, Lord Selborne, asked him first, 'I think the Government of India have instructed you to put forward some more evidence,' and he said 'Yes'. And then he put forward some more evidence in modification of the previous views of the Government of India in their despatch: and on this subject of Standing Committee he said:

'Then in regard to Standing Committees with the Government of India and Parliamentary Under Secretaries, they'

that is, the Government of India,

'would ask that if these institutions are accepted by the Joint Committee, an exception should be made in the case of two Departments, the Army Department and the Foreign and Political Department. They think that the danger, to put it quite frankly, of leakage in those very important Departments, where secrecy is of such high importance, justifies them in recommending special treatment.'

That was their view, and I take it that they adhere to that view. The Joint Parliamentary Committee then recommended :

'That the Committee think that it may often greatly assist the political education of India if Standing Committees of the Legislative bodies are attached to certain Departments of Government. But they only express this opinion on the understanding that the appointment of such Committees, their composition and the regulations which govern their procedure shall be matters wholly and exclusively within the discretion of the Governor General.'

I, Sir, with your permission beg to propose an amendment to this Resolution, so as to bring it into line exactly with the idea which the Joint Parliamentary Committee had and which the Government of India, through Lord Meston, put before that Committee. My amendment is this :

'After the words 'Governor General in Council' add the words 'to be pleased to approach His Excellency the Governor General with the recommendation.' And then delete the words 'elected by the Members of the Legislature,' and substitute the words 'of the Indian Legislature.' And at the end of the Resolution, after the word 'Departments,' add the following words : 'their composition and the regulations which govern their procedure, being matters wholly and exclusively within the discretion of the Governor General.'

I think, Sir, that gives ample scope to the Governor General to so frame the regulations that the Standing Committees will really have nothing to do with the ordinary current business, or interfere with the working of the Departments. The regulations may also be so framed that these Standing Committees will have nothing to do with the Departments where leakage of information is such an important consideration ; and they need only be called upon from time to time to advise on matters of policy. Now, so far as this amendment is concerned, I hope there will be no objection on the score of notice, and there should be no objection to the proposal being accepted by Government. I had absolutely no time to give notice.

The Honourable Sir William Vincent : If I may interrupt the Honourable Member for a moment, Government certainly will make no objection on the score of want of notice.

Mr. N. M. Samarth : Then, Sir, I beg to propose the amendment which I have read out.

Mr. P. President : There being no objection on the score of notice, the amendment is accepted. The amendment is :

'After the words 'Governor General in Council' insert the words 'to be pleased to approach His Excellency the Governor General with the recommendation'; to delete the words 'elected by the Members of the Legislature', and substitute the words 'of the Indian Legislature'; and after the word 'Departments' at the end, add the following words 'their composition and the regulations which govern their procedure, being matters wholly and exclusively within the discretion of the Governor General.'

Mr. R. A. Spence (Bombay : European) : Sir, I think the Resolution which has been moved to-day is one which commends itself from one point of view very much to Members of this House. I think it is a Resolution which gives expression to that feeling we all have that we should gradually be trained in the administrative work of Government. But I think that the arguments which have been adduced by the Honourable the Home Member and the Honourable the Finance Member are very strong arguments against the appointment of Committees attached to various Departments instead of

[Mr. R. A. Spence.]

having Committees attached for special purposes. But I am still very keen indeed on seeing Members of the Legislature taking their place more and more in the administration of Government. We know from practical experience what difficulty there is in getting several people to come up to Delhi or Simla and serve on a Committee. That difficulty would, I consider, be very much lessened in the case of single individuals serving as Secretaries. And if I am in order, Sir, on such a Resolution as this, I should like to give expression to my feeling that we should try and train up in this country what at Home, I understand, are known as Parliamentary Under-Secretaries. I do not think that if Members of this Assembly or of the Council of State were attached to the various Departments as Secretaries there would be that danger to which our attention has been drawn by the Honourable the Finance Member. I do not think also that there would be the same expense which large Committees would necessarily involve; and I think that these Secretaries would be able to save the time of Members of Government attending this Assembly by answering questions and being always there ready to give expression to Government's policy. It seems to me that what we want is that the Government Secretaries, I mean the men of the regular services, should be relieved and given more leisure to carry on the work of their great Departments. We do not want them to suffer by having to attend here day after day, day after day. What would meet the case, I think, is if Members of this Assembly or of the Council of State were appointed as Parliamentary Under-Secretaries—if I may use an expression which last session was objected to as un-Parliamentary;—they said we were not in Parliament because we never spoke. I do not know, Sir, whether the same indulgence will be given to me as was given to the previous speaker to move an amendment. But if permission were given to me, the amendment which I should like to move is that this Resolution should read as follows:

'This Assembly recommends to the Governor General in Council that Members of the Legislature, nominated by His Excellency the Governor General and approved by the Legislature, be associated with the different Departments of the Government of India, other than the Army and the Foreign and Political Departments, as Parliamentary Under-Secretaries, in order that they may be trained up in the administration of Government and relieve the Government Members and Secretaries of a part, at least, of the work in the sessions of the Legislature.'

Now, why I should like to see those Parliamentary Under-Secretaries nominated by the Governor General, is because, first of all, it is essential that the person whom the Legislature is going to approve of as a Parliamentary Under-Secretary should be one who is likely to turn out a successful Secretary. We do not want the election of Parliamentary Under-Secretaries to be merely a matter of politics, or just voting for the most popular man. Therefore I suggest that nomination in the first place should come from the Governor General; but as the gentleman selected is to represent in the House the views more or less of the Legislature, the Legislature should therefore be allowed to approve his appointment.

Whether my amendment is acceptable or whether it is out of order, I do think that that is the line we should adopt. I think we have heard definite evidence on the subject of these Committees, and I think, in view of what has been said, we cannot vote for this Resolution as it stands, but I do feel that more opportunity should be given to Members of this House to take part in the administration, and I think that the appointment

3 P.M.

of Under Secretaries would be to the benefit of Government Members. If I have your permission and that of the House to move the amendment I will do so ; if not, I will simply give it as my expression of opinion.

The Honourable Sir William Vincent: I think the Assembly will realise that amendments proposed at the very last moment even in the Assembly put the Member of Governments in charge in a very difficult position. I was quite willing to accept Mr. Samarth's amendment, waiving the question of notice, because that arose out of the Resolution. But this is entirely a new question which Mr. Spence has raised. If I enunciate to the Assembly the manner in which Government decide the action to be taken upon Resolutions, I think they will appreciate, at any rate, my difficulty. All important Resolutions go before the whole body of the Executive Council, less important Resolutions are taken up to His Excellency, but in no case is the matter left with any individual Member to decide, not at any rate in the Home Department, and I believe this is true of the other Departments. I am therefore in great difficulty in publishing a decision on the part of Government on an entirely new question of this kind when I have not had an opportunity of consulting my colleagues. If it would meet Mr. Spence, I shall be quite prepared to undertake to put this question up before the Government for their consideration. But I really must ask, Sir, if new questions of this character are brought in, that we should receive notice.

Mr. R. A. Spence : I withdraw the amendment.

Mr. President : I can remove the Home Member's difficulty.

The proposal of the Honourable Member from Bombay is to associate with Government Members of this Assembly in a more or less executive capacity, that is to say, it creates certain new executive offices. The proposal before the House is to associate in a consultative capacity Members of this House in the form of Committees with the Executive Government. Now, his proposal goes beyond the strict terms of this motion and ought to be made the subject of a separate proposal standing by itself.

Rao Bahadur T. Rangachariar : Sir, I am afraid a great deal has been read into this Resolution, which is not there. All that this Resolution recommends is that Standing Committees be associated with the different departments of the Government, excepting the Army and the Foreign and Political Departments. The Resolution does not say that the Standing Committee should consist of ten members, so as to mount up the figure to 50, as the Honourable the Finance Member would have it, nor does the Resolution say that the Standing Committee should be associated with every-day current work of the Department. These are the two large assumptions which have been made on behalf of the Government as having been embodied in this Resolution, on which they have based their practical objections. Sir, speaking as a member of the Finance Committee, I quite realise the practical difficulties and the great sacrifice which we members have to make in undertaking duties of this sort. Reference was made, Sir, to the difficulty about the Finance Committee, and Mr. Spence takes it as evidence of the difficulty. I expected the Honourable the Finance Member to have made a statement with reference to the actual position of the Finance Committee; I am surprised he did not. What are the facts with reference to the Finance Committee? We had sittings for

[Rao Bahadur T. Rangachariar.]

nearly ten days in June. Most of us attended and gave our valuable time to that Committee. Again, Sir, most of us attended the sittings in September and gave our valuable time to it, nearly a week and over. Sir, first of all the last meeting was announced to take place on the 12th of December when some of us on the Finance Committee were also asked to serve at Calcutta on the Railway Accounts Committee between the 2nd and 10th of December, and again to come up here on the 12th of December. That is why that meeting could not be held. Then the meeting was posted to the 2nd of January. At that time Mr. Joshi was away in England doing public work. Mr. Venkatapathi Raju was on his way to Fiji to do public work. Mr. Jamnadas Dwarkadas was away on public duty on some Committee. I was assigned a house in Raisina for the purpose of staying with the Finance Committee. On the day I booked my passage, there came a letter cancelling the quarters. I was to come here, Sir, in December, and take my chance of getting a quarter in the cold season. I refused to do it. I intimated the fact to the Honourable the Finance Member through the Secretary of the Finance Committee. I am yet to receive an explanation for this treatment. I had to cancel the booking of my car, I had to cancel my berth in the busy Christmas season; we could not get conveyances and carriages and I was put to a lot of inconvenience. I hear some mention was made of this difficulty in the newspaper. I did not see it. I was surprised that any reference was made to it. We have been ungrudgingly giving our time, and I may say I have been doing so to my cost, and doing our work. Therefore, I quite realise the practical difficulties. Having bargained, I expect my Honourable friends here elected by their constituencies will not grudge giving the time. I wait for an answer from all the Honourable Members that they are prepared to give the time necessary for learning the work and devoting care and attention to the discharge of the duties which they have undertaken at the hands of their Constituencies. (*Voices* : 'Yes'.) Sir, it is not necessary that the Committee should be large. A Committee of two is a Committee. What is the practical difficulty in this Assembly electing a panel of 20 members or 25 members out of about 100 and odd members, and from out of the panel distribute the work for each session. What is the difficulty? It is possible to enumerate and magnify practical difficulties. I will take it up for one session. Some other Honourable Member will take it up for another session. In that way really the work can be managed. I know the value of being on Committees. I know by my own practical experience of the great benefits which I have derived from being on the Finance Committee, of the valuable instruction which I have received in the practical difficulties of administration from every head of the department who appeared before the Finance Committee. Sir, if I were making a budget speech this year, I would not be making it in that airy fashion in which I did last year. (*Laughter*.) That is due to the experience which I have gained. Sir, I want my Honourable colleagues to gain that experience. Without it you will find that the Government will be in more difficulties than now. It will pay the Government to take Members into confidence. The Honourable the Home Member referred to confidential papers. Are you not going to take us seriously into confidence? Are we such irresponsible people that you are afraid of placing confidential papers in our hands? Are you not placing most confidential papers in the hands of the members of the Racial Distinctions Committee? Have you not placed

confidential papers in the hands of the Press Laws Committee? Have you not placed confidential papers in the hands of the Repressive Laws Committee? Have they broken your confidence?

What is the fear of placing confidence in the Members of this House? The more confidence you place in them, the more response you will get and the more work you will get from them. You should be delighted to get work from them. The Honourable the Finance Member has handsomely acknowledged the assistance which he derives from the Standing Finance Committee. Out of the hundreds of papers which pass through the Honourable the Finance Member's Department, how many does he see? Perhaps the Deputy Secretary and the Under Secretary disposes of most of them. That is not the sort of thing we want. We want to be acquainted with the inner workings of each Department in order to know what are their practical difficulties or the various ways in which they have to contend with various questions, questions of policy and questions of finance. The Honourable the Finance Member referred to the difficulty of questions of policy in regard to finance. It is on these questions that I ask him to take the assistance of Members. If he had had that assistance, he would not have committed the blunder of issuing a loan in the London market without taking the Indian public into confidence.

The Honourable Sir Malcolm Hailey: Which loan?

Rao Bahadur T. Rangachariar: The last loan but one of 7½ millions. (*A voice:* 'He had nothing to do with it.') I know that, but if he had a Committee to assist him, his protest to the Secretary of State would have carried greater force and weight. Therefore, it is no use exaggerating the difficulties. If you are not willing to do a thing, you will always find difficulties. Where there is a will, there is a way, but where there is no will you always exaggerate and say how difficult it will be. I appeal to my Honourable colleagues, the elected Members of the Assembly, that they are taking a serious responsibility in passing this Resolution. We must be serious in our promise when we say that we are prepared to work, and if we are serious, and if we are prepared to sacrifice time, money and health, then by all means let us go in for it. It is worth going in for us, it is worth going in for the Government. Therefore, all these difficulties should not stand in the way. My Honourable colleague, Mr. Samarth, has come forward with an amendment objecting to the election by this House. I am surprised, Sir, that an elected Member of this House should do so. (*A voice:* 'He is not an elected Member'.) On the other hand, I have seen tabled on the list of Resolutions here a Resolution to the effect that every Committee appointed should be elected by this House. They will not command confidence if you merely leave it to Government to nominate Members. Look at the practical difficulties in making appointments to these Committees. The Government appoint me to three or four Committees and ask me to serve on them. How am I to serve? They are so enamoured of me that they ask me to serve on these Committees. How can I do justice to that work? If, on the other hand, you leave it to the Legislature, they will take jolly good care to elect people who will do the work. Therefore, I say that these difficulties should not be exaggerated. I strongly and earnestly appeal to Government to accept the Resolution. You have already accepted the principle of it. It is not said that you should all at once appoint to all the Departments. Appoint to two or three. Do make a beginning;

[Rao Bahadur T. Rangachariar.]

try it, and we are prepared to make it a success. We are anxious to co-operate with you provided you are willing to co-operate with us, but as long as you show a tendency not to take us into confidence, we will not have any confidence in you.

Therefore, I earnestly appeal to Government to accept this Resolution.

Mr. S. C. Shahani (Sind : Jagirdars and Zamindars) : Sir, this is a very important question, and I rise to draw attention to one aspect of it which has not been so far noticed by the Members of the Assembly. The Government ought to be thankful to the Assembly for suggesting that they should associate Standing Committees with the different Departments of the Government. I find in the first despatch of the Government of India on constitutional reforms that the primary object with which the idea of Standing Committees is entertained is to control the irresponsibility of the executive.

When I see that the Home Member questions the accuracy of this my statement, I feel that it is just possible that I have misunderstood the thing ; but I will be reading the passage in question to the Assembly, and in doing so I should be able to fix the interpretation that is to be put upon the passage. 'These apprehensions,' urged against the creation of Standing Committees, 'seem to us exaggerated. This idea of Standing Committees was first put forward as a means of associating the Legislature with an irresponsible executive.' So runs the passage. And then the passage goes on to say that the irresponsibility of Provincial Governments is to a certain extent reduced by the appointment of Ministers. But in the Central Government no Ministers have so far been appointed. This will be an additional ground then on which the Standing Committees proposed by my friend Mr. Neogy may find favour with the House.

I have said that the subject is an important one. On that account I would say something more with regard to the objections that have been raised to the acceptance of this proposal. The Honourable the Finance Minister has emphasised the necessity of the current or ordinary work being done by the Government without the help of the Standing Committees. The details I have no doubt might rightly be left to the Government ; but all business is transacted according to certain general ideas, and if these general ideas are considered by the Standing Committees, the transaction of even ordinary or current work will be a great deal facilitated for the Government.

It has been said with equal emphasis that 50 to 60 Members composing the Standing Committees from among the Assembly or from among the two Houses may not reasonably be expected to frequently attend at the headquarters of the Government for the work that will have to be done by them. This objection has been sufficiently answered by my friend Rao Bahadur Rangachariar. It is not desirable to appoint unwieldy Committees. He has also rightly remarked that the principle of election with regard to the appointment of these Standing Committees is to be preferred to the principle of nomination. We find that the same 3, 4 or 5 Members are selected for all kinds of Committees to the exclusion of the rest of the Assembly. How are the Committees then to do their work promptly and properly ? As a matter of fact, even some of those that are nominated to several Committees do not like it. One can hardly understand the reason why choice is limited to only a few. The principle of election is a vitally important principle to the realisation of responsible Government, and

I think, so far as we can help it, we should go in for it. One reason why the institution of Standing Committees elected by the two Houses or by the Assembly should find favour with us is this—that nomination will thereby have been reduced to some extent.

It has also been said with a great deal of force that the cost will increase, and in these days it is not good to add to the cost. I want to state that if 20 or 30 Members of the Indian Legislature are associated in the work of the Government, it will become easier for the rest of the Members to derive their information from them, and that the number of questions with which Government are now inundated will thereby be a great deal lessened. From this point of view, too, I think I would be right in saying that the cost would be decreased if the proposal of Standing Committees is accepted.

It has been further said that there has been no precedent for such an institution—that the Standing Finance Committee may not rightly be considered as a precedent. I suppose now only two Standing Committees are appointed—a Committee of Public Accounts, and a Committee of Finance, the nature of which is somewhat different. What does it matter if there have been no precedents? As a matter of fact, this very Assembly is a new institution, and if the institution of Standing Committees is a desirable one, it might be created without any regard being paid to the fact that there have been so far no precedents for it.

These are then some of the objections that have been urged against the acceptance of the proposed institution. The advantages that have been enumerated are the advantages of help that the Government will derive from the members of the Standing Committee, and the advantages that will accrue to the Indian Legislature from the connection that its members will come to have with Government. It has been also rightly said that it will be a great political education for the members of the Indian Legislature, and I have just now added that the irresponsibility of the executive government would be to some extent reduced if this institution finds favour with the Indian Legislature and is created. If we then put the objections on the one side and the advantages on the other, the preponderance will obviously be on the side of the advantages. The Honourable the Home Member himself evidently feels that the advantages will preponderate over the disadvantages, since he is prepared to recommend at once a tentative scheme of one or two Committees. I fail to understand why the scheme should be confined tentatively to two or three Committees. We might reasonably appoint Committees for all the Departments, except of course those that have been excluded by the proposer, and I cannot see why any fears should be entertained as to the success of the experiment. My own idea is that the experiment is bound to succeed, and that it will be an easy way of extending the constitutional reforms. With these remarks I beg to resume my seat.

The Honourable Sir William Vincent: Does the Honourable Member propose the amendment that stands in his name? He has not done so.

Mr. S. C. Shahani: My object in proposing the amendment of which I have given notice is that in the other House there may be a difference of opinion. Here, too, I feel that the opinion is divided. In the circumstances there is no reason why we should provide that the Committees should consist of members derived from both Houses. We should confine ourselves to

[Mr. S. C. Shahani.]

our own Assembly and pass a Resolution which will have reference to it only. If the other House approves of the scheme, the scheme may be brought forward in that House, discussed and accepted.

Mr. President: The Assembly had better take the amendment which has been moved by Mr. Samarth first of all, which raises the issue whether the Committee shall be appointed by the Governor General under regulations framed in that behalf, or whether it shall be elected. The amendment standing in the name of Mr. Shahani is not merely whether it shall be elected, but whether the election shall be confined to the Non-official Members of the Indian Legislative Assembly.

Dr. Nand Lal (West Punjab : Non-Muhammadian) : Sir, so far as the amendments are concerned, I go to support Mr. Shahani's amendment. But I may be permitted to speak on the Resolution as well. So far as the necessity of this Resolution is concerned, I think it (Resolution) commends itself. This is a very useful Resolution. It will relieve the Government of a great amount of responsibility, and it will give very great satisfaction to the Legislative Assembly. On various occasions many of us raised our voice criticising the steps taken by the Government, and the answers given to us were 'that the Government had no time to consult us.' Only yesterday there was a debate in which this issue was raised, and the answer given by the official members was that there are some very urgent affairs and in such matters it is impossible to summon the assistance of the Members of the Assembly. Here this Resolution solves that difficulty. We volunteer ourselves to assist the Government, we are quite prepared to sacrifice our time. The Honourable the Home Member becomes very sympathetic with us and tells us, 'Oh, you have not got time to spare; it is not a very convenient job'. In reply to those very kind words, we submit that we are quite prepared to sacrifice our time and energy ('Hear, hear'), because, by giving our time in this manner, we shall be able to do a great deal of work for Government. On the occasion of Budget debates, we have seen that we have had to spend days and days, and when we criticise the Honourable the Finance Member's demands, he would come forward and say, 'Oh, you do not know the practical phase of it, and, therefore, you are raising these sort of questions,' and to this the present Resolution is the answer. This Resolution very respectfully submits before this House that we will be able to curtail the time which is otherwise spent in criticisms, and, as I have said, we are quite prepared to sacrifice our time and give the necessary help and assistance to the Government. We submit that we may be given an opportunity of acquiring this training. The art of administration really requires training, and we want it, and we can give assurance to Government officials that we shall be of very great help to them. We are not those who will take months to learn: some of us will learn it within a few days ('Hear, hear'). Give us any work, we are sure to do it, but allow us sufficient time. Do the official members mean to say that we shall take long to learn? (Laughter.) They need not fear on that score at all. We require hints, and when we go through all the papers and statistics, we will be able to have a faithful grip of the subject and we will be of the greatest possible assistance to Government. Government should thank the Honourable Member who has moved this very useful Resolution. It will disarm us, it will disarm the public, so far as public criticism is concerned. It will assist the

Government very materially, and therefore I cannot see any force or reason in the arguments which have been advanced on behalf of Government. Their main points have been put before this House. One of them is this : current work, heavy work ; we don't want to work as copyists, we don't want to work as accountants. We shall help you ; we shall see how you spend money, and in what manner your system is working. There is a mass of criticism that the system of work in Government Departments is very defective. We want to share that responsibility. When we, after experience, shall be convinced of the soundness of aforesaid system then we will tell our people, 'Oh, your criticism is absolutely wrong : we have associated ourselves with the Government, and we have seen the system which is in vogue, which is the best system.' Will it not materially help the Government ? Public criticism will be stopped at once. Therefore, a mass of discontent on account of the defective system in the Government Departments shall cease to exist. That criticism will be stopped, and I cannot see for a moment why the Honourable the Home Member and the Honourable the Finance Member should come forward with their luminous arguments and debate over these points which do not require any controversy at all. The suggestions, contained in the Resolution, if accepted by the Assembly, will be useful to both the Members of this Assembly as well as to Government. Of course, it is a question on which much can be said for both sides no doubt. But when we weigh the arguments *pros* and *cons*, we are forced to the conclusion that this Resolution deserves the sympathy of all Members of this Assembly, and I consequently hope it will be acceptable to every one, and I very strongly support this Resolution.

Mr. Darcy Lindsay (Bengal : European) : Sir, in associating myself with the views expressed by my Honourable friend, Mr. Spence, with which I entirely agree, it appears to me that there has been one point omitted this afternoon in discussion, which is of considerable moment to the House, and that is the loss which will be suffered by the removal from our midst of some of our chief free lances in debate. It is an extraordinary fact that any one who enters the portals of the Secretariat undergoes a softening influence. There is something in the air of the Secretariat that affects them. You have only to look at our friends on the Government bench to realize this. Can you imagine what we should be without the refreshing criticisms of such stalwarts in debate as the Honourable Mr. Rangachariar, Dr. Gour, Munshi Iswar Saran, Dr. Nand Lal, whom we have just heard in fierce debate, my friend Mr. Ginwala, and last but not least, that doughty champion of freedom, Mr. K. Ahmad, all of whom would doubtless be elected to the Standing Committee, and in due course be inoculated with the Secretariat serum. I gather that if the members of the Standing Committees are to be of any assistance in the work in which the House is interested, they must devote their full time to the work, and not only when this House meets. Can we ask them to give up so much of their time ? We have heard from my Honourable friend, Dr. Nand Lal, that we all offer ourselves for this great service. But would it not be wise, Sir, to ascertain beforehand how many of our Members are willing to give up their time before we force this Resolution on the Government ? ('Hear, hear.') With these few words, Sir, I do not support the Resolution as it stands, although in some respects it has my sympathy.

Mr. President : I think we had better dispose of the amendment standing in Mr. Samarth's name. Honourable Members do not seem inclined to address their remarks to that particular issue.

The Honourable Sir William Vincent: Sir, I want in the first place in my reply to draw the attention of the Assembly shortly to the Joint Committee's Report which is accepted always by Government at any rate as of great weight, if not of binding authority. There it is clearly laid down that any Committee which is appointed is to be appointed by the Governor General. The method of appointment of the Committee in Mr. Samarth's amendment is not down there, but I think the other words of his amendment, *viz.*, 'its composition and procedure being matters for the Governor General' have been taken from the Joint Committee's report. The Government, therefore, could not, in accordance with the weight of the recommendations in the Joint Committee's report, accept any question of electing members to these Committees. But I want also to deal with the general question of the appointment of Committees, because once it accepts this amendment, Government will be placed in a very difficult position. Dr. Gour tells me that there would be no difficulty about securing attendance, and he justified his absence, his failure, his inability to attend a particular meeting of the Racial Distinctions Committee, because, he said, he had not an aeroplane and he was given only 48 hours' notice. My recollection is that he was given very much longer notice than that, and that he insisted that the Committee should be postponed until the 15th, that is, some days after the sessions of this Council had begun. He was not even prepared to attend on the 10th when the sessions, as he well knew, began. So it was not altogether a question of notice. Again I believe I am right in saying that Dr. Gour did not attend a single meeting—if I am wrong I will apologise at once—a single meeting of the Joint Committee on the Income-tax Bill, not one meeting. That illustrates how difficult it is to secure the attendance of a busy man who, of course, is earning large fees down in Nagpur practising before Courts, and that is a difficulty that occurs in the case of many others. It is no good telling me that Members will attend. I, who have summoned many Committees, know that you cannot get men to come on any fixed date.

Mr. S. C. Shahani: If appointed to several Committees.

Dr. H. S. Gour: How many Committees have I attended and how many days have I spent with you?

Rao Bahadur S. Rangachariar: These are personalities.

The Honourable Sir William Vincent: If I have been personal I trust I have not been offensive, but I will discontinue any personal remarks and not refer any further to the Racial Distinctions Committee. Let me turn to the real question before the Assembly. In regard to that, Sir, all that I am prepared to do in this matter is, as I put it to Mr. Samarth just now, I will ask the Government of India to consider the question of appointing standing Advisory Committees on particular subjects. I believe, as I have said, that the system of attaching Advisory Committees to each Department is entirely wrong in principle. If you take a Department like the one presided over by my Honourable colleague, Mr. Sarma, it is far more suitable to have separate Advising Committees for separate subjects where they can usefully advise Government, than to have a departmental Committee. In the Home Department I still maintain that there is a great deal of work which has to be done at once, which is confidential and for which it is essential that

the Government should accept sole responsibility. (At this stage Mr. President vacated the Chair and Mr. Deputy President occupied it.) If we do wrong and we are criticised, we do our best to face the music here. Nor would the consent of 2 or 3 or 4 Members secure us from criticism in this Assembly. Mr. Rangachariar said that if we had an Advisory Committee in the Finance Department, the Honourable Mr. Hailey might have been saved from a lot of criticism over a loan of the Secretary of State. So far as I know—I have nothing to do with the Finance Department, and therefore, I am not giving away some secret here—that loan was arranged by the Secretary of State. In any case, if I put it to any business man, I put it to Mr. Samarth, I would put it to the Deputy President if he had not been occupying the Chair, I put it to Mr. Spence, to any business man here, would they recommend the Government to place the terms of a proposed loan before any Advisory Committee of this Assembly elected by the Members—a Committee in reality not responsible to anybody? I should like to have an answer to that. It is no good talking big about not being trusted, for there are papers in the Secretariat that will never pass beyond two or three Members of Council, there are others that never pass out of Members' hands and do not go even to the Secretaries. It is not a question of trusting the honesty of men of their being careless and allowing information to leak out and every one knows this perfectly well. If it is proposed to select an Advisory Committee in the Finance Department to advise on the prices of treasury bills, on the prices of loans issued and on such other matters, on opium sales and the like, I think this Assembly is embarking on a very dangerous course indeed.

Mr. S. C. Shahani : Not dangerous.

The Honourable Sir William Vincent : I do not suggest any dishonesty. Nothing of the kind, but I do know that the more men you have in the Committee the greater is the danger of information leaking out. The particular case that I mentioned, namely, that of the loan, is, I believe, an excellent instance, for I do not believe any business man would recommend Consulting a Committee on such a point. Mr. Shahani then said, 'Oh, this Committee that I am going to put up is going to control the Government.' That is really what he wanted and he referred to the Joint Committee's Report. I believe I am open to correction, that the passages he read there referred to the Provincial Governments and not to the Government of India.

Mr. S. C. Shahani : I am quite cognisant of that.

The Honourable Sir William Vincent : Well, Sir, the position of a Minister in the Provincial Governments is entirely different from that of a Member in the Government of India. The responsibility of the latter according to the constitution is to Parliament and to the Secretary of State for India in Council, and that responsibility cannot under the law be shared or controlled by any one. When the constitution is changed or if it is changed, the position may be different. My friend, Dr. Nand Lal, again suggested that the appointment of a Committee would avoid delay. Does any Member of this Assembly, who has practical experience of Committees, think they would expedite business? If you put any matter before a Committee, you have to wait until the various members can assemble; they then take time to examine the papers and generally call for further information on one thing and another, with the result that whole proceedings are delayed for weeks and months, and it is idle

[Sir W. H. Vincent.]

to say Committees would expedite business. Nor is that the way in which Government executive business can be done. Further, as a matter of fact, in all important business there is an Advisory Committee for each Member in the shape of the Governor General's Council before which important cases are taken. It is quite true it is not in the same position as an Advisory Committee of this Assembly, but I think the help we all receive from our colleagues is always of very careful weight and value on all questions. In conclusion, I will again ask the Assembly to accept what I have undertaken to do, namely, to request the Government of India to consider the question of attaching Advisory Committees not to departments *qua* departments, but on particular subject where the advice of such a Committee will be useful.

Mr. W. M. Hussanally (Sind : Muhammadan Rural): I want to speak a few words on this Resolution, Sir.

Mr. Deputy President: I will put Mr. Samarth's amendment to the vote. The question is that the following amendment be made :

'After the words 'Governor General in Council' add the words 'to be pleased to approach His Excellency the Governor General with the recommendation.' And then delete the words 'elected by the Members of the Legislature' and substitute the words 'of the Indian Legislature.' And at the end of the Resolution, after the word 'Departments,' add the following words: 'their composition and the regulations which govern their procedure, being matters wholly and exclusively within the discretion of the Governor General.'

The motion was negatived.

Mr. Deputy President: I call upon Mr. Shahani to move the amendment of which he has given notice.

Mr. S. C. Shahani: Sir, I feel that no useful purpose will be served by my moving this amendment, and I therefore withdraw it.

Maulvi Abul Kasem (Dacca Division : Muhammadan Rural): I want to say a few words on the original motion.

Mr. Deputy President: You will have an opportunity of doing so.

The question is that leave be granted to Mr. Shahani to withdraw his amendment.

The amendment* was, by leave of the Assembly, withdrawn.

Bai Bahadur S. P. Bajpai (Lucknow Division : Non-Muhammadan Rural): Sir, I beg to withdraw my amendment.

Mr. Deputy President: The question is that leave be granted to Mr. Bajpai to withdraw his amendment.

The amendment† was, by leave of the Assembly, withdrawn.

Lala Girdharilal Agarwala (Agra Division : Non-Muhammadan Rural): I want a ruling from the Chair whether it is necessary that leave should be given to withdraw an amendment before that amendment is moved.

Mr. N. M. Samarth: He could have moved it, but instead, he says 'I withdraw it'.

* 'Substitute for the words 'the Members of the Legislature' the words 'the non-official Members of the Indian Legislative Assembly'.

† 'Delete the words from 'other' in the third line to 'Departments'.

Mr. W. M. Hussanally: Sir, I will only take a few minutes of your time in regard to the motion made by my friend Mr. Neogi. I heartily support it. I was going to say a few words against the amendment moved by Mr. Samarth, but I need not say anything about it now as that amendment has failed.

In regard to the motion, Sir, the chief objection which has been raised is that the work in the Secretariat will be increased. In this connection I would refer to a conversation I have had with a gentleman, Member of this Honourable House, who a few days ago happened to go to one of the Departments on business. He told me that he was there for about three-quarters of an hour, and during all this time two or three clerks were talking the whole time and smoking, and were doing absolutely not a bit of work during all the time that he was there in the office. Sir, I think there is a general impression amongst the Members of the Assembly that the establishments of the Government of India are far too many and that they ought to be curtailed.

In regard to the difficulty of getting gentlemen for the sub-committees to attend, I think, Sir, that is not an insuperable difficulty, if only small Committees were appointed, and if all those gentlemen were consulted beforehand, *i.e.*, before fixing a meeting. The last difficulty that has been put forward is about secret documents—about their being such as could not safely be placed in the hands of the members of the Standing Committee. That again, Sir, I say is a very minor point. Rules could be framed as to what kind of work can be placed in their hands and what not. That I think will considerably remove the difficulty. My friend, Mr. Shahani, referred to the executive being irresponsible. But I think if Committees of this kind were associated with the work of the various Departments of the Government of India, much of the irresponsibility of the Assembly here would also be removed; because many of those gentlemen who are appointed to the Standing Committees will gain sufficient experience and information which they will communicate to their friends here, who will then talk here with a greater sense of responsibility than what some of us have been doing hitherto. In that respect it will do a considerable amount of good to my friend Mr. K. Ahmad, whose name was mentioned a little while ago.

There is also an impression abroad among some of the Members of the Assembly that there is considerable room for retrenchment in the expenditure of the Government of India. Now, in regard to that, if some of us are associated with the inner working of the Departments, we will be able to gather information which will throw light on whether retrenchment is possible or not. Therefore I say, Sir, that Committees of this kind would be very useful in giving us information about the inner working of the various Departments of the Government of India.

Sir Godfrey Fell (Army Secretary): Sir, I had not intended to take part in this discussion, but I cannot pass over in silence the attack which has been made by the last speaker upon one of the most deserving classes of men in the Government of India: I refer to the clerical establishments of the Secretariats. I do not know what the authority is for the Honourable Member's statement; but I have personally been associated with the Government of India Secretariat for a number of years, and I have no hesitation in assuring this Assembly that there are very few servants of Government, in this or any other country, who are more devoted and who work longer hours and more arduously

[Sir Godfrey Fell.]

than the Government of India assistants and clerks. If the Honourable Member will come round to any Department of the Government of India, either in the morning before this Assembly is sitting, or in the evening after this Assembly has broken up, or even, in some Departments, late at night, he will find men working year in and year out under tremendous pressure for relatively little pay and with very little hope of honour or reward.

Now, Sir, as I am addressing the Assembly, I should like to mention another point raised by the Honourable speaker. He mentioned, I think, that it would not require a large number of Members of this Assembly to form these Advisory Committees. Has the Honourable Member any idea of how many Departments of the Government of India there are? I will tell him that, excluding the two Departments which are specifically excluded in the Resolution, there are nine Departments in the Government of India, and nine times five makes forty-five. So that the Honourable the Finance Member was not far out when he spoke of 'about fifty'.

There is one other point I should like to make, Sir. In the course of the discussion Dr. Gour referred in somewhat scathing terms to the contention put forward by the Honourable the Home Member on the subject of the inability of the Secretariat to cope with the additional work which would be caused by the introduction of this system. Dr. Gour, in what has been described already by one speaker as his airy way, described this as a chestnut. I do not know how my Honourable friend defines the word 'chestnut' otherwise than in its botanical sense; but my definition of the word is that it means an old story, a story that has been told so often that the hearer is tired of hearing it. Dr. Gour may be tired of hearing that the Secretariat is over-worked, but that does not vary the substantial truth of the statement. I do not know if Dr. Gour has any conception of the conditions under which the Secretaries to the Government of India work now-a-days. Perhaps I may take a few moments of the Assembly's time to give them some information on this subject, from the point of view of the toad under the harrow. Now in normal times the work of a Secretary to the Government of India may take anything from 8 hours upwards for 6 days in the week, and probably on Sundays as well. With the introduction of the Reforms Scheme, the conditions have changed very much for the worse. A little simple arithmetic will show that if to 8 or 9 or 10 hours a day you add the time occupied in attending the meetings of the Legislature—in the case of this Assembly 4 or 5 days in the week for a considerable number of months in the year—if you add to that the time taken in preparing replies to questions (and incidentally I should like to remark that the time that I have personally spent in preparing replies to the questions asked by one Member of this Assembly alone would amount to several working weeks in the year—I refrain from mentioning the Honourable Member's name), and if you add to that, again, the time required for preparing replies to Resolutions, I think the Assembly must agree that the position of a Secretary to Government and of other Secretariat officers has now become extremely difficult. (*The Honourable Sir William Vincent: And of Members.*) The Honourable the Home Member adds 'and of Members.' I think that Honourable Members are quite able to take care of themselves in this connection. I am sure my colleagues, the Secretaries to Government, will bear me out when I say that our work is extremely heavy, and that if to these duties

were imposed that of helping Advisory Committees to understand the nature of the difficult administrative problems which come up every day, of preparing papers for them, of furnishing them with information, and of giving them generally the training which I gather they require in the art of administration in our particular subjects, then I can only say that we should not be merely what my Honourable friend, Mr. Darcy Lindsay, has told us we are, soft-headed, but more likely candidates for the lunatic asylum.

The Honourable Rao Bahadur B. N. Sarma (Revenue and Agriculture Member): I had not intended to speak on this subject, but there seems to be a general impression that the Government of India have not given very earnest consideration to the recommendations of the Joint Committee with regard to associating the Members of the two Houses with the administration of the country so as to enable them to acquire a knowledge of the art of administration, in order that the sphere of Self-government may be enlarged at a very early date. I shall speak mainly with reference to the Departments under me, Land Revenue, Agriculture, Public Works, Posts and Telegraphs and Emigration. The matter seems to admit of a simple solution so far as Emigration is concerned, and there would not be any very great difficulty in accepting the recommendation of this House so far as the Emigration Branch is concerned. But that merely brings us again to the proposition enunciated by the Honourable the Home Member that it would be desirable that this House should concentrate its attention upon the association of advisory bodies, with reference to particular subjects and not Departments.

If the problem be attacked from two standpoints, namely, as to what branches of the Departments of the Government of India would
 4 P.M. really be benefited by the association of the Members of the two Houses with regard to the handling of the subjects that come before them and with regard also to the point that has been raised by Mr. Spence, namely, how far it would be practicable to ease the burden of the Secretaries and give practical help in learning the art of administration to Members of this House, there is much to be said for it. But, so far as the Resolution goes, it is a little too wide I fear. If we analyse the various Departments, it might be found that certain departments do not require or would not be benefited very much by the association of advisory bodies therewith. I have already alluded to the Emigration Branch as being eminently fitted for this experiment being made. Then, take the Land Revenue Department. It deals mainly with provincial subjects. We deal in the branch relating to legislation with the question as to whether we are to give our assistance inasmuch as the final control is with us. I do not think that is a sphere in which an advisory committee would be of very great value, because it is primarily for the provinces to settle what legislation they wish to embark upon, and it is only in the discharge of a final responsibility that the Governor General or the Governor General in Council comes in. Therefore, in that Department there would not be much scope.

Then, with regard to Agriculture, Forests, and so on, these are either transferred subjects or reserved provincial subjects. There again, the problems that come up before our Department are such that I do not think it would benefit by any advice being given to it, nor do I think the Members of this House would receive very much training, not the training that they would desire. Reference has been made to the Posts and Telegraphs Department. Well, there, possibly I would be very much helped by creating a large body of influential members who could tell the employees of Government who

[Rao Bahadur B. N. Sarma.]

are every day clamouring for greater emoluments, who could tell the country that the state of the finances does not permit of any large increases either in establishments or in pay. I think they could do a good bit of work for the Government as well as for the Assembly and perhaps the point can be examined as to whether it will be possible to procure for myself and for my Department that kind of assistance ; but, as regards such questions, namely, as to whether telegraph apparatus is to be purchased worth 20 lakhs or one crore, as to whether a line has to be placed between A and B stations or C and D stations, or as to whether there should be 1,000 clerks or 1,500 clerks employed in a particular range, all these are matters, I think, which are the work of every day administration and the Government of India rarely interfere with the discretion of the Director General.

It is only questions of policy that come up here largely, and occasionally during the last few months, or perhaps a year and a half, questions dealing entirely with finance with which the Finance Member has as much to do as the Member in charge : and I think the Finance Department and the Finance Committee have every opportunity of discussing that aspect of the problem, because I think the Finance Member has fortified himself with getting all his curtailments carried through the Finance Committee and turning down all our proposals for improvements in our staff, etc. I fear we feel helpless some times. Well then that disposes of posts and telegraphs. Then, again, take Public Works. Buildings and Roads are practically in the hands of Ministers. Irrigation is a purely technical question which had to be dealt with by the Secretary who is a technical expert in the Roads and Buildings Branch, or by the Inspector General of Irrigation, and consequently the Department I do not think would be very much benefited by the association of Honourable Members therewith, nor would the Honourable Members be benefited thereby. You may say I am speaking for Departments with which possibly many Honourable Members may not care very much to associate themselves, but there the fact is that the proposition advanced by Mr. Neogy requires modification and qualification before the Government of India can accept it.

Mr. S. C. Shahani : Very slight.

The Honourable Rao Bahadur B. N. Sarma : May be very slight, but there it is. Well then, take again the food policy. Even in a matter like the food question, it will be impossible for the Revenue Department to place all the papers in the hands of Honourable Members because whether from a particular port 100,000 tons are to be exported or 200,000 tons is a question of vital importance and the matter cannot be allowed to go beyond a few individuals before a decision is taken. I am only illustrating what my Honourable colleague, Sir Malcolm Hailey, mentioned with reference to Finance matters. Therefore in almost every Department there are certain subjects which must be handled only by a few and I do not think that even the Members of this Assembly would ask to be associated with questions where secrecy is of the essence of the transaction. I take it that what the Honourable Members of this House want it to be associated with the administration of the country so that they may have a grip of the details thereof for the purpose of seeing whether unnecessary expenditure is being incurred, whether any improvements can be effected and in what directions, so that they can say they have done their duty by their country and by their Government.

would therefore suggest to the House the desirability of carrying this attack by asking the Government to give them a chance of associating advisory bodies with the Departments in respect of particular subjects. It would be easy for the Government to accept a position of that kind and to see whether further assistance cannot be given to the Members of this House by appointing one or more Secretaries or Under Secretaries in particular Departments rather than in all Departments. I therefore think that the House would do well not to be over-enthusiastic and not to think that the Government are in any way hostile to helping the Assembly in their desire to learn the work of administration but to see that the Government is not hampered unnecessarily and to modify their views in the direction I have indicated.

Mr. K. C. Neogy: Sir, I propose to be very brief in my reply, because most of the points which have been raised on the official side of the House have already been met by the previous speakers. I do not think I need take the Honourable the Home Member seriously in the technical objection that he raised with regard to the Governor General being the authority in this matter and not the Governor General in Council. If I heard him aright, I believe in his last speech he said that it would be for the Government of India to decide—at least it should be left to the Government of India to decide as to which Departments should have these standing committees. Furthermore, when in March, 1921, I asked a question as to what was going to be done in regard to this proposal for the association of standing committees with Departments, the Standing Finance Committee was given as an instance of the action that the Government had taken in this matter. Well, Sir, if I may turn to the speech of the Honourable the Finance Member, when he moved the Resolution for the appointment of this Standing Finance Committee, I see that what he said is as follows :

‘The proposal which I now put forward is not in pursuance of a rule, but is in pursuance of a decision at which we ourselves have arrived.’

I think, Sir, in this instance, the ‘we’ is the Government of India. The Honourable the Home Member has told us that the appointment of these committees will only increase the volume of work and will be a great burden on the already over-worked officials of the Government of India. Well, Sir, this is an argument for the abolition of all committees. I happen to be a member, a nominated member of a committee which is associated with a branch of the Honourable the Home Member’s department, I mean the Publicity Advisory Committee. If I had known that I was only helping in increasing the burden of the already over-worked officials, I certainly for one would not have continued in it; and I do not know, Sir, if this is a broad hint to the non-official members to retire from that committee. That is one point. Then the Honourable the Home Member referred to France, America, Europe and other countries in which committees had been tried; and he attempted to show that they are either no good or they hamper the executive. I thought that the ‘Canadian Fur-coat’ theory had some weight with the officials; and in this case I propose to avail myself of that argument. France and America are quite different from India; their constitution is different, and the committees in those countries are not exactly advisory in their functions; they have important administrative work to do as well. The Honourable the Home Member referred to John Stuart Mill in favour of a statement that the administration should be carried on by ‘proper and competent persons’ and that these committees or legislative bodies should interfere as little as

[Mr. K. C. Neogy.]

possible with them. Well, Sir, in those countries, particularly Great Britain, which John Stuart Mill had in mind, these 'proper and competent persons' are themselves representatives of the people, and their position in the Government depends upon the following they have in the House. Then, it has been said by the Honourable Mr. Sarma that the Resolution is too wide and that there are some Departments whom these standing committees won't suit.

Well, Sir, I take my stand upon the statement made by Lord Meston before the Joint Parliamentary Committee. He excepted only the Army and the Foreign and Political Departments, and I think if the Government had any objection to these standing committees being associated with other Departments, these objections should have been urged before the Joint Committee through Sir James Meston. It is too late in the day to raise those objections now.

Then, Sir, it has been said : 'Oh, you will have precious little to do with the transferred subjects as they are all dealt with by the provinces.' Well, Sir, may I inquire if the Government of India have got anything to do at all in those subjects? If they have, we shall be glad to know what those things are, and, if necessary, advise Government about them. Well, when we ask for these committees, it is said that the Government of India have got little to do in Departments corresponding to the provincial transferred subjects, but you do not seem to have made any corresponding reduction in the staff and expenditure on that account in those Departments.

Then, again, a good deal has been said with regard to procedure and so forth. Well, I may remind the Honourable Members that it was never the intention of the authorities, whom I have quoted in my favour, that all and every matter should be placed before the committee, and that is not at all my intention either. Take as wide a discretion as you like in this matter. Take us into your confidence in matters where you can, and where you ought to frame your own rules in any way that may suit you ; I do not mind that.

Then, it has been said that one member is very often appointed to several committees. Well, Sir, I suggest that, if necessary, make it impossible for one member to seek election to more than one or two standing committees, and as regards committees appointed by Government, do not appoint more than one member to more than one or two committees.

There is one other point, Sir, to which I should like to refer, and that is the objections on constitutional grounds and the practical difficulties of administration. These objections apply with equal force in the case of reserved subjects in the Provincial Governments, and I may inform the House that elected committees have been appointed in Bengal to every Department of Government, and I am told that this is also the case in the Punjab, the United Provinces and the Central Provinces. In the case of Madras, the committees are not elected but appointed, but that does not make very great difference, I think. I therefore appeal to the House to accept my Resolution.

Mr. Deputy President : The question is that :

'This Assembly recommends to the Governor General in Council that Standing Committees, elected by the Members of the Legislature, be associated with the different Departments of the Government of India other than the Army and the Foreign and Political Departments'.

Mr. S. C. Shahani : Are Government Members to remain neutral, Sir, on this occasion ?

Mr. Deputy President: That is a question for the Government to decide.
The Assembly then divided as follows:

AYES - 40.

Abdul Majid, Shaikh.
Abdul Quadir, Maulvi.
Abul Kasem, Maulvi.
Agarwala, Lala G. L.
Agnihotri, Mr. K. B. L.
Ahmed, Mr. K.
Ahmed Baksh Khan, Mr.
Ayyar, Mr. T. V. Seshagiri.
Bagde, Mr. K. G.
Bajpai, Mr. S. P.
Barua, Mr. D. C.
Bhargava, Pandit J. L.
Bishambhar Nath, Mr.
Chaudhuri, Mr. J.
Ginwala, Mr. P. P.
Gour, Dr. H. S.
Hussanally, Mr. W. M.
Ikramullah Khan, Raja M. M.
Iswar Saran, Munshi.
Jatkar, Mr. B. H. R.

Man Singh, Bhai.
Misra, Mr. P. L.
Mudaliar, Mr. S.
Muhammad Hussain, Mr. T.
Mukherjee, Mr. J. N.
Nag, Mr. G. C.
Nand Lal, Dr.
Neogy, Mr. K. C.
Pyari Lal, Mr.
Rangachariar, Mr. T.
Reddi, Mr. M. K.
Shahani, Mr. S. C.
Singh, Babu B. P.
Singh, Raja K. P.
Sinha, Babu L. P.
Sircar, Mr. N. C.
Sohan Lal, Bakshi.
Subrahmanayam, Mr. C. S.
Ujagar Singh, Baba Bedi.
Vishindas, Mr. H.

NOES—30.

Akram Hussain, Prince A. M. M.
Bradley-Birt, Mr. F. B.
Bray, Mr. Denys.
Bryant, Mr. J. F.
Clarke, Mr. G. R.
Cotelingam, Mr. J. P.
Dentith, Mr. A. W.
Faridoonji, Mr. R.
Fell, Sir Godfrey.
Habibullah, Mr. Muhammad.
Hailey, the Honourable Sir Malcolm.
Hajeebhoy, Mr. Mahomed.
Hullah, Mr. J.
Kabraji, Mr. J. K. N.
Keith, Mr. W. J.

Lindsay, Mr. Darcy.
McCarthy, Mr. F.
Mitter, Mr. K. N.
Muhammad Ismail, Mr. S.
Rao, Mr. C. Krishnaswami.
Renouf, Mr. W. C.
Samarth, Mr. M. M.
Sartaraz Hussain Khan, Mr.
Sharp, Mr. H.
Sim, Mr. G. G.
Spence, Mr. R. A.
Vincent, the Honourable Sir William.
Waghorn, Colonel W. D.
Way, Mr. T. A. H.
Zahiruddin Ahmed, Mr.

The motion was adopted.

The Assembly then adjourned till Two of the Clock on Friday, the 20th January, 1922.