

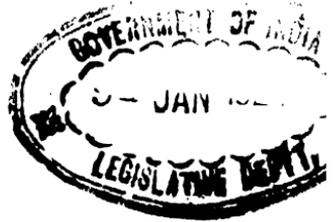
17th July, 1923

THE
LEGISLATIVE ASSEMBLY DEBATES

(Official Report)

VOL. III

PART VII



(16th to 28th July, 1923.)

THIRD SESSION

OF THE

LEGISLATIVE ASSEMBLY, 1923.



SIMLA
GOVERNMENT CENTRAL-PRESS
1923



LEGISLATIVE ASSEMBLY.

The President.

The Honourable Sir FREDERICK WHYTE, KT.

Deputy President.

Sir JAMSETJEE JEEJEEBHOY, BART., K.C.S.I., M.L.A.

Panel of Chairmen.

Maulvi ABUL KASEM, M.L.A.

Sardar Bahadur GAJJAN SINGH, M.L.A.

Mr. N. M. SAMARTH, M.L.A.

Colonel Sir HENRY STANYON, KT., C.I.E., V.D., M.L.A.

Secretary.

Mr. L. GRAHAM, M.L.A., I.C.S.

Assistants of the Secretary.

Mr. W. T. M. WRIGHT, I.C.S.

Mr. S. C. GUPTA, BAR.-AT-LAW.

Mr. G. H. SPENCE, I.C.S.

Marshal.

• Captain SURAJ SINGH, Bahadur, I.O.M.

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LEGISLATIVE ASSEMBLY.

Tuesday, 17th July, 1923.

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

DEATH OF BABU BAIDYANATH PRASAD SINGH.

Mr. President : I regret to have to inform the Assembly that we have once again lost one of our Members by death this morning, namely, Babu Baidyanath Prasad Singh from Muzzaffarpur. I am sure that, as in other cases, the Assembly will wish me to convey to his bereaved relatives a communication of our sense of loss at his death.

Sir Deva Prasad Sarvadhikary (Calcutta : Non-Muhammadan Urban) : Sir, we feel very sad, and feel for you as much as you feel for us, that you have had to announce so many deaths among our Members during the short course of our existence. The death of Babu Baidyanath Prasad Singh is a personal loss to many of us. He was one of the gentlest, nicest and sweetest of men, and, at the same time, one of the most independent, fearless and right-thinking. I am sure, Sir, the Assembly feels just as much as you feel for the bereaved family.

Khan Bahadur Saiyid Muhammad Ismail (Patna and Chota Nagpur *cum* Orissa : Muhammadan) : Sir, with your permission, I should like to associate myself with the reference which you have very kindly made to the death of Babu Baidyanath Prasad Singh. Babu Baidyanath Prasad Singh came from the same Province from which I come. He was my own colleague in the now defunct Bihar and Orissa Legislative Council. For several years he had been Chairman of the Muzzaffarpur Municipality and in his capacity there he had taken an active interest in the affairs of the public bodies. He was a very much respected citizen of the Province of Bihar and Orissa and was universally loved. I would therefore like to associate myself with everything that has fallen from you, Sir, and from Sir Deva Prasad Sarvadhikary and very sincerely thank you on behalf of the Members of my Province for the kind references which you have made.

Rai Sahib Lakshmi Narayan Lal (Bihar and Orissa : Nominated Non-Official) : It is with a very heavy heart that I express a few words of sympathy and condolence on account of the sad, sudden and premature demise of my esteemed friend and colleague, Babu Baidyanath Prasad Singh. He was one of those good men of Bihar who spent his best time, money and energy for the public good, and he possessed many rare qualities of head and heart. He was an active, energetic and a very useful Member of this Assembly. He died in harness here. We all

wish that he may have peace in Heaven and we desire to express our profoundest condolence to his bereaved family.

The Honourable Sir Malcolm Hailey (Home Member) : I wish to associate the Government Benches also with the expression of deep regret which has fallen from our friends opposite on the series of fatalities which it has been your sad duty to announce to us ; and in particular, I must associate myself with the feeling of real sorrow arising from the news you have just given to us. We have lost one who we know has spent the greater part of his life in the service of the public, and who, since he has been here, has endeared himself to all who have met him by the sterling qualities of his character and his independent temperament.

QUESTIONS AND ANSWERS.

PRIMARY TEACHERS IN NORTH-WEST FRONTIER PROVINCE.

†259. ***Mr. S. C. Shahani** : (a) With reference to the reply given to Bhai Man Singh on the 10th January 1922, to Question No. 18 (g) and (h), will the Government be pleased to state whether the scale of the grant-in-aid of Rs. 8 and 12 paid for the untrained and trained Primary teachers, respectively, in the Aided Schools in North-West Frontier Province since 1913, remains still unrevised ?

(b) Is it a fact that the Educational Conference held at Peshawar in December last, under the Chairmanship of the Director of Public Instruction, unanimously recommended the increase of grant-in-aid in the Primary Department of the Aided Schools, as well as of the rate of Contingencies ? If so, do the Government intend to give immediate effect to those recommendations ?

VEDIC BHRATRI COLLEGE ; EXAMINATION RESULTS.

†260. ***Mr. S. C. Shahani** : (a) Is it a fact that the Honourable the Chief Commissioner, North-West Frontier Province, is Patron of the Vedic Bhratri College, a second grade aided Arts College, started at Dera Ismail Khan, from the 1st June, 1921 ?

(b) Is it a fact that in the very first University Examination held in April last, a student of the above College has stood first in the whole Province, on the Arts side ?

VEDIC BHRATRI COLLEGE ; MAINTENANCE GRANT.

†261. ***Mr. S. C. Shahani** : (1) Is it a fact that the College Council of the Vedic Bhratri College has persistently been bringing to the notice of the Director of Public Instruction as well as the Honourable the Chief Commissioner, by means of representations, the inadequacy of the recurring Maintenance Grant for the College and requesting for its increase ?

(2) Is it a fact that the Inspection Committee of the Punjab University, consisting of Dr. Lucas, Principal, Forman Christian College, Lahore, and Rai Bahadur Sundar Das Suri, M.A., of Lahore, strongly recommended in their Inspection Report of 1922 that the Local Govern-

† For answer to this question—see answer below Question No. 263.

ment should raise the said grant from Rs. 5,000 to 10,000 per annum, for otherwise the " College was bound to be faced with a serious financial stringency." If so, do the Government intend to give effect to the above recommendation and provide the sum recommended in the next Budget for the year 1924-25 ?

EDUCATION DEPARTMENT, NORTH-WEST FRONTIER ; APPOINTMENTS TO.

†262. ***Mr. S. C. Shahani** : Has the attention of the Government been drawn to the representation made by the leading Hindu gentlemen of the North-West Frontier Province to the Director of Public Instruction, printed in the " Tribune " of Lahore, dated the 3rd July, 1923, re the absolute disregard of Hindu feelings and interests in the matter of appointments in the Education Department ? If so, what steps do the Government propose to take in redressing the grievances of the Hindus, referred to therein ?

AWARD OF SCHOLARSHIPS.

263. ***Mr. S. C. Shahani** : Is " merit coupled with poverty " recognised as a basic principle for the awarding of scholarships, in Open Scholarship Competition Examinations, in any other Province in India than the North-West Frontier Province ?

Mr. M. S. D. Butler : With your permission, Sir, I will answer Questions Nos. 259—263 together.

The information asked for is being obtained and will be supplied to the Honourable Member in due course.

TRANSPORT OF WHEAT AND GRAM, NORTH-WEST FRONTIER.

264. ***Mr. S. C. Shahani** : (1) Is it a fact that the wheat and gram trade between Marwat Tehsil of Bannu and Dera Ismail Khan is carried on by means of bullock carts and camels ?

(2) Is it also a fact that the people of Dera Ismail Khan have, when presenting addresses of welcome to the Honourable the Chief Commissioners during their visits since 1920, invariably pressed upon their attention the necessity of connecting Pezu on the Tank-Pezu-Lakki Railway, with Dera Ismail Khan, as Tank is connected at present ? If so, do the Government propose to seriously consider the question ?

Mr. Denys Bray : (1) Yes.

(2) The answer to the first part is in the affirmative, but though the extension of a line from Pezu to Dera Ismail Khan is desirable it is not of urgent necessity and Government do not propose to proceed with the project in the present financial stringency.

OUDH AND ROHILKHAND RAILWAY TIME TABLE.

265. ***Munshi Mahadeo Prasad** : (1) Will the Government be pleased to state what steps are taken and in what way to consult public opinion and public convenience and profit to the railway when a new railway timing is brought into force by the Oudh and Rohilkhand Railway ?

† For answer to this question—see answer below Question No. 263.

(2) Who is the officer entrusted with this duty and under whose orders and direction is the new time table framed and published ?

The Honourable Mr. C. A. Innes : (1) The Oudh and Rohilkhand Railway Advisory Committee is consulted before the revised timings are brought into force.

(2) The Traffic Manager.

OUDH AND ROHILKHAND RAILWAY TRAIN CONNECTIONS.

266. ***Munshi Mahadeo Prasad :** Is the Government aware that great inconvenience is felt by the people of Benares intending to travel to places above Laksar and below Lucknow since the Oudh and Rohilkhand Railway Punjab Mail has been discontinued to and from Moghal Sarai ?

The Honourable Mr. C. A. Innes : Government have received a representation on the subject.

OUDH AND ROHILKHAND RAILWAY TRAIN TIMINGS.

267 ***Munshi Mahadeo Prasad :** (1) Will the Government be pleased to state why the timings of the Oudh and Rohilkhand Railway Punjab and Dehra Dun mails have been so arranged that a passenger travelling from stations above Laksar and below Lucknow has to lose one day in travelling between Moghal Sarai and Saharanpur ?

(2) Will the Government be pleased to state what effect the above timings had and have in diverting mail and passenger traffic from the Oudh and Rohilkhand Railway (State-managed) to East Indian Railway (Company-managed) ?

(3) Will the Government be pleased to state if the timings of the Oudh and Rohilkhand Railway Dehra Dun and Punjab mails can be so arranged as to enable the passengers of the one to and from stations not common between the two, to shift from the one to the other either at Lucknow or Laksar and thus causing one day's saving of time in their journey ?

The Honourable Mr. C. A. Innes : (1) These timings were necessitated as it was found impossible to run the Punjab mails through between Moghal Sarai and Saharanpur within the limited time between the arrival and departure of the connecting North-Western Railway and East Indian Railway trains at Saharanpur and Moghal Sarai, respectively. The requirements of local passengers were therefore given primary consideration in fixing the time table which has been in force since April 1922.

(2) Government are informed that the maximum number of passengers which could have been diverted from the Oudh and Rohilkhand Railway from traffic originally routed *via* Moghal Sarai amounts to some six to seven thousand per annum.

(3) This cannot be arranged in the present circumstances.

OUDH AND ROHILKHAND RAILWAY TRAIN TIMINGS.

*268. ***Munshi Mahadeo Prasad :** Is it a fact that the Benares Municipal Board has passed a Resolution complaining of the new timing

of the Oudh and Rohilkhand Railway as resulting in great inconvenience to the people of Benares ?

The Honourable Mr. C. A. Innes : The answer is in the affirmative.

SHUTTLE TRAIN BETWEEN BENARES AND MOGHAL SARAI.

69. * **Munshi Mahadeo Prasad :** Will the Government please state why the shuttle train running between Benares Cantonment Railway station and Moghal Sarai in the morning has been abolished recently ? Are not the passengers for the Up Punjab and Bombay mails, East Indian Railway, from Benares greatly inconvenienced as there is no train for Moghal Sarai from Benares Cantonment except one at midnight preceding ? What effect will this abolition of the shuttle train have on the income of the Railway ?

The Honourable Mr. C. A. Innes : The shuttle trains were cancelled as a measure of economy. It is understood that they have been restored from the 15th instant.

INCLUSION OF BHAGUR IN CANTONMENT LIMITS.

270. * **Munshi Mahadeo Prasad :** Is the Government aware that a memorial has been addressed to the Honourable the President and the Members of the Legislative Assembly on behalf of the residents of Bhagur village (Bombay Presidency) complaining of the hardships which they have been subjected to, owing to the inclusion of that place within Cantonment limits ? If yes, what steps are in contemplation to relieve them of those hardships, and when ?

Mr. Denys Bray : I have been asked to answer this question. I invite the attention of the Honourable Member to the reply given on the 10th instant to certain questions asked on the same subject by Mr. Joshi.

WAITING ROOMS AT BENARES.

271. * **Munshi Mahadeo Prasad :** Is it a fact that waiting rooms for 1st and 2nd class passengers at Benares Cantonment Railway station are closed after midnight to the great inconvenience of such passengers ? If it be so, will some steps be taken that such waiting rooms be not so closed ?

The Honourable Mr. C. A. Innes : Government understand that the 1st and 2nd class waiting rooms at Benares Cantonment Station are open all night for the use of *bona fide* passengers.

MR. RALA RAM'S REPORT ON FLOODS IN NORTHERN BENGAL.

272. * **Mr. K. C. Neogy :** (a) What action has been taken for giving effect to the recommendation of Rai Bahadur Rala Ram, in his report on the floods in Northern Bengal in September 1922, that additional waterway should be provided on the following sections :—

(i) Santahar-Jamalganj Section by about 150 feet.

(ii) Santahar-Kahaloo Section by about 480 feet.

(iii) Sara-Serajganj line by about 400 feet (effective).

(b) Have gauges been put up upstream and downstream of the line near each bridge, both on the main line of the Eastern Bengal Railway and on Sara-Serajganj Railway, as recommended by Rai Bahadur Rala Ram ?

The Honourable Mr. C. A. Innes : (a) (i), (ii) and (iii). The Railway Administration concerned has been instructed to give effect to the recommendations contained in Rai Bahadur Ralla Ram's report with the least possible delay.

On the Santahar-Kahaloo section work has already been started.

(b) The Government is advised that this is being done.

WHIPPING SENTENCES.

273. ***Mr. K. C. Neogy :** (a) Has reference been made to Local Governments and High Courts in regard to the question of abolition of the sentence of whipping in the case of Indians, as promised by the Home Member in February 1923 ?

(b) If so, have the replies been received ?

The Honourable Sir Malcolm Hailey : (a) Yes.

(b) Replies have been received from 2 minor administrations, but none as yet from the more important Local Governments.

Mr. S. C. Shahani : Sir, will Government be pleased to state if the whipping sentence has been abolished in any other country, and secondly, if there is anything peculiar to Indians which makes the retention of the sentence here in India desirable ?

The Honourable Sir Malcolm Hailey : The first part of the question is a matter which does not concern the Governor General in Council, and the second is a matter of opinion.

IMPERIAL AND ALLIANCE BANKS, TERMS OF AGREEMENT.

Mr. W. M. Hussanally : Sir, with your permission I desire to put one or two questions to the Honourable Sir Basil Blackett in regard to the Imperial Bank and the Alliance Bank :

(a) What are the terms of the agreement between Government and the Imperial Bank of India in regard to Government funds deposited with the Bank and loans made to Government by the Bank ?

(b) Do Government pay any interest to the Bank if they overdraw their account ? If so, how much ?

(c) Has it ever occurred that Government has overdrawn its account ?

The Honourable Sir Basil Blackett : (a) I am prepared to lay a copy of the agreement† on the table if desired.

(b) Government can take Ways and Means advances from the Imperial Bank if necessary, and if they consider this method of recouping their balances more economical than sales of treasury bills to the public or otherwise. Such advances carry interest at rates mutually arranged and in accordance with market conditions at the time. Full details are invariably given in the annual reports of the Controller of Currency.

In regard to part (c), as explained in answer to part (b), the Government do not overdraw their account. The last occasion on which Ways and Means advances were taken was in 1921-22.

AN AGREEMENT made the twenty-seventh day of January 1921 BETWEEN THE SECRETARY OF STATE FOR INDIA IN COUNCIL (hereinafter called "the Secretary of State") of the one part and THE IMPERIAL BANK OF INDIA (hereinafter called "the Bank") of the other part WHEREAS the Bank was constituted and incorporated and is regulated by the Imperial Bank of India Act, 1920 (being Act No. 47 of 1920 of the Governor General's Legislative Council and hereinafter called "the Act") in supersession and by way of amalgamation of the Presidency Banks of Bengal, Madras and Bombay (with a capital of Rs. 11,25,00,000) with and subject to the various powers provisions and restrictions in and by the Act set forth and it was thereby *inter alia* particularly provided as follows, *viz.*, by section 23 that the Bank should have local head offices in Calcutta, Bombay and Madras and at such other places in British India as the Bank (the constitution of which was provided for by the Act) with the previous sanction of the Governor General in Council might determine and that the Bank might also subject to the provisions of the Act as to the business to be transacted there establish an office in London and by section 10 that it should be lawful for the Bank under any agreement with the Secretary of State for India in Council (i) to act as banker for and to pay receive collect and remit money bullion and securities on behalf of the Government, (ii) to undertake and transact any other business which the Government might from time to time entrust to the Bank provided that every such agreement should provide (a) that the Governor General in Council should have power to issue instructions to the Bank in respect of any matter which in his opinion vitally affected his financial policy or the safety of Government balances and that in the event of the Bank disregarding such instructions the Governor General in Council might declare such agreement to be terminated (b) that within five years from the commencement of the Act the Bank should establish and maintain not less than one hundred new branches of which at least one-fourth should be established at such places as the Governor General in Council might direct.

NOW IT IS HEREBY MUTUALLY AGREED AND DECLARED by and between the said parties hereto as follows, that is to say :—

1. This agreement shall come into force on the signing of these presents and shall remain in force for the term of 10 years from the twenty-seventh day of January 1921 and thereafter unless and until determined as hereinafter provided.

2. The general banking business of the Government of India and of all Local Governments (in which business is included the payment receipt collection and remittance of money bullion and securities on behalf of the said Governments respectively) shall during the subsistence of this agreement be carried on and transacted by the Bank in accordance with and subject to the provisions of this agreement and with and to such orders and directions as may from time to time be given to the Bank by the Governor General in Council or by any officer or officers of the Government of India authorised in that behalf and at such of the local head offices and branches of the Bank for the time being in existence as may from time to time be so directed and for this purpose such accounts shall be kept in the books of the Bank with the Government of India and the said Local Governments and at such local head offices or branches of the Bank as shall be necessary or convenient or as the Government of India shall from time to time direct.

3. During the subsistence hereof the Secretary of State and the Government of India shall employ the Bank as their sole Banker in India and deposit or cause to be deposited with the Bank or allow the Bank to receive and hold as Banker the whole of the Treasury funds and balances in cash or of belonging to the Government of India or the Local Governments and for the time being at any places at which for the time being the Bank shall have a local head office or branch and the Bank shall subject to such orders as may from time to time be prescribed by the Government of India receive and hold for the said Government of India and the said Local Governments respectively all such moneys and balances as may be or become payable to or on account of those Governments respectively and the Bank shall transact at its local head offices and at its several branches for the time being existing respectively all such business for the said Governments respectively regarding the receipt collection payment and remittances of money and securities and other matters, as is usually transacted by bankers for their customers. The Bank shall make the said Treasury funds and balances at the said offices and branches available for transfer to such places and at such times as the Governor General in Council or an officer of the Government of India authorised in that behalf may direct. No interest shall be

payable to the said Governments respectively or any of them on any of the funds moneys or balances for the time being held by the Bank, and no charge shall be made to the Bank for or in respect of payments to or transfers from the Government treasuries currency offices and currency chests.

4. The Bank shall within five years from the said date on which this agreement shall as aforesaid come into force open one hundred new branches in different localities in India other than the Presidency Towns and places where a branch now exist and the Government of India shall be entitled to determine the location of one in every four of such branches taking the same as far as feasible in the order of their opening, and the Bank shall not close any of its local head offices or branches now existing or hereafter to be opened except a sub-branch in a town where more than one branch exist unless with the express consent in writing of the Governor General in Council or an officer of the Government of India authorised in that behalf.

5. From and after the said date the management and transaction of all the business of the registered Public Debt and Securities for the time being of the Government of India and the Secretary of State and the performance of all duties relating thereto respectively, including the calculation and payment of interest and the consolidation division cancellation and renewal of Government securities and the keeping of all registers books and accounts and the conduct of all correspondence incidental or necessary thereto shall be transacted by the Bank at its local head office in Calcutta (in the same manner as heretofore by the said Bank of Bengal) and at its local head offices in Bombay and Madras and at any of its branches at which respectively the administration of any portion or portions of the Public Debt is for the time being conducted or interest thereon is for the time being payable and shall also keep and maintain such registers books and accounts in respect of the portion or portions of the Public Debt administered or the interest whereon is paid at such local head office or branches respectively as the Controller of the Currency may for the time being direct and shall audit all payments of such interest and the Bank shall during the subsistence hereof act generally as agents for the Secretary of State and the Government of India in and for the payment of the interest or principal of the said Public Debt and Securities or any of them as may be directed by the Government of India and in and for the maintenance of such registers accounts and books and the auditing of all such payments of interest as aforesaid and shall conduct such agency subject to such orders and directions with regard to the general management thereof and to the opening and keeping of books accounts and registers as may from time to time be given to the Bank by the Governor General of India in Council or the Controller of the Currency and shall not alter any practice in relation to the matters aforesaid or any of them without the permission in writing of the Governor General in Council or the Controller of the Currency PROVIDED ALWAYS and it is hereby agreed and declared that the Bank shall under and subject to the orders and directions of the Governor General in Council or the Controller of the Currency use its best endeavours to decentralise the administration of the said Public Debt and to distribute the same amongst its various local head offices and branches.

6. The Bank shall not be entitled to any remuneration for the conduct of the ordinary banking business of Government as hereinbefore described other than such advantage as may accrue to it from the holding of the funds, moneys and balances of Government free of obligation to pay interest thereon.

7. As and by way of remuneration to the Bank for the management of the business of the Public Debt and Securities as aforesaid the Bank shall be entitled to charge to the Secretary of State half-yearly a commission at the rate of Rs. 2,000 per crore per annum on the amount of the Public Debt on the books of the Public Debt Office (inclusive of that portion of the said Debt and Securities whereof the interest is payable elsewhere than in Calcutta) at the close of the half-year for which the charge is made. In calculating this charge the following amounts shall be excluded from the amount of the Public Debt, viz. :—

- (a) The amounts of loans discharged outstanding after one year from the date of a notice of discharge.
- (b) The amount of the currency investment.
- (c) The amount of Stock Certificates for Rs. 50,000 and upwards held by the Controller of the Currency, the Deputy Controller of the Currency, Bombay and the Accountants General, Bengal, Madras and Posts and Telegraphs.
- (d) The amount of stock and notes outstanding in the London Register.

And in addition to the charge of Rs. 2,000 per crore per annum the Bank shall be entitled to charge and shall receive a fixed sum of Rs. 2,000 a year on account of the Stock Certificates referred to in head (c) of this clause and the Bank shall be also entitled to charge and collect from the public (but not from Government) for the use of the Bank all such fees and charges as are now or may hereafter from time to time with the consent of the Governor General in Council be made payable for and upon the renewal consolidation division or otherwise of all notes which the Bank shall themselves renew consolidate or divide.

7A. In the event of the Bank managing and transacting the business of the debt of a Local Government the maximum half-yearly commission which the Bank shall be entitled to charge to the Local Government shall be at the rate of Rs. 2,000 per crore per annum on the amount of the debt of such Local Government on the books of the Bank at the close of the half-year for which the charge is made. In calculating this charge the amounts specified in heads (a) and (d) of clause 7 hereof shall be excluded from the amount of the debt. The amount of Stock Certificates for Rs. 50,000 and upwards shall also be excluded from the amount of the debt and in respect of these the Local Government will make special arrangements with the Bank.

8. The Bank shall be at liberty for the purpose of the transfer of its funds from any of its local head offices or branches to any other of such offices or branches to make payments into and withdrawals from the Government Currency Offices and Currency chests free of charge.

8A. Government shall not make any transfers of money for the general public between any two places in which a local head office or a branch of the Bank is situated. The Bank shall as far as practicable give the public every facility for transfer of money between its local head offices and branches at rates not exceeding such rates as the Controller of the Currency may by special or general direction approve.

9. Government shall maintain a Currency chest at each branch of the Bank situated at a place where there is no head office of a circle of issue of the Currency Department and the Bank shall provide sufficient accommodation for such chest or chests as may be required for the deposit of currency notes or coin held at the disposal of the Currency Agent or other Government Officer appointed in that behalf. Government shall supply the said chests together with the necessary currency whether notes or coin and the Bank shall subject to any directions received from the Controller of the Currency in that behalf do the work of exchanging notes for coin and coin for notes and shall supply the Controller of the Currency with such periodical information as he may from time to time require as to the silver balances held by the Bank at each of its local head offices or branches. One key of the said chest or chests shall remain in the custody of the Bank, and the Bank shall be responsible for the safe custody in its strong room of the said chest or chests and its or their contents and the responsibility of the Bank in respect of the said chest or chests and its or their contents shall be that of a bailee as prescribed by section 151 of the Indian Contract Act (Act IX of 1872). The Bank shall allow the Currency Agent or officer as aforesaid to have access to the said chest or chests at all reasonable times for the purpose of withdrawing or depositing currency notes and coin. The Bank shall also be responsible for the examination and correctness of coin or notes at the time of deposit in or withdrawal of the same from the said chest or chests.

9A. Government shall as far as practicable supply local head offices and branches of the Bank with the amount of coin of denominations less than Re. 1 which may be required by the Bank.

10. The Bank shall receive and accept at any of its local head offices or branches in payment of Government revenue and from the administrations of State Railways on account of their traffic receipts Government currency notes of all circles indiscriminately.

11. The Bank shall not be at liberty to close any of its local head offices, respectively, except on Sundays, New Year's Day, Christmas Day, and if either of such two last mentioned days falls on a Sunday the next following Monday, Good Friday and on any other day declared to be a public holiday by any notification published in pursuance of the Negotiable Instruments Act (Act XXVI of 1881) or to close any of its branches for the time being existing except on Sundays and on holidays authorised by the Local Government within whose jurisdiction such branches may be respectively situated.

12. The whole responsibility for any loss or damage which may result from or arise in respect of or be occasioned by any theft forgery fraud misrepresentation or concealment or by any wrongful payment exchange or satisfaction through mistake or any error in calculation or any accident or mistake whatsoever to or by the Bank whether at any of its local head offices or branches or to or by any of its officers or agents whether in conducting the business of the Public Debt and Securities or in the payment of the interest thereon or in the renewal consolidation sub-division or cancellation of any Government Promissory Notes or Note or other Security or in any other connection shall as between the Secretary of State and the Bank rest solely and entirely with and shall be borne by the Bank who shall indemnify the Secretary of State against all losses costs and charges therefrom arising PROVIDED ALWAYS that if any loss or damage which may result from or arise in respect of or be occasioned by any theft forgery fraud misrepresentation or concealment shall be incurred in the conduct of the business of the Public Debt Office in connection with the renewal consolidation sub-division cancellation exchange or payment (whether of principal or interest) of any Government Promissory Note or other Security and such damage or loss shall not be due to or caused by any negligence or default on the part of the Bank or any of its officers or agents such loss or damage shall be borne by Government and the Bank in equal shares PROVIDED however that any loss or damage which may result by reason of the acceptance by the Bank at the time of the renewal, conversion, consolidation or sub-division of Government Promissory Notes, of endorsements which *prima facie* appear to be in order and the genuineness of which the Bank shall have no reason to question, shall if such loss or damage is not due to or caused by any negligence or default on the part of the Bank or any of its officers or agents be borne by Government PROVIDED ALSO that in the event of the Bank being in doubt as to whether any endorsement on a Government Promissory Notes should or should not be accepted the Bank shall be entitled to refer the matter to the Controller of the Currency or other authorised officer and if upon such reference the Controller of the Currency or other authorised officer directs the Bank in writing to accept such endorsement any loss or damage which may result from such acceptance shall be borne by Government PROVIDED further that in regard to the ordinary banking business of receiving and realising money and securities for money on account of Government and paying cheques orders draft bills and other documents whether negotiable or not in the Bank's capacity of bankers for Government the responsibility of the Bank to the Secretary of State shall be that of a banker to an ordinary customer.

13. If the Bank shall open an office in London a statement of the total funds and balances and particularly of the Government balance held by or at such office for the time being shall at all times while such office shall be maintained be furnished weekly by the Manager or other proper officer thereof or thereat to the Secretary of State. And the Secretary of State shall be at liberty at any time and from time to time to require the Bank to pay to him any sum which he thinks fit from the funds or balances of the Bank for the time being held at the office in London against a corresponding debit against the Government in its account with the Bank in India PROVIDED ALSO that no such requisition shall be made without due notice to the Bank in London or at any of its local head offices in India and that before actually making the same the Secretary of State shall give due consideration to any representations which may be made by the Bank to him as to the detriment or inconvenience to the Bank apprehended by it as the result of the proposed payment if made.

14. The Governor General in Council shall be entitled to issue instructions to the Bank in respect of any matter which in his opinion vitally affects his financial policy or the safety of Government balances for the time being deposited with the Bank and if the Controller of the Currency or such other officer of Government as may be nominated by the Governor General in Council to be a Governor of the Central Board of the Bank shall give notice in writing to the Managing Governors of the Bank that he considers that any action or step or proceeding proposed to be taken or carried out by the Bank will be detrimental to the Government as affecting the matters aforesaid such action step or proceeding shall not be taken or carried out unless and until the Governor General in Council shall have approved thereof in writing. And if there shall at any time be any wilful disregard or failure on the part of the Bank to comply with the provisions of this clause the Governor General in Council shall be entitled by notice in writing addressed to the Managing Governors of the Bank and left at any of its local head offices to determine this agreement forthwith and on such notice being given the same shall forthwith be determined accordingly.

but without prejudices to any rights acquired by either party prior to such determination.

15. The Bank shall forthwith supply the Controller of the Currency with all such information as he may by special or general direction from time to time require and shall also supply to the Governor General in Council a weekly statement as to the position of the Bank and a copy of the Bank's half-yearly Balance Sheet.

16. This agreement may be determined at or at any time after the expiration of the said term of 10 years by notice in writing given in manner hereinafter mentioned that is to say that if on or after the expiration of nine years from the said twenty-seventh day of January 1921 either of the parties hereto shall give to the other party a notice in writing expressing the desire to determine this agreement such notice if given by Government to be addressed to the Managing Governors of the Bank and to be served by being left at any of its local head offices and if given by the Bank to be served by leaving the same with or addressing the same by registered post to the Secretary to the Government of India in the Finance Department, this agreement shall immediately upon the expiration of twelve calendar months from the day of such service absolutely cease and determine save as to rights or liabilities acquired or incurred prior to such termination.

In witness whereof Edward Mitchener Cook, Secretary to the Government of India in the Finance Department by the order and direction of the Governor General of India in Council acting for and on behalf of the Secretary of State for India in Council has hereunto set his hand and the common seal of the Imperial Bank of India has been hereunto affixed the day and year first above written.

Signed by the said Edward Mitchener Cook, Secretary to the Government of India in the Finance Department for and on behalf of the Governor General of India in Council acting in the premises for and on behalf of the Secretary of State for India in Council in the presence of

(Sd.) E. M. COOK.

(Sd.) J. C. NIXON,
Under Secretary to the Government of India.

The common seal of the above-named Imperial Bank of India was affixed hereto in the presence of me and also of

ROBERT MIDDLETON WATSON
SMYTH.

and also of
SATHAPPA RAMANATHA MUTHIA
ANNAMALAI CHETTY.

and also of
SIR NORCOT HASTINGS YEELES
WARREN, Kt.

who in my presence have signed their names hereto in token of their having been so present.

G. W. McNAIR,
Solicitor, Calcutta.



(Sd.) R. M. WATSON SMYTH,

(Sd.) S. R. M. ANNAMALAI
CHETTY.

Governors.

(Sd.) N. H. Y. WARREN,
Managing Governor.

PAYMENT BY IMPERIAL BANK TO CREDITORS OF ALLIANCE BANK.

Mr. W. M. Hussanally : (a) Was the amount of money paid by the Imperial Bank to the creditors of the Alliance Bank a loan to Government of India, the Secretary of State or the Alliance Bank ?

(b) At whose instance did the Imperial Bank forego interest on the advance ?

(c) Has any period been fixed for the advance or loan ? If so, how much ? If no period has been fixed, when is it likely the loan will be repaid ?

(d) Why did Government not advance the money to the creditors of the Alliance Bank out of their own funds instead of guaranteeing the Imperial Bank against any loss by the transaction ?

(e) Should there be any loss to the Imperial Bank, will the same be borne by the Indian or British Exchequer ?

The Honourable Sir Basil Blackett : (a) I think I had better treat this question as being a matter which is *sub judice*.

(b) It was a matter of mutual arrangement.

(c) No period is fixed. The Government do not anticipate that any payments by Government will be required.

(d) In regard to the next question the Government considered that in a crisis of this kind it was the natural function of the Central Bank to support credit and to protect the banking interests of India.

(e) As to the last question, any loss will be borne by Indian revenues, but as I have already said, Government do not anticipate that there will be any loss. The British Exchequer is obviously not concerned.

UNSTARRED QUESTIONS AND ANSWERS.

OFFICE SUPERINTENDENT OF NORTH-WESTERN RAILWAY CHIEF ENGINEER'S OFFICE.

110. **Rai Bahadur Bakshi Sohan Lal :** Will the Government be pleased to state how far it is correct :

(a) that the post of the Office Superintendent of the Chief Engineer, North-Western Railway, is about to be vacant by the retirement of the present incumbent ?

(b) that it is intended to fill the vacancy by appointing a European or an Anglo-Indian in preference to the Indian who has already officiated in the appointment several times with creditable approval of his work in every respect ?

(c) that no applications are intended to be invited by public advertisement or otherwise in order to allow a selection of the best without regard for colour or creed from amongst the sons of the soil ?

Mr. G. G. Sim : (a) and (b). Government have no information on the subject.

(c) As the incumbent must possess certain technical qualifications the post will ordinarily be filled by the promotion of a suitably qualified employee.

IMPORTATION OF STORES FOR GOVERNMENT DEPARTMENTS.

111. **Rai Bahadur Bakshi Sohan Lal :** Will the Government be pleased to state how far it is correct :

(a) that stores for the requirements of the Public Works, Irrigation, Railway and other Government Departments are still imported from other countries when the articles of equal efficacy can be supplied in India at cheaper or equal prices ?

- (b) that articles of Indian production and manufacture such as timber, cloth, iron and house fittings, etc., are not given preference to similar articles of foreign manufacture and production ?

The Honourable Mr. A. C. Chatterjee : The Government of India are unable to estimate the extent to which there may have been failure to observe the rules for the supply of articles for the public service, which prescribe that preference is to be given to articles produced or manufactured in India provided that quality is sufficiently good and price not unfavourable. As the Honourable Member is aware, purchases have hitherto been effected by individual departments and officers, and such failure as may have occurred on their part to resort to Indian markets to a larger extent, has no doubt been due to lack of knowledge of available sources of supply, or to the absence of efficient agencies for the inspection of stores. It is to remove these obstacles that the Government of India have now taken in hand the organization and expansion of the Indian Stores Department.

SALT SALES AND DUTIES.

112 **Rai Bahadur Bakshi Sohan Lal :** Will the Government be pleased to lay on the table a statement showing :

- (a) the whole quantity of salt issued by Government for sale during the period from 1st March 1923 to 30th June 1923 as compared with the quantities issued during the same part of the previous five years ?
- (b) the whole amount of duty on salt raised during the period of 4 months from 1st March 1923 to 30th June 1923 at the rate of Rs. 2-8-0 per maund as compared with the duty received during the same parts of the five years at the rate of Rs. 1-4-0 per maund ?

The Honourable Sir Basil Blackett : Figures are not yet available for the period in question. The Honourable Member will, I think, find a general answer to his question in statistics already published or given by me in answer to previous questions during this session.

MOTION FOR ADJOURNMENT OF THE HOUSE.

DISCUSSION ON KENYA.

Mr. T. V. Seshagiri Ayyar (Madras : Nominated Non-official) : Sir, I ask your permission to move the adjournment of the House to call attention to the Kenya negotiations and to the desirability of an immediate representation by the Legislature for the purpose of upholding the claims of Kenya Indians in order that a just decision may be obtained from His Majesty's Government.

Sir, a word of explanation is necessary, because I made a similar motion sometime ago, and you ruled that it was not of an urgent character. Since I made that motion, there have been two telegrams, one from the deputation of this House sent to England asking us to take steps immediately to express the views of the Legislature on the

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subject. Yesterday evening another telegram was received. It is probably public property by now. I will read the opening lines which are as follows :

“ The latest information regarding Kenya decision alarming. Probably decision going against Indians, against India Government's declarations, despatches and so on.” That shows, Sir, that crisis has been reached in the negotiations ; it is therefore desirable that the hands of the Government should be strengthened by the expression by this House of its views on the subject. If we delay the expression, the result of it will be that the negotiations will go on without the Home Government knowing what we think on the matter ; and though the Government have been good enough to express their views, it is desirable that we should have an opportunity of expressing what we feel on this question in order that the Government may be able to cable to the Home Government our views. In this view the matter is urgent, as, if we do not move to-day there is hardly any chance of the views of the Legislature being brought to the notice of the Home Government. I therefore ask you, Sir, to give me permission to move the adjournment of the House this afternoon.

Mr. President : Mr. Seshagiri Ayyar asks leave to move the Adjournment in order :

“ To call attention to Kenya negotiations and the desirability of an immediate representation by the Legislature for the purpose of upholding the claims of Kenya Indians in order that a just decision may be obtained from His Majesty's Government.”

I understand the Honourable Member bases his request upon two telegrams, the first of which appears to me to be a private telegram and not public in the sense in which the word is used in the rules. I am a little in doubt as to the exact origin and authoritative character of the second telegram—whether it represents any statement by any public authority which should be brought to the notice of this Chamber.

Mr. T. V. Seshagiri Ayyar : It is from the Associated Press, and the Associated Press, if I understand aright, has been circulating it to the evening newspapers. It was in the hands of very many officials last night.

Mr. President : The Associated Press is a private organisation as far as we are concerned, and unless it is made the channel of communication for some official statement which has been made either here or in England, I do not think I can regard that as authentic.

Mr. T. V. Seshagiri Ayyar : It has been circulated to all the newspapers, Sir, and also to Government officials, if I understand aright. I have got a copy of it here.

Mr. President : I am afraid that whatever the Honourable Member proposes to do, I cannot rely on the newspapers for a purpose of this kind.

Mr. T. V. Seshagiri Ayyar : It is a telegram, Sir, which is in the hands of everybody.

The Honourable Sir Malcolm Hailey (Home Member) : If I understand it correctly, it is an anticipation from a correspondent of Mr. Seshagiri Ayyar, as to what may happen as the result of the negotiations now going on regarding Kenya. It is not an announcement on the part of His Majesty's Government or any similar authority.

Mr. T. V. Seshagiri Ayyar : No. If there was an announcement I would not have risen in my place to ask for an adjournment of the House. It is because we want to help in arriving at a decision before the announcement is made, that I want to move in this matter, so that the Government may know our views and may take steps to bring to the notice of the Home Government not only their own views but the views of the House.

Mr. President : The Honourable Member does not appear to have supplied me with any new information. The point at issue is this. We have already discussed fully the position of Indians in Kenya. The message which the Government of India transmitted to the Home Government conveyed the considered opinion of this Assembly on that subject, and the only means by which a motion for adjournment could be taken this afternoon would be some authentic official information regarding a new development of grave significance which had not been discussed before. Now I am afraid I cannot accept two private telegrams as proof of that grave development.

Sir Deva Prasad Sarvadhikary (Calcutta : Non-Muhammadan Urban) : The Government has not contradicted what has been stated in the telegram, and if it has information to the contrary, it will no doubt reassure the House.

The Honourable Sir Malcolm Hailey : May I say it will be quite impossible for us to contradict such an anticipation. As I understand these two telegrams, they are nothing but forecasts of what is likely to happen when a decision is arrived at.

Mr. T. V. Seshagiri Ayyar : Sir, may I say only one word more. I said I believed the Government was in possession of the news which I have had. Only to that extent, Sir Deva Prasad Sarvadhikary says the Government will not be in a position to contradict the news which I am communicating to the House, namely, that in England our deputation is feeling that it is not possible to obtain a just decision unless both the Legislature and the Government join hands and press upon the Home Government the necessity of dealing with this matter in an impartial manner. The telegram put into my hands has also come into the hands of Government and they know as well as I do that there is every possibility of the decision going against us unless we—the Legislature and the Government together—move in the matter and press upon the Home Government the necessity of proceeding in this matter in a different spirit. That, Sir, is the urgency ; the matter is to be decided on the 25th, and unless the Legislature and the Executive Government put their heads together and come to a decision, and wire to the Home Government our views on the matter the decision there would be practically *ex parte*, and all our efforts would be useless. In these circumstances I again ask you, Sir, to consider whether this is not an urgent matter, urgent in the sense that if we do not move now the decision will go against us, urgent also in the sense that it is desirable that if the Government wish to know our views before they cable to the Home Government, this is the time for doing so. They know the feeling in the country ; they know their own minds ; but they must know something about our minds and unless we express our feelings at the present moment, the Government have no chance of being in possession of our views. In these circumstances, having regard to the feeling in the

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country, I hope you will consider that this is an urgent matter and that you will allow me to move the adjournment of the House.

Mr. President: I can assure the Honourable Member that, if the rules permitted me to take account of the feeling in the country, I should be prepared to allow him; but the rules do not allow me to do so. I am afraid the Honourable Member has not proved his case in regard to this matter and I cannot therefore allow him to make the motion.

THE PUBLIC ACCOUNTS COMMITTEE.

The Honourable Sir Basil Blackett (Finance Member): Sir, I beg to lay on the table the *interim* report of the Public Accounts Committee.

INTERIM REPORT OF THE PUBLIC ACCOUNTS COMMITTEE ON THE ACCOUNTS OF 1921-22.

Reference.

The following motion was made by the Honourable Sir Basil Blackett on the 8th March 1923 and adopted by the House:—

“That this Assembly do proceed to elect 8 Members to be Members of the Committee on Public Accounts.”

In pursuance of this, the following Members were elected by the House:—

Mr. K. C. Neogy.	Mr. K. G. Bagde.
Mr. K. Ahmed.	Syed Nabi Hadi.
Mr. N. M. Joshi.	Rao Bahadur P. V. Srinivasa Rao.
Mr. Ambica Prasad Sinha.	Mr. Braja Sundar Das.

The following Members were nominated by the Governor General under rule 51 (2) of the Indian Legislative rules:—

Mr. A. O. Jamall.	Mr. J. P. Cotelingam.
Mr. P. B. Haigh.	

Under rule 51 (3) of the Legislative rules the Finance Member is the Chairman of the Committee.

I.—Introductory.

This report is concerned with the accounts for the year 1921-22. 1921-22 was the first year the expenditure of which was subject to the vote of the newly constituted Assembly. The accounts of this year are therefore the first accounts in the scrutiny of which the Public Accounts Committee was called upon to compare the grants voted by the Assembly with the actual expenditure under the voted heads, and to exercise its functions of examining into and reporting to the Assembly on the action of the Government of India in giving effect to the wishes of the Assembly as expressed by their votes in regard to that part of the expenditure which is voted.

2. The reports placed before us by the Auditor General are grouped in two sets; audit reports and appropriation reports. The latter show how actual expenditure compares with sanctioned grants, while the former deal with irregularities in expenditure discovered in the course of audit. Each set consists of a number of reports by three Accountants General who deal solely with the revenue and expenditure of the Government of India, (the Accountant General, Central Revenues, the Accountant General, Railways, and the Accountant General, Posts and Telegraphs), by the Accountant General, Punjab, with regard to the Accounts of the North-West Frontier Province, and by the various Provincial Accountants General who, in addition to being responsible for the accounts of the particular province to which they are attached, deal with a certain number of Central heads of expenditure, consisting mainly of those which are administered by the provincial Government as agent of the Government of India. The audit reports were ready about the end of last year, and some of them were examined by the Committee appointed by the House for the year 1922-23, who held two meetings in March in Delhi. The appropriation reports were not available till May, but even if they had been ready in March, they could not have been considered by the previous Committee, as the

time of members was so fully occupied in that month with the ordinary business of the House that it was practically impossible to arrange for more meetings. We have now examined the appropriation reports, and hope soon to have finished the audit reports but we think it will be more convenient to the House if we submit our report on the appropriation accounts at once.

3. At the outset we feel it necessary to draw attention to the special difficulties that exist in India in the way of getting oral explanations of excesses in expenditure. The actual disbursing officers who are in a position to give full explanations are far away; of the various account officers whose reports are placed before us only the Accountant General, Railways, is at the headquarters of the Government. We were this year, by a fortunate coincidence, enabled to have the assistance of the Accountant General, Posts and Telegraphs, when going through his report; and we feel that our task will be considerably lightened, when the Accountant General, Central Revenues, who finally accounts for all the grants voted by the Assembly with the exception of those in connection with Railways and Posts and Telegraphs is at headquarters at Delhi instead of at Calcutta.

4. We recognise fully the difficulties met with, both by the administrative authorities and by the accounting staff in this, the first year of the Reforms. It could hardly be expected that immediately after the inauguration of the new system, the responsibility of the Government of India and their departmental officers for keeping their expenditure under voted heads of expenditure strictly within the limits of the amounts for which the Assembly had voted money would be fully realised and that the machinery for securing strict attention to the rules of Parliamentary appropriation could at once be put in working order. In the year 1921-22 for the first time the Government of India were responsible to an authority in India other than themselves in regard to a certain portion of their expenditure. In commenting on the actions of the Government of India, we are fully conscious of the fact that during the year in question all the authorities were feeling their way towards a complete understanding of the new system. Many of the defects which we have noticed here, we are informed, already been observed by the Government of India themselves, who have in many cases taken steps to improve the system. Many more will, we have little doubt, be gradually overcome in course of time even without our drawing attention to them. But in other cases, we believe that the scrutiny of the Public Accounts Committee is doing, and will do, real service in bringing defects to light and suggesting remedies. Where we feel called upon to make criticisms, we do so in performance of our duty of co-operating with the Government in establishing and improving the system of working of the new control by the Assembly over expenditure which the Reforms have brought about. We are convinced that the existence of the Public Accounts Committee and the knowledge that it will in due course scrutinise the accounts of the year's expenditure, examine witnesses from particular Departments, and call on the Government for explanations of any irregularities or of any failure to keep expenditure on voted items within the limits voted by the Assembly, will be most helpful in introducing new methods and machinery into the Departments of the Government of India in dealing with voted expenditure. The Departments of the Government of India will realise that they are now for the first time being brought face to face with the necessity of justifying their expenditure in detail to a responsible body of representatives of the Indian tax-payer. By realising this, they will be led naturally, as expenditure is incurred during the course of the year, to keep in mind, and devise machinery for, the task of justifying their expenditure before the Assembly.

II.—General.

5. The total amount of grants voted by the Assembly for the expenditure of the year 1921-22 (including supplementary grants) was Rs. 1,34,56,87,000, and the total expenditure for the year out of these grants was Rs. 1,25,26,63,766,* resulting in a saving on the whole of Rs. 9,30,23,234. As compared with the original grant of Rs. 1,13,29,88,000, there is an excess of Rs. 11,96,75,766.

6. There has however been an excess in expenditure over sanctioned grants under 24 heads aggregating Rs. 1,95,00,183, details of which are given in an appendix to this report. These are covered by savings aggregating over 11 crores

*The figures for expenditure may require very slight alteration, but the change will be almost negligible.

under other heads, the result being a total saving of about 9½ crores as mentioned above. We recommend that the Assembly assent to the demand for an excess grant in respect of these heads which the Governor General in Council will place before them.

7. In addition to the excesses over sanctioned grants in the actual expenditure of the years, there has been an excess under the two heads 'Interests free advances and 'Loans and Advances bearing interest' to the extent of Rs. 2,98,32,976. The Original grants voted by the Assembly amounted to Rs. 13,43,89,000; and the final grants as sanctioned in March 1922 were Rs. 20,89,56,000; and the actual disbursements in the year amounted to Rs. 23,87,88,976. The causes of this excess are given in page 103 of the Appropriation Report of the Accountant General, Central Revenues. Nearly 2½ crores was due to the system of accounting in the Army Department. The explanation of the Military Accountant General on the point is as follows:—"The excess over the revised estimate is due to the value of stores issued on payment being credited to Army by debit in the first instance to 'Advances Repayable,' the head being credited when recoveries are effected from individuals, etc., in accordance with the cost accounting instructions and also to larger amounts having been debited to the head in the first instance in the absence of relevant vouchers and information but subsequently adjusted to the proper heads of account. The increase in expenditure is thus also reflected in receipts." The excess is therefore due in great part to the fact that the grant voted by the Assembly is a gross grant, and takes no account of recoveries; if the Assembly had voted net grants under these heads, there need not have been any excess. As for the rest of the excess, almost the entire amount (about 45 lakhs) is due to the fact that the Punjab Government had to be allowed a considerable overdraft during the year. We recommend that these excesses be also formally sanctioned by the Assembly.

8. In many of the cases where the accounts showed that the actual expenditure had exceeded the grant sanctioned, we found that the excesses were more apparent than real being due to one or both of the following causes:—

- (i) a change of classification, in the accounts introduced after the demands were passed whereby the expenditure was accounted for under a head other than that under which funds had been provided for it; the most striking instance of this being due to the decision to show 'loss on exchange' under the various heads of expenditure, instead of under the separate head 'Exchange' where 903 lakhs had been provided for it.
- (ii) the fact that certain items of expenditure on stores in England could not be adjusted by the High Commissioner under the correct heads for want of full information in the indents and the expenditure had consequently to be passed on to be adjusted in India under the various heads. Funds had been provided for the purchase of these stores under the head 'Expenditure in England' where, as a result, there is a net saving of over 58½ lakhs.

9. The complications arising from the change of classification during the course of the year under the head 'Exchange' will not disturb the figures in future. As a matter of principle we deprecate effect being given in the middle of the year to changes in classification of expenditure and of methods of accounting and trust that such changes will rarely if ever be made in future in the course of the account year.

10. We are informed that the second cause will not operate in future years, as arrangements have since been made to give complete information on the indents which would enable the accounting officer of the High Commissioner to allocate the charges without any difficulty. We are not quite convinced however of the necessity or suitability of a separate grant for expenditure in England and suggest that the Government of India should consider the advisability of bringing the expenditure to account in India under the various demands into which it is at present sub-divided, thereby enabling the true expenditure on a given service, whether incurred in India or in England, to be ascertained at a glance.

11. Another minor difficulty which has several times come to our notice is due to the separation between 'voted' and 'non-voted' items of expenditure. Non-voted expenditure sometimes takes the place of voted expenditure and *vice versa*. Administrative requirements often involve the replacement in the course of the year of an officer whose salary is voted by one whose salary is not—and *vice versa*—

and it is impossible to foresee those changes in preparing the budget estimates. This difficulty is inherent in the system laid down by the Government of India Act and, we feel it desirable to mention it here.

12. In our examination of the accounts of 1921-22 we have been struck by the fact that in many cases the actual expenditure though in excess of the final net grant and technically requiring to be regularised was within the original grant sanctioned by the Assembly. Apart from variations due to this cause under minor heads, we have noticed that under six of the demands (*viz.*, Taxes on Income, Irrigation and Waterways, Administration of Justice, Mines, Education, and Miscellaneous Departments) under which there are excesses as compared with the final grants, the expenditure has fallen short of the original grants; and, in six more, (*viz.*, Land Revenue, Other Scientific Departments, Public Health, Civil Works, Superannuation allowances and Miscellaneous) there would have been no excess but for reductions sanctioned by the Assembly in passing the final Supplementary Demands placed before it by the Government in March.

13. We understand that this somewhat curious result is due to the existing practice of basing the final voted grants for the expenditure of the year on the revised estimates of expenditure prepared by the Finance Department in connection with the next year's Budget, the original grants being supplemented or reduced under each separate head with the sanction of the Assembly. The Accountant General, Central Revenue, and the Auditor General have pointed out that this method is both inconvenient and inaccurate. In the year under review, the final supplementary demands were passed by the Assembly on the 11th March 1922, and reductions made could not be communicated to the spending officers till some time after the close of the year. As a result, there were many cases where the expenditure had been kept by the disbursing officers well within the original grants of which they were cognisant, but proved to have exceeded the final reduced grant of which they were informed only after the close of the year.

14. In order to avoid this difficulty it has been suggested that the supplementary grants and reappropriations from one head to another when presented to the Assembly should not be based on the revised estimates at all; but should be framed in full consultation with the administrative authorities, the authorities actually responsible for the expenditure being given the fullest opportunity of expressing their views in the matter. This procedure, if feasible, might solve the difficulty but would, in our opinion, if extended to re-appropriations inevitably prove very inconvenient as it practically involves the setting of the full budget machinery of the Government of India in motion twice over for this purpose.

15. The other suggestion put before us, which we favour, is that no re-appropriations should be proposed in placing the supplementary grants before the Assembly. A saving under one head is by itself no justification for an excess under another; and from the point of view of Parliamentary control of expenditure, it is obviously undesirable to encourage underspending under one head with a view to overspending under another. If re-appropriations from one demand to another were treated as a matter of course, there would be a great temptation to keep a margin of possible savings under some heads when preparing the budget.

16. If this suggestion were adopted, the Government would place before the Assembly, in good time before the close of the financial year, a statement showing under what demands an excess in expenditure was necessary or desirable and would ask the Assembly for supplementary grants for these excesses. The Assembly would not be asked to sanction a reduction in any grant already made, but it would be the duty of the Government to point out at the same time what savings were, on the best information available at the moment, likely under other demands and to place before the Assembly any other facts, such as an increase in anticipated revenue, which would affect the closing balance of the year.

17. The chief advantage of this system would be that the Assembly, when asked for a supplementary grant, would have placed before it demands based on the representations of the administrative departments actually responsible for the expenditure and not on estimates of probable expenditure prepared mainly by the accounts officers and the Finance Department. It is easier to enforce the responsibility of a spending officer if he exceeds the estimates for which he is himself responsible than if he exceeds estimates he knows nothing about.

18. We consider that this procedure will avoid most of the difficulties experienced at present. It may be argued that the actual reduction of a grant under any particular head may be of use in checking expenditure under that head. But, apart from the fact that the Assembly is not itself in a position to foresee savings under any head, and that it must depend on estimates furnished by the executive Government, it is not difficult to see that an actual reduction of expenditure can follow only if the saving is foreseen long before and the reduction in the grant communicated to the disbursing officers early enough. This, we are assured, is, in most cases, impracticable, as the total saving which may be foreseen has to be distributed under different sub-heads and communicated to various disbursing authorities. Most, if not all, of the advantages of an actual reduction of the grant can be obtained by the issue of orders to a Department to underspend its grant to a certain fixed extent. A grant cannot be exceeded without the sanction of the Assembly, and it ought to be the duty of the Finance Department of the Government when during the course of the year it becomes apparent that unexpected savings can be anticipated under that head, to fix a lower maximum to the spending department, any excess over which should be dealt with by departmental action if no sufficient explanation was forthcoming. Such an excess should be reported to the Public Accounts Committee by the Auditor General.

19. When this system is in full working order, excesses ought not to occur in any but extraordinary circumstances. But if after the accounts for the year are closed, in spite of all precautions, the total grant under any demand has been exceeded, the excess ought to be regularised by a vote of the Assembly. The excess would naturally be examined, in the first instance, by the Public Accounts Committee, and in making a demand for an excess grant, the Government would place before the Assembly any recommendation that the Committee might desire to make.

20. Before leaving this part of the subject we desire to draw attention to the importance of impressing upon the actual disbursing officers the absolute necessity of obtaining funds from the Assembly before incurring expenditure on voted heads, for we feel that this was not sufficiently realised in the year 1921-22. Cases have come to our notice where expenditure has been incurred which could, so far as we could see, have been postponed till funds had been provided for it by the Assembly; and we think that it is essential that means should be devised of effectively stopping irregular expenditure by making some officer of the Department responsible for excesses under each demand and of enforcing this responsibility when necessary. In this connection, the question was raised of the possibility of preventing excess expenditure by making it impossible for spending officers to get money in excess of a certain fixed sum without proper authority. We understand that there are grant difficulties in the way of an absolute control in this matter owing to the large number of disbursing centres in India at which money has to be made available for expenditure. The matter, however, is so important that we would recommend that the suggestion should be carefully considered by the Government.

21. Our attention has been drawn to the question of the powers of the Government to reappropriate within the same demand. It may be argued that as the Assembly in voting the total grant under any demand grants the money for the purposes detailed in the estimates placed before it, any important variations should be brought to the notice of the Assembly. When, for instance, money voted by the Assembly for one purpose is utilised by Government for another purpose not approved of, or perhaps specially disapproved of by it, it may be considered that there should be some means whereby the Assembly could be seized of it. At present the Finance Department of the Government exercises in theory absolute powers of reappropriation, and there are various other authorities which have certain restricted powers. We notice, however, that these powers of reappropriation are, in practice, largely modified and controlled by the fact that all important items of new expenditure are placed before the Standing Finance Committee whether the expenditure can be met by reappropriation or requires a supplementary grant. Ordinarily the executive should, it is urged, have power to vary the expenditure within a grant so long as they spend it within the purposes of the grant, and the remedy for preventing abuses of the power of reappropriation is to split up the vote where such abuses occur into two or more votes.

22. This brings us to the question of parliamentary control over the large sums voted under the heads 'Railways' and 'Posts and Telegraphs.' In these

particular cases, we consider that there is a strong *prima facie* case for splitting up the vote and we recommend that the Government should consider, in consultation with its expert advisers, the most convenient method of placing the demands before the Assembly in order to make its control more effective. As regards the grant for Railways, it has been suggested that a separate demand may be made on account of each Railway. This would increase considerably the number of demands and might necessitate the allotment of a longer period of time than is allowed at present, for the discussion of the demands. An alternative suggestion is to have separate demands for the various sub-heads into which the present head is sub-divided, but some of the minor heads will still run into many crores. We are not at present in a position to express an opinion on the matter, but recommend that the possibility of sub-division of the demands should be carefully considered.

23. In connection with the question of reappropriations within a demand, we considered a suggestion that the appropriation reports instead of dealing only with variations in expenditure under minor heads of account, should show in detail the various re-appropriations made, and the actual expenditure incurred under each detailed head shown in the Demands for Grants for the year in which the Assembly sanctioned it. On the other hand it was pointed out that this procedure would involve still further delay in issuing the appropriation reports, and would increase considerably the work involved in preparing them, as explanations would have to be given of every important variation if the figures were to be of any use. Moreover, the demands of grants for 1923-24 contained the details of actual expenditure for 1921-22 and anybody interested could compare the budget figure shown in the demands for 1921-22 with the actuals shown in the demands for 1923-24.

24. We have not had time on this occasion to arrive at any final conclusion with regard to the questions dealt with in paragraphs 20-22, but we think that they deserve further consideration.

25. The only other observation of a general nature that we have to make on the accounts is based on what has been represented to us as the cause of an excess over grants in one or two cases, *viz.*, the revision of pay of establishments with long retrospective effect. We understand that at present the Government do not usually sanction increases of emoluments from a date long previous to the date of sanction, but we feel it desirable to place on record our opinion that any proposal to increase emoluments with retrospective effect should require strong justification.

III.—Particular Accounts.

26. In this part of the report, we deal with matters which have come to our attention in connection with individual grants.

Stamps.

27. We notice that under this head, the excess in the gross grant is entirely explained by the adjustment of the loss on exchange and of expenditure in England on stores under this head. Consequently there would have been no excess but for these exceptional factors. On the other hand, the recoveries from Provincial Governments and the Department of Posts and Telegraphs which are taken as a reduction of expenditure considerably exceeded estimates partly for the same reason. There is a possibility in this and similar cases where there are recoveries taken as a reduction of expenditure that an excess over a gross grant may be covered by larger recoveries, so that there is no excess in the net grant under the head. We feel it therefore desirable to place on record our opinion that in such cases an excess over the gross vote should require the sanction of the Assembly irrespective of the amount of recoveries. There may be converse cases where the recoveries are less than anticipated with the result that there is an excess in the net grant without an excess in the gross grant. Such cases too should, in our opinion, be reported to the Assembly for sanction.

Irrigation and Waterways.

28. Though the excess is comparatively trifling, we were struck with the fact that in Baluchistan the grant had been exceeded by over 160 per cent. We have also noticed a similar excess in the same province under Civil Works. We suggest

that the matter of more effective control of expenditure on works in this province should be investigated.

General Administration.

29. We have also noticed the excess under Executive Council which has been explained as due to tour expenses. We would suggest that a proper estimate of tour expenses of Members of the Executive Council should be made and some central authority charged with the duty of watching the expenditure and of seeing that, when excesses were likely, a supplementary grant is obtained.

30. We note that the excess under the head "Legislative Assembly" is partly due to the cost of the Racial Distinctions Committee and the Railway Finance Committee being taken under this grant. We are not quite satisfied that expenditure on Committees appointed otherwise than by the Assembly and containing persons who are not members of the Assembly should be taken against this vote and suggest that the question of the correct classification of the expenditure be further considered.

Jails and Convict Settlements.

31. We understand that the large excess in expenditure in Delhi under this head was due to an unexpectedly large number of prisoners in December 1921 and January 1922, in connection with the non-co-operation and similar movements just before the visit of His Royal Highness the Prince of Wales. We recognize that the expenditure was inevitable, but the excess was not. It ought to have been possible to obtain a supplementary grant on this account in time, but we are informed that the administrative authorities in Delhi did not move in the matter. This is not the only case of its kind in Delhi. We have noticed a number of excesses under various heads which seem to suggest that means for control of expenditure in that province are not quite adequate. We are of opinion that the attention of the Chief Commissioner, Delhi, should be specially drawn to the necessity of obtaining grants from the Assembly before incurring expenditure, and of taking steps to obtain supplementary grants if excess expenditure has unavoidably to be incurred in anticipation of the approval of the Assembly.

Survey of India.

32. In our examination of the Surveyor General in connection with the excess under this head and that attributable to this head under "Land Revenue" we were struck by his statement that he had not been informed till lately of the accounts adjustment of expenditure transferred from England to India which was the chief cause of the excess. The apparent lack of co-ordination between the disbursing department and the accounts department disclosed by this would, in our opinion, detract from the efficacy of any means that exist at present to secure efficient control of expenditure and steps should be taken to remedy this.

Miscellaneous.

33. It was suggested that some of the charges under this head could be classified more appropriately under some of the specific heads of account. For instance, 'charges on account of European vagrants' which are presumably incurred under the Vagrancy Act could possibly be taken to the head 'Administration of Justice'. We are of opinion that this matter deserves consideration.

34. We noticed that in 1921-22 there were three reserves under this head, one at the disposal of the Finance Department and one each in Delhi and Baluchistan. We saw no reason for any reserve but the first which might more appropriately be styled a general reserve. We have been informed that in the current year there is no other reserve under this head. We think it desirable that information about the amounts reappropriated from the reserve with the purposes for which they were utilized should be shown in the appropriation reports in future.

Posts and Telegraphs.

35. There are serious excesses under Stationery and Printing in this vote, but the representative of the department who gave evidence before us disclaimed all knowledge of or responsibility in connection with this, on the ground that the Controller, Stationery and Printing, supplied the stationery and charged for it at the usual rates. We are of opinion that arrangements should exist in every department to watch all expenditure whether directly incurred by the Department or by an agent acting on its behalf. We trust the appointment of a Financial Adviser to the Posts and Telegraphs Department will lead to an improvement in this case.

36. We find that neither the estimates nor the accounts of the Indo-European Telegraph Department are intelligible in their present form. We suggest that the question of modifying them so as to make them more easily understood should be considered. The possibility of giving fuller explanatory memoranda in the appropriation report may also be examined.

Railways.

37. As we have already indicated a close examination of the expenditure under this head is very difficult in view of the fact that there are only two grants—one for revenue and one for capital expenditure, each involving crores of rupees, and under the present system vast powers of re-appropriation are secured to the executive. The accounts of this year show that they did not take the necessary formal steps in exercise of these powers to regularise the accounts with the result that some of the minor heads show large excesses; but as there is a saving on the total grant, these excesses need not have occurred.

38. It has been explained that the supplementary grants were sanctioned too late to allow the amount to be allocated to the different railways in time. It is not clear why a preliminary allocation of the amount for which the Railway Department had decided to place a supplementary demand before the Assembly was not made earlier and communicated to the Railways in anticipation of the sanction of the Assembly to the grant. Similarly it is difficult to understand why the reserve in the hands of the Railway Board was not allotted to the railways where excesses were anticipated. The reserve was instituted just for that purpose.

39. Our attention has been drawn to the large increase in Suspense which is due to expenditure on account of sleepers incurred by the Bengal-Nagpur Railway and on account of workshop charges in the North-Western Railway not being fully adjusted in the accounts of the year. We are glad to note that steps have been taken to improve the arrangements for adjustment and trust it will be found possible in future to adjust debits and credits on the same account in the same year.

40. Our attention was also drawn to the fact that the amount of stores at any time standing charged against the Suspense Item in the Capital Account is to some extent dependent on the amount provided for the grant for Railways chargeable against the revenue of the year. The practice has been to place orders for such items as wagons, wagon parts, etc., which are required for renewal purposes some time before the beginning of the financial year on the basis of the demands originally put forward by the Railway Agents. These stores are, for convenience, debited in the first instance to the Suspense Item in the Capital Account, and this item is afterwards cleared as the stores are taken over for the renewal programmes of individual Railways. If, however, the grant originally demanded is cut down by the Finance Department or by the Assembly, as has happened in the current financial year for example, the result is that the stores remain charged to Capital for an unduly long period. During this period interest has to be paid on such capital, and the wagons, etc., remain idle and possibly deteriorating in store earning no revenue even though they may be badly needed for carrying traffic. The revenue accounts of the year show an apparent reduction in expenditure. But this is obtained not only without any saving whatever to the Indian tax-payer but actually at the cost of some loss of revenue, which might otherwise have been earned simply by bringing the wagons out of store and putting them to use. It is clear that the system is at fault. We are glad to learn that the new Financial Commissioner on the Railway Board is taking up this question.

BASIL P. BLACKETT.

P. B. HAIGH.

P. V. SRINIVASA RAO.

K. G. BAGDE.

N. M. JOSHI.

K. C. NEOGY.

BRAJA SUNDAR DAS.

K. AHMED.

SYED NABI HADI.

APPENDIX.

Number of grant.	Title of grant.	Excess over net grant.	For details, see Appropriation Report of the A. G., Central Revenues, page.
<i>Expenditure charged to Revenue.</i>			
		Rs.	
2	Taxes on Income	1,22,340	9
5	Land Revenue	57,219	12
6	Excise	11,200	13
7	Stamps	51,18,904	14
8	Forest	3,28,165	15
11	Irrigation and Waterways	8,088	16
12	Posts and Telegraphs	50,36,065	... Appropriation Report of A. G., Posts and Telegraphs.
14	General Administration	14,53,152	19-20
16	Administration of Justice	39,261	23
18	Police	1,41,280	26
20	Survey of India	6,11,539	23
21	Meteorology	53,315	30
23	Botanical Survey	4,61,466	29
26	Mines	6,679	31
27	Other Scientific Departments	17,148	32
28	Education	24,722	33-34
29	Medical Services	3,30,587	36-37
30	Public Health	18,885	38
39	Miscellaneous Departments	3,088	8
40	Currency	19,89,624	47
43	Civil Works	3,27,071	50
44	Superannuation allowance and pensions.	1,80,855	52
45	Stationery and Printing	15,80,528	53
46	Miscellaneous	16,29,002	54-56
	Total	1,95,00,188	

Expenditure charged to Capital.

No excess.

Disbursement of Loan and Advances.

58	Interest free advances	2,52,54,879	108
59	Loans and advances bearing interest	45,78,097	"
	Total	2,98,32,976	

RESOLUTION RE FUNCTIONS AND POWERS OF THE COUNCIL OF STATE.

Mr. N. M. Samarth (Bombay : Nominated Non-Official) : Sir, I moved on the 12th instant a Resolution* which I then read out and which is first on the agenda to-day. I do not think I need read it again. My Resolution, Sir, does not raise the question as to the desirability or necessity or otherwise of a second Chamber or an Upper House as a component part in the legislative machinery of the State, especially in a federal form of Government. On the contrary, my Resolution postulates the continuance of the Council of State as a second Chamber in the legislative machinery of the Government of India. The only question that my Resolution raises is as to the right distribution of power between the two Houses, the Legislative Assembly and the Council of State, the latter as a true second Chamber, and the former as a body which has exclusive power, under the Government of India Act, to grant supplies. It is this marked distinction between the powers of the two Houses of which the logical, legal and constitutional result must be that the Council of State could not have power to amend any Money Bill. I do not say that no Money Bill should be sent to the Council of State for consideration. But I contend that the Council of State has no right to make, nor can that body be rightly empowered to make, amendments to a Money Bill, which must necessarily originate in the Lower House as a result of the supplies granted by it. Last March this Assembly decided by its vote not to increase the salt tax, that is to say, to keep it at Rs. 1-4-0 per maund ; the Council of State by its vote raised it to Rs. 2-8-0 as proposed by Government and in opposition to the vote of this House. Is any amendment of a Money Bill by an Upper Chamber conceivable in any other part of the British commonwealth, and will Government be pleased to point to any Upper House in any other part of the British Empire which can by

* " This Assembly recommends to the Governor General in Council that effect be given, by an amendment of the Government of India Act, if necessary, to the Statement of the Joint Parliamentary Committee that they have so constituted the Council of State as to be " a true Second Chamber " by making it obligatory to observe in practice the following principles :—

- (1) Bills appropriating revenue or moneys or imposing taxation or containing provisions incidental to the financial arrangements for the year shall originate only in the Legislative Assembly :
Provided that a Bill shall not be taken to fall under this category by reason only of its containing provisions for the imposition or appropriation of fines or other pecuniary penalties, or for the demand or payment or appropriation of fees for licenses or fees for services under the law proposed therein.
- (2) The Council of State may not amend any Bill falling under the category aforesaid.
- (3) The Council of State may not amend any Bill so as to increase any proposed charge or burden on the people as voted by the Legislative Assembly.
- (4) The Council of State may, within the time laid down by the Legislative Assembly, return to the Legislative Assembly any Bill which the Council of State may not amend, requesting by message the omission or amendment of any items or provisions therein. And the Legislative Assembly may, if it thinks fit, make any of such omissions or amendments, with or without modifications.
- (5) Except as provided hereinabove the Council of State shall have equal power with Legislative Assembly in respect of all proposed laws."

[Mr. N. M. Samarth.]

its vote increase a charge or burden on the people against the wishes of the Lower House? The thing is inconceivable. In the case of Bills referring to the raising and spending of money the powers of the Upper House in most of the chief States of the world are more or less limited. The reasons for this are partly historical and partly rational. Historically it may be said to be in imitation of the relation existing between the House of Lords and the House of Commons in England, where the power of the purse ever since the fourteenth century has been vested exclusively in the Commons. But it is hardly correct to regard this almost universal restriction on the power of Upper Houses as merely an accidental adaptation. It is based on reason. In the matter of Money Bills it is wiser to make the wishes of that House which more directly and proportionately represented the people decisive and final and not liable to be overridden by an Upper House which has not the power to assent nor refuse its assent to any demand for money that the State may make.

Well, Sir, as regards the various clauses of this Resolution, as Government knows and as Honourable Members know, I have taken the language of these clauses from the Commonwealth of Australia Act, 1900, section 53, and the Union of South Africa Act, 1909, section 60. They are identically in the same words and I need not repeat them.

Then I come to the next question. As Honourable Members will see, I have said in the Resolution that effect be given to it by an amendment of the Government of India Act, if necessary. I maintain that even under the Government of India Act, as at present worded, the legal and constitutional position, according to the proper interpretation of the sections, would be that the Council of State has no power to amend a Money Bill. When the Government of India Bill was before the Joint Parliamentary Committee, Mr. Montagu, curiously enough, moved an amendment to insert a new clause to clause 20 of the Bill. The report of the proceedings read thus :

“ It is moved by Mr. Montagu after clause 20 to insert the following new clause :

(1) The estimated annual expenditure and revenue of the Governor General in Council shall be laid in the form of a statement before both Chambers of the Indian Legislature in each year, and the proposals of the Governor General for the appropriation of revenue or moneys in any year shall be submitted first to the Legislative Assembly for its assent, and, after consideration by the Legislative Assembly, to the Council of State for its assent, in the form of demands for grants.”

The Honourable Sir Malcolm Hailey (Home Member) : May I have the date of that ?

Mr. N. M. Samarth : It is in Volume I, at page 32, of the Joint Select Committee's Report on the Government of India Bill—Command paper 203. Mr. Montagu's amendment then proceeded as follows :

“ (2) Either Chamber may assent or refuse its assent to the demand as a whole, and the Legislative Assembly may assent or refuse its assent to any demand or may reduce the amount referred to in any demand, either by reduction of the whole grant or by the omission or reduction of any items of expenditure of which the grant is composed : ”

and then we have certain provisos. The point is that it was originally intended by the Secretary of State to give this power to grant supplies and vote them to both Houses of the legislature. The Joint Parliamentary Committee did not accept that amendment and entrusted this power

exclusively to the Legislative Assembly in order that the Council of State may be so constituted as to be what they call a true second Chamber ; and accordingly the Bill was modified and we have those provisions in the Government of India Act now, the result of which is that this Assembly alone has the power to grant supplies and the original proposal to constitute the two bodies as co-ordinately entrusted with that power fell through. The section which is relied on by Government for the purpose of supporting their view that Money Bills also must go before the Council of State for their vote and must be passed and agreed to by that body is the latter part of section 63 of the Government of India Act. That part says :

“ Except as otherwise provided by or under this Act a Bill shall not be deemed to have been passed by the Indian Legislature unless it has been agreed to by both Chambers either without amendment or with such amendments only as may be agreed to by both Chambers.”

Now, the interpretation which was placed upon this section by the late Law Member, Dr. Sapru (now Sir Tej Banadur Sapru), was that this was inserted with a view to provide for the contingencies hereinafter referred to, namely, the certification by the Governor General to pass a Bill although it has not been agreed to by both the Chambers or his using his emergency powers to pass any Bill and so on. If that were the right interpretation, surely the Legislature would have said “ except as expressly provided by or under this Act,” but they have omitted the word “ expressly ” which they have used in other sections of the Act scattered all over and left this particular section without the insertion of any such word. My interpretation of the exception clause is that it means “ except as otherwise expressly or by necessary implication provided by or under this Act,” and the necessary implication in the case of a Money Bill is that it must be deemed to be excluded from the operation of the provision that it shall not be deemed to have been passed unless it has been agreed to by both Chambers with or without amendment or with such amendments only as may be agreed to by both Chambers. Now, Sir, in support of my view, I would cite the opinion given in 1872 by the Attorney General and Solicitor General of England, both distinguished names, namely, Sir J. D. Coleridge and Sir G. Jessel, when the question of the right of the Upper House of New Zealand to amend a Money Bill was formally submitted to them by the Legislature of that Colony. The Constitution Act of New Zealand provided that Money Bills must be recommended by the Governor to the House of Representatives, as is the case here, but did not formally deny to the Upper House the right to amend such Bills. Nor does the Government of India Act do so. It does not deny to the Upper House the right to amend such Bills. Well, Sir, the Law Officers of the Crown gave the opinion that, having regard to the above provisions, the Upper House of New Zealand was not justified in amending a Money Bill, and I would here refer to another case, that of Queensland. It was provided by section 2 of the Constitution Act of 1867 of Queensland that “ all Bills for appropriating any part of the public revenue or for imposing any new rate, tax or impost shall originate in the Legislative Assembly.” Now nobody, I take it, disputes that that is also the case here ; these Bills must originate in the Legislative

[Mr. N. M. Samarth.]

Assembly. Even in the amendment of Mr. Montagu it was provided that these Bills must originate in the Legislative Assembly and then they should be taken to the Council of State, and both should have the power to grant supplies. So there is no question that such Bills must originate in the Legislative Assembly here. Now the exact force of this clause formed the subject of a Report of the Judicial Committee of the Privy Council on a reference from the two Houses in 1886. The two Houses, that is the Upper House and the Lower House (the Upper House there was called the Legislative Council and the Lower House was called the Legislative Assembly), the two Houses came into conflict on a Money Bill and by a Resolution of the two Houses the Presidents of the two bodies, the President of the Legislative Council and the Speaker of the Legislative Assembly, were asked to state the case for the decision of the Judicial Committee of the Privy Council in which both the views, *pros* and *cons*, the view of the Legislative Assembly as well as of the Legislative Council, were set forth. The Privy Council had these two questions before it, namely, whether the Constitution Act of 1867 confers on the Legislative Council powers to co-ordinate with the Legislative Assembly in the amendment of all Bills, including Money Bills. It was raised only on the ground that the power rested with the Legislative Assembly to originate Money Bills. The second question was whether the claims of the Legislative Assembly as set forth in their message of 12th November 1885 were well-founded. Their Lordships agreed to report to His Majesty that the first of these two questions must be answered in the negative; that is to say, the Upper House has no power to amend Money Bills, and the second question was answered in the affirmative. Now, Sir, I take my stand upon these two decisions, and I say that having regard to those two decisions, the right interpretation of the Government of India Act will be and should be this, that by necessary implication the Upper House, that is the Council of State, has no power to amend Money Bills. The Upper House may by message suggest modifications or amendments to a Money Bill, but it will rest with the Legislative Assembly to accept the suggestions or not or to deal with them in such manner as it may deem fit. If the Government of India question the correctness of this interpretation, then I submit they should refer the matter to the Law Officers of the Crown, and if the Law Officers of the Crown agree with their view, then my submission is that the Government of India Act should be so amended as to give effect to the terms of this Resolution. Sir, sooner or later, perhaps sooner than later, the demand embodied in this Resolution is bound to be conceded. I appeal to the British instincts of every Britisher here and put it to him, can he honestly reconcile himself to an Upper House having the power to tamper with the decisions of the Lower House in regard to Money Bills? I said that the demand is bound to be conceded sooner or later. Well, let it be conceded before it is too late; otherwise, the Legislative Assembly will get restive and will begin to syllogise unwelcome truths and will ultimately wring out of the hands of an unwilling Government what could have been gracefully granted in time by wise statesmanship.

Dr. Nand Lal (West Punjab : Non-Muhammadan) : Sir, I am afraid this Resolution may be misconstrued in some quarters, but I may submit,

for the information of those critics, that this Resolution in reality tries to show how much this Assembly is jealous of safeguarding the interests of the tax-payers in this country, and how much this Assembly is, always, on the alert to see that its privileges and powers may be maintained in a legitimate manner. Now, Sir, this Resolution recommends that, since the representatives of the people, constituting this Assembly, are, to all intents and purposes, the custodians of the purse, consequently, the other House may not allow itself to interfere with our way of dealing with money affairs. We are not trying to make any encroachment upon the rights of the other House but what we are doing is this, that our own rights may be protected properly. Sir, if this proposition may be acceded to, that we are really the supplier of money to the Government of India, then we have every justification to say that our opinion in regard to the Money Bills may be accepted as final, and that the Upper House may not take the trouble of interfering unduly. Well, Sir, as my learned friend, Mr. Samarth, the author of this Resolution, has very rightly said, it depends largely on the interpretation of section 67-B. This section 67-B of the Government of India Act raises very material and vital questions of constitution.

The Honourable Sir Malcolm Hailey : Sir, in Mr. Samarth's absence, and in order to protect him, I may say that he referred to section 63 and not to section 67-B.

Dr. Nand Lal : Very good, Sir. I thank the Honourable the Home Member for his correction. I will accept that he said so. But, all the same, I will myself introduce sections 67-A and 67-B. Now, Sir, it depends on the interpretation of the provision as laid down in sections 63, 67-A and 67-B of the Government of India Act. Now, that interpretation is to be made with reference to the conventions and relative circumstances and with reference as to the manner in which in other countries Money Bills are treated and to what extent the second House has got power to interfere. On a birds-eye view of other countries statutes and constitution, I am induced to submit before the House that it is extremely difficult to accept this interpretation that Money Bills, as a right, can be amended by the Upper House. It is the right and privilege of the Legislative Assembly who have got direct concern therewith and, therefore, in brief, I submit that it is right and proper that these Money Bills may not be interfered with by the Upper House. I think the precedent, namely, an instance of their interference, which can bear out this submission, is the last Finance Bill. They passed it at once and we could not see our way to do so. What was the result ? The result was a conflict, an unfortunate dispute, I must say. And, therefore, I am very anxious to put forward this view before this Assembly that the power, which is wrongly considered to belong to the Upper House, may be taken away, that that House should have no power at all to interfere with Money Bills. With these few remarks, I support this Resolution whole-heartedly.

The Honourable Sir Malcolm Hailey : I did not expect to be obliged to address myself to this question so speedily. Remembering what I do remember of the previous history of this case, and the acute feelings expressed only two years ago by Members of this House when it was proposed that the other Chamber should join it in a Committee on the Finance Bill,

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I thought that we should have heard a concerted and vigorous attack against the exercise by it of its powers in financial matters. But, what has happened? Mr. Samarth has put before us a somewhat restricted case, based on severely legal and technical considerations. He has been supported only by Dr. Nand Lal who suggests that since the other House does not represent the people, it should not interfere with our financial arrangements.

Dr. Nand Lal : I did not submit the question in those terms. What I submitted was that we are practically the custodians of the purse of the country and they are not.

The Honourable Sir Malcolm Hailey : What Dr. Nand Lal has suggested, if I may paraphrase his words, is that he is a better custodian of the finances of the people than the various men of means and position who sit in the other Chamber. I waited for the attack to develop, and I waited in vain. Where was the fighting spirit of the House? Not a soul rose. In the circumstances, am I to argue this case at length? Some parts of it, I must do. I confess that I should have preferred on a constitutional question of this magnitude to have had what is called a full-dress debate. For there are many aspects of this question of great interest to the constitutional development of India, and we should have been glad to have had an opportunity of discussing them at length. I confine myself, however, to meeting Mr. Samarth's arguments.

Dr. Nand Lal : If the Chair allows me, I can spend two days on this question.

Mr. President : Order, order.

The Honourable Sir Malcolm Hailey : Severely legal as his arguments have been, I am well aware of the origin of the feelings at the back of his motion. We had an indication of them in March 1921. It will be apposite to quote what happened then, because it has a very direct bearing on the arguments that Mr. Samarth has addressed to us this morning. It will be remembered that in the lightness of my heart I proposed that our first Finance Bill should be put to a Joint Committee of the two Houses. But I had reckoned without my constitutional enthusiasts. I was at once countered by Dr. Gour and countered, curiously enough, by almost the same argument as has been used by Mr. Samarth this morning. He dwelt on the terms of section 63. He said that the proper reading of those terms would deny to the Council of State any power of dealing in any manner at all with our Finance Bills.

Mr. N. M. Samarth : That is not my position, Sir.

The Honourable Sir Malcolm Hailey : That was Dr. Gour's position at the time. But I am not going at length into Dr. Gour's arguments. I will take them up at the point at which Mr. Samarth has developed his position. With regard to the words used in the Act "Except as otherwise provided by or under this Act a Bill shall not be deemed to have been passed by the Indian Legislature, etc.," we on our side maintained then that unless there was an express provision in the Act that the other House should be debarred from amending or otherwise dealing with

Finance Bills, then the words "as otherwise provided" could not be taken by implication to prevent the other House from so dealing with them. That is to say, we maintained that although this House was explicitly given by law the power of voting supply and otherwise dealing with the Budget, yet that fact in itself did not warrant so wide an implication as that the other House could not amend our Money Bills; the grant of one definite power to this House did not necessarily imply the exclusion of another power, of a somewhat different nature, in the case of the other House, and that the words "as otherwise" could not be held to debar the other House by virtue of any such implication, from dealing with our Money Bills. We found support in Sir Sivaswamy Aiyer and Mr. Seshagiri Ayyar, two lawyers of renown, so renowned that perhaps I need not attempt to make any amateur effort to supplement their arguments. If further argument on this question is required, and if the House desires a more complete refutation of the deductions which Mr. Samarth has drawn from decisions relating to Colonial Acts,—Acts I may say, entirely differently worded from ours—indeed in no case do I find the slightest similarity in wording—then I shall leave the case in the expert hands of my friend Mr. Graham. It is sufficient for my present purpose to say that we take exactly the same stand as we took then; our position was indeed, I think, then admitted by the whole House; and if that position is correct, then Mr. Samarth's proposition that no amendment of the Government of India Act is required to effect his purpose, obviously falls to the ground.

I come to his second point, that the Joint Parliamentary Committee insisted that the Council of State should be "a true second Chamber." As a fact, that is correct; his deductions however seem to me entirely incorrect. What the Joint Parliamentary Committee meant when they said that the Council of State should be a true second Chamber is clear, but it is not what Mr. Samarth means. They had before them the proposition for a Council of State with a small official majority, which would be the instrument for effecting legislation which the Legislative Assembly was unwilling to pass. It was to be an instrument for carrying out Government legislation in an emergency. The House will remember that the Joint Parliamentary Committee finally yielded to the protests which were addressed to it against the provision of any such feature in the constitution, and substituted instead what we know now as the exceptional powers of the Governor General; the powers that is comprised in section 67-B. Their reference to a "true second Chamber" meant simply that they proposed to substitute for the original proposition a Chamber with an elected majority. The use of that expression did not in any way predicate any particular function on the part of that Chamber in regard to financial powers or otherwise. I was paraphrasing from memory; but have now before me the actual passage:

"There is no necessity to retain the Council of State as an organ for governmental legislation. It should, therefore, be reconstituted from the commencement as a true second Chamber."

They recommended that it should consist of 60 Members, of whom not more than 20 should be Official Members. That alone was their meaning.

Now, for the third argument, the argument drawn from parallels of legislation elsewhere, and meant to demonstrate to us that "true

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second Chamber " has, and must have, very restricted financial powers. Here, Mr. Samarth's point is that nowhere in the British Dominions do you find a second Chamber which is empowered to amend the Money Bills of a first Chamber. We are now entering on constitutional comparisons of a wider aspect. He admits—apparently Dr. Nand Lal also admits—the necessity of a second Chamber, and we are not called on to justify the existence of the Council of State in our constitution on that ground. But is it also true that no true second Chamber throughout the British Dominions has the powers which are given to our Council of State in regard to financial Bills? I will examine this point in somewhat greater detail. It is of course true that the power of amending Money Bills has been finally and definitely withdrawn from the House of Lords. But I would invite anyone who desires to utilize that fact as an argument, first to study the debates of 1910 and 1911 which led up to the Parliament Act of the latter year. It is of course true that the powers of the House of Lords in respect of Money Bills had long been in partial, if not altogether in total, eclipse. Their effective power of interference was seriously curtailed in 1678; and for some thing like two centuries they did not again interfere with Money Bills. In 1860 they attempted interference with the Bill withdrawing the tax on paper and were countered by Mr. Gladstone; nevertheless the power survived, and was actually used by them in 1909. But what were the reasons which then led the British Parliament finally to withdraw the power of amending Finance Bills? They were mainly political reasons. The House of Lords had not only interfered with the Budget. They had interfered with the Education Bill and dealt with the Licensing Bill, and it was in those circumstances that the Liberal Party determined that a House of Lords so constituted, and with tendencies so confirmed against Liberal legislation should have its powers curtailed. If you look at the Preamble of the Act of 1911, the fact becomes abundantly clear. The Preamble declares that "Whereas it is intended to substitute for the House of Lords as it at present exists a second Chamber constituted on a popular instead of hereditary basis, but such substitution cannot be immediately brought into operation" and goes on to assert that it is necessary to restrict the existing powers of the House of Lords. Even more direct was the masterly speech in which the Prime Minister of the day, Mr. Asquith, attacked the position of the House of Lords. You will find in that ample confirmation of what I say. Like our friends opposite, he did not deny the need of a second Chamber; he was not an advocate of a single Chamber; but he made it clear what he thought a second Chamber should be, and left no doubt regarding his reason for curbing the activities of the House of Lords as he found it:

"The body which is to perform these functions must be a relatively small body. Next, it must be a body which does not rest on an hereditary basis. Lastly it must be a body which in its origin, composition and attitude is not governed as the present House of Lords is governed, by partisanship tempered by panic."

One need to be no deep student of politics to realise that if the numerous attempts to modernize the House of Lords and to liberalise its tendencies, which originated with Lord Russell in 1869 and which continued up to

Lord Newton's proposals of 1907, had yielded fruit in time, we should never have had the Parliament Act of 1911. Be that as it may, I feel that I am on sound ground in claiming that you cannot quote the Parliament Act of 1911 as affording a parallel which can apply to India. After all, that decision was the deduction from a long series of historical premises altogether inapplicable to India. The Assembly is not yet the House of Commons ; and it has not yet gained in India the unique position which the Commons have by long tradition acquired in England. Nor have we yet in India that development of parties which in England provides checks and counter-actions sufficient to secure some stability of Government and balance of interests even with a second Chamber that cannot function in a normal manner. Finally, our second Chamber is not on a hereditary basis and cannot be convicted of that naked partisanship in favour of our political party with which Mr. Asquith charged the House of Lords in 1910. Those parallels therefore do not apply ; and you must go elsewhere for your analogy. Following Mr. Samarth, I turn to other parts of the British Dominions. Where, may I ask Mr. Samarth, does he find in the British North America Act, 1867, a disability such as he would apply to our Council of State ? He said that nowhere in the British Dominions would be found a second Chamber with powers similar to those now enjoyed by our Council of State. Has any disability such as he would now apply to the Council of State been formally placed by law on the Senate in Canada ? He knows there is none. I admit that he is supported by the precedent of the Australian Constitution Act of 1900 and the South Africa Act of 1909. Here he finds, I admit, ample support, but I would ask him to remember one fact, that the constitution gives these second Chambers the power of rejecting a Finance Bill. (*Mr. N. M. Samarth* : " *En bloc*. altogether.") . Certainly ; it gives to those second Chambers the power not of amending but of rejecting a Finance Bill altogether. Now, his Resolution, I believe, would give a similar power to the Council of State ; he would allow the Council of State to reject a Finance Bill but not to amend it. But, he cannot by the force of circumstances apply the parallel throughout. The reason for giving those second Chambers the power of rejecting a Finance Bill and not of amending it, is that the rejection of the Finance Bill would involve sending to the country that party which has put the Finance Bill forward. He cannot make a similar result follow here, and he should wait until our constitution involves a similar consequence. (*Mr. N. M. Samarth* : " Not necessarily.") That at all events is the reason for the particular arrangement arrived at in the case of South Africa and Australia. I now go further. I have dealt with the case of countries within the British Commonwealth. But the world is wide, and our comparative study of such institutions should not be confined to British parallels. Indeed, I have it from Sir Deva Prasad Sarvadhikary that we have made many mistakes in the past by following too closely British parallels. " I am afraid " he said in this same connection " that we have suffered too much by legislation by analogy..... A variety of things come in by British analogy that would have no salutary effect here." It is instructive at all events to widen the scope of our

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inquiry. Is it the fact that nowhere else in the world has the second Chamber the power of dealing with Finance Bills? The constitution of the United States gives the Senate such power, and it has frequently been used. In France the Senate has powers of rejection and has claimed and exercised the power of amendment. In Spain the powers of the Senate and the Congress of Deputies are co-ordinate and much the same is the case in Switzerland. I will not quote at present German or Austrian parallels, for pre-war analogies drawn from these countries do not apply to the present condition of affairs. But it certainly would not be correct to deduce that second Chambers as a whole, and throughout the world, have been refused the power of dealing with Money Bills. In one instance only does the parallel drawn from other countries assist Mr. Samarth; that is to say, there is a general weight of practice in favour of confining initiation of Money Bills to the Lower House. It is not indeed a universal practice. There are instances where such legislation can be initiated in the Upper House, as in the component States of the United States of America. It was also the case in one or two of the pre-war constitutions of the Continent, but on the whole, the weight of practice is against it, and that practice rests on reasonable grounds, because it is the Lower House which deals with supply and the Budget. The true function of a second Chamber is revision and correction or as affording a means of securing a proper interval of delay in questions of high national import. I feel, however, that the question is one of little vitality. We have always observed that practice: as far as I can see, we are likely to observe that practice; and for my own part I should have no objection whatever if, when the Act at any time comes under amendment, such a provision were inserted in the Statute. But with regard to his main proposition, there I of course differ and differ strongly.

I maintain that quite apart from parallels drawn from past history or present practice elsewhere, the existence of the procedure by which Money Bills are dealt with by a second House is sound, is valuable, and should be retained. I will give my reasons shortly to the House. My first argument is drawn from a source which may appear perhaps somewhat strange to the Assembly. One of the witnesses, speaking before the Joint Parliamentary Committee, showed much foresight in this respect. He claimed that at present we did not want a Council of State, especially as it was then proposed to constitute it; but, he said, the case will be different when you have transferred subjects in the Central Government, and the devolution of powers has been completed. That is to say, he foresaw clearly that although in present conditions, when the Executive occupies a somewhat exceptional position, and has not only the power of veto but has ultimately the power of forcing legislation which is not approved by the Assembly, it may be true that your second House is not so necessary a part of the constitution as it would be in other circumstances, yet a far different set of conditions would arise when India has gained some of that political advancement which she claims. The growth of responsible Government involves the gradual divestment on the part of the British Parliament of its powers of control over the Indian Executive, and the transfer of those powers of control to the Indian Legislature. As my witness before the Joint Parliamentary

Committee truly foresaw, when that process takes place, then a second Chamber will become essential. My witness, I may mention by way of parenthesis, was Mr. Tilak. I feel that if we retain a second Chamber in this country with full powers, and not the curtailed powers Mr. Samarth would predicate, all the greater is the possibility of a surrender or a divestment of its powers by the British Parliament. I maintain that Parliament, knowing the conditions of India, the variety of problems which arise and the great divergence of interests, the impossibility in this vast country of rapidly focussing opinion in a decisive form in the sense to which we are accustomed in European countries, would demand, before it divested itself of any of its more important powers of control, that there should be some mechanism for ensuring that financial measures affecting large masses of the population of our variously constituted continent should be submitted for reconsideration before they are finally enacted. Secondly, I say we need a second Chamber and a second Chamber with full powers, because the development of India must be harmonious and well ordered. It is necessary that we should take into consideration not only the interests of those classes of electors which are given to us by our present electorate, and will be given to us in much larger numbers by the broadened franchise of the future, but if the progress of India is to be harmonious, we must take into account the claims also of the land-owning and the larger tax-paying classes. It is necessary, in other words, that you should find an adequate representation, particularly in regard to Financial Bills, not only of those classes who are largely responsible for paying our indirect taxes and which are likely to be largely represented in a first House, but we should also give adequate representation to the classes who are mainly responsible for the payment of our direct taxes and who are usually represented in an upper Chamber. Those are the grounds of substance which I put forward. I believe that the future constitution of India will demand a second Chamber with full powers. I have pointed out that the parallel of England does not apply. I have pointed out that Mr. Samarth is not wholly correct in saying that nowhere in the British Commonwealth will you find a second Chamber which has the power of amending Finance Bills. I have further pointed out that the grant of powers of this description is common in other countries of the world. I have attempted to show that our chance of gaining responsible Government for India is likely to be greater if we have a full powered second Chamber, than if we are to present to the British Parliament a scheme of things in which the financial destinies of India are committed to a single Chamber. However legitimate may be the pride of this Assembly in its achievements and belief in its capacity, I nevertheless think that those who take a long view of the future will feel with me that it is necessary to retain for India a second Chamber, however constituted (and it may be far differently constituted to the present Council of State), but a second Chamber with full powers.

Mr. T. V. Seshagiri Ayyar (Madras : Nominated Non-Official) : The Leader of the House has correctly diagnosed the situation when he said that there is going to be no full dress debates upon this matter. There is no enthusiasm at present in regard to matters of this kind, because of various events which are at present happening outside India ; I am sure greater interest would have been evinced in such matters

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had it not been for these events. Moreover we are in our death gasp and we do not feel very much drawn to discussions of this nature, which are of a practically academic character. I agree with the Leader of the House on one matter. I do not think that Mr. Samarth was justified in saying that the law does not require amendment in order to secure the rights which he has advocated. That was my view two years ago and I see no reason to change that view. Unless there is express taking away of the power from the other Chamber you cannot by implication deprive it of its powers in regard to Money Bills. 'Except as otherwise provided' certainly connotes that unless there is a specific provision saying that the other House shall not have the power, they shall possess that power; but, Sir, I cannot agree with the Honourable the Home Member that the time has not come for making a change in consonance with the spirit of the Government of India Act. I shall draw his attention to a few sections in the Act which would show that the intention of the framers of the Act was that the second Chamber should have little or nothing to do with Money Bills. I would invite his attention to section 67A. If he will turn to clauses (3), (5), (6) and (7) he will find that powers are given to the Legislative Assembly to vote upon matters connected with finance, whereas those powers are not given to the second Chamber. Clause (3) says: "The proposals of the Governor General in Council for the appropriation of revenue or moneys shall not be submitted to the vote of the Legislative Assembly nor shall they be open to discussion by either Chamber at the time." That is, whereas the power of voting is given to the Legislative Assembly, the power simply to discuss is given to the other Chamber. Take again clause (5): The proposals of the Governor General in Council for the appropriation of revenues or moneys relating to heads of expenditure, etc., shall be submitted to the vote of the Legislative Assembly in the form of demands for grants. (6) says: The Legislative Assembly may assent or refuse its assent to any demand or may reduce the amount. (7): The demands as voted by the Legislative Assembly shall be submitted to the Governor General in Council, and so on. It seems to me that it was the intention of the framers of the Act that as far as finance is concerned, the power of initiation, the power of voting supplies and the power of passing Bills should be solely in the Legislative Assembly. I admit that by using the language which the Honourable the Home Member has referred to in section 63 they have to a certain extent deprived the Assembly of that full power which has been given under the other sections. Therefore, Sir, I think the time has come for bringing the Act into conformity with the real intention of the framers of the Act. (*The Honourable Sir Malcolm Hailey*: "The intention?") Yes, the intention. If you read section 67A, you will see that the intention was not to give the second Chamber the power to vote. The intention apparently was to vest that power in the Legislative Assembly, and I think my Honourable friend Mr. Samarth was justified in asking that the attention of the Home authorities should be drawn to this state of affairs so that the Act may be amended to make it clear that the Legislative Assembly alone has the power to initiate, sanction and pass Money Bills. Sir, I do not agree with the Honourable the Home Member when he says that this power should be exercised also by the second Chamber. The

Honourable the Home Member said that there is no parallel between India and England and any analogy drawn from the absence of power in the House of Lords should not be utilised for the purpose of depriving the Council of State of similar powers. Sir, I read the want of analogy in a different way. You were introducing an experiment into this country. In doing so, why cumber it by giving us a second Chamber which has every power to veto what we are sanctioning and thereby rendering our position difficult? If you had tried, in the first instance, a single-Chamber experiment and, if you found that that experiment did not succeed, one would have expected that you should invoke the analogy of other similar institutions, *e.g.*, the analogy of the United States and institute a second Chamber here. I do not think, however, that it was expedient to have brought in at once a second Chamber and thereby to have deprived the Assembly of a great deal of its powers.

Sir, the Honourable the Home Member said it is necessary to have a second Chamber for two reasons. One of the reasons struck me as curious. He said the monied interests and the landed interests should have their representation and their say. Now, I ask the Honourable the Leader of the House what is there to prevent the landed interests and the monied interests coming into this Assembly, and what is there in the Statute or anywhere which stand in the way of these high dignitaries sitting with us and sharing with us all our difficulties and also our privileges. If they are with us, and rub shoulders with us, they will be able to understand the difficulties of the situation; and then they may be able to agree with us. If, on the other hand, they only read our debates and then begin to pass judgment on what we have done here, they would not be in a safe position. For the monied interest and for the aristocracy the proper thing to do is to seek election to this Assembly. This Chamber should be enlarged so that the landed aristocracy and the monied people may have their representatives in this Chamber. The result of it will be that all of us would sit together and consider matters which relate to the interests of India as a whole and come to a right conclusion. Instead of that, we first have an opportunity of expressing our opinion and then our judgment is vetoed or set aside by another Chamber by a perusal of our debates. Sir, what is our position? We pass certain Bills, Money Bills. Those Bills may be vetoed by the Council of State; and then there may be certification or restoration by the Governor General; and lastly a higher power may turn down all that has been done; we thus find that our power in regard to money matters is circumscribed in every way. We are subjected to all kinds of restrictions and are under all manner of appellate authorities; the result of it is we do not feel the same responsibility as we would otherwise have felt had we a free hand in dealing with money matters.

There was one other argument used by the Honourable the Home Member in advocating a second Chamber. He said that it was contemplated at the time of the Parliamentary inquiry that, if there was to be complete responsible Government in this country, meaning thereby the granting to us of some of the powers now exercised by the Secretary of State and Parliament, then it would be desirable to have a second Chamber; because unless, as he said, there is a second Chamber, we may

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not exercise the powers fairly and well. Sir, I join issue with the Honourable the Home Member on that matter. Is it a *sine qua non* to the devolution of powers by Parliament to the Indian Legislature that there should be a second Chamber? Why should you not trust to the exercise of these powers by a single Chamber? After all, you have got other powers reserved to you by the Act. If you find that the Single Chamber is not acting properly, you have got your own ways and means of setting it right. In these circumstances, I do not see that it is absolutely necessary to have a second Chamber. For all these reasons I am of opinion that the Honourable the Home Member has not shown that it is necessary to have a second Chamber; but, as we have a second Chamber, the practical question for consideration is whether that second Chamber should interfere with the powers exercised by the Assembly in regard to money matters. As I have said, the intention of the framers of the Act seems to have been that in money matters this Chamber should be supreme, and, by giving powers to the other Chamber, you are not only depriving this Chamber of its rights, but are giving the other Chamber a very shadowy right which may be misused (and I am afraid has been misused), and which may lead to friction between the two Chambers. If only to avoid such a feeling between the two Chambers, if only to make the two Chambers work harmoniously together, it is desirable that the second Chamber should have nothing to do with money matters and that the entire power with regard to them should be in the hands of the Assembly.

Sir Deva Prasad Sarvadhikary (Calcutta: Non-Muhammadan Urban): Sir, the more I think about the matter, the more certain am I that Mr. Samarth was well advised in confining himself to the bare legal and constitutional aspects of the question and not attempting to contribute to what Sir Malcolm Hailey has described as a full dress debate or in other words appeals to passions and prejudices. Mr. Samarth's Resolution admits by more than implication, that the law as it is, does not stand in the way of the second Chamber interfering in regard to money matters. To this I ventured to draw attention in another connection, when more by convention to start with and then by clearing up legal difficulties the second Chamber did come to have their say with regard to money Bills, earlier in the stage of our existence. I think it is from that point of view that Mr. Samarth has introduced in his Resolution words to the effect that the object in view should be achieved by an amendment of the Government of India Act, if necessary. This necessity must have more than dawned upon him and he has provided for that contingency. Mr. Seshagiri Ayyar has submitted to this House—and if I may venture to say so correctly submitted, his reading of the situation created by section 67A in all its sub-clauses—I see I am raising a smile on Mr. Graham's always beaming face; probably he will have another onslaught upon me in my presence now in the same way as I am told he did the other day in my absence—in connection with this section. I, however, repeat that reading the different clauses of section 67A, the impression, the more than impression left on the mind of a diligent student of that section is that it was the

intention and more than the intention of the framers of the Act that the Legislative Assembly should have entire seisin of the earlier stages of the money question what is called the stages of initiation.

When the Finance Bill comes to be included under the purview of section 67B as it must be, as this section now stands the second Chamber by implication of that section, comes to have seisin of money matters. That to my mind fortifies my position, that expenditure which is not provided or contemplated by the different clauses of 67A ought not and cannot come under the purview of any Finance Bill that might be dealt with by section 67B which furnishes ways and means, I repeat, under 67B. That is to say, the different clauses of expenditure are provided, and contemplated by 67A. Ways and means to be provided for meeting this expenditure are to be furnished by a Finance Bill which is now provided by 67B. The first class of expenditure is that which, in the normal course, in the ordinary course of things, is sanctioned by the Indian Legislative Assembly, in the shape of the Budget; the second class is that which the Governor General in Council restores under clause 67A (7), namely, for the purpose of discharge of his responsibilities mentioned there, and then comes clause (8) of section 67A—the safety and tranquillity clause—under which the Governor General can incur expenditure without reference to the estimate. Now when all these classes of expenditure, foreseen and unforeseen, have been provided, namely, those provided by the Budget, those restored by the Governor General in Council in variation of the Budget and those incurred by the Governor General under clause 8 of section 67A; when you have come to that stage, and that stage is essentially and entirely a stage which belongs to the Legislative Assembly, or is in variation of the action of the Assembly—then you come to the Finance Bill, which is now included within the purview of section 67B. The other day we resolved to recommend an amendment of the Government of India Act by omission of the words “or interest” in section 67B. I take it that if Mr. Samarth’s Resolution is carried and given effect to in due time—not to-morrow—what will have to be done will be to exclude the Finance Bill from the purview of 67B, and the reason of that exclusion I submit is amply furnished by the enumeration of the different stages provided in 67A. Well, the Honourable the Finance Member is shaking his classic head. As I observed on a previous occasion, shaking of heads is beginning to rule the destinies of Empires, here and elsewhere. That is his point of view; the other point of view is what I am trying to submit. If that is borne out by the careful reading of the whole of 67A, the Finance Bill has to stand out of the purview of 67B. The Honourable the Finance Member has done me the honour of quoting my grievance with regard to going far too close with regard to our conduct of affairs here according to British analogies at every step. One of those is the provision of a second Chamber. What he has said to-day is not in defence of a second Chamber, but my reading of his argument is that there ought to be a single Chamber, better constituted—a Chamber that may in time take the place of the House of Commons. We have according to him not here those who pay taxes direct. I think we do pay, Sir, otherwise we should not be here.

Mr. N. M. Joshi (Nominated : Labour Interests) : This House represents the income-tax payers.

Sir Deva Prasad Sarvadhikary : This House does. The other House represents the larger income-tax payers, which is the second commentary of the Honourable the Leader of the House in favour of the second Chamber. Well, Sir, it is a plea for raising the suffrage limit. Sometimes when it suits people we are told that we represent the country. Sometimes when it does not suit some other people, we are told we represent only a fraction,—a vulgar fraction—and some people say we do not represent the country at all. Quoting the very valuable witness that the Honourable Sir Malcolm Hailey has named, he has put before us the very tempting proposal that unless we support the second Chamber—which is always or at all events is now—on its best behaviour, unless we support that Chamber the British Parliament is not likely to divest itself of some of its power which it may do in time if it is satisfied that the second Chamber is doing its duty well and is keeping us in control. All that to my mind points to the necessity of not only getting rid of the present Assembly but of placing it on a higher pedestal.

The Honourable Sir Malcolm Hailey : I hope that the Honourable Member is merely guilty of a mistake of words. Does he really intend to get rid of the present Assembly ?

Sir Deva Prasad Sarvadhikary : I do not. That would be getting rid of myself and I do not propose to commit *hari kari* at least for the present. I am only interpreting the Honourable Sir Malcolm Hailey's proposition and argument that because those who come here do not pay what he calls direct taxes or the larger taxes—I do not know what the limitation is to be—it is useful to have a second Chamber. It cannot be hereditary, but it can be a better Chamber, a better behaved Chamber, a Chamber that can carry out the Government ideal of things and can be trusted by future Parliament in the matter of divesting itself of some of its powers. All that is argument in favour of a single Chamber and a good single Chamber. If however the outside analogy of two Chambers is to be continued in spite of the slight Canadian variation upon which Sir Malcolm Hailey's researches have enabled him to lay his hand,

Mr. N. M. Samarth : I question the correctness of that.

Sir Deva Prasad Sarvadhikary : Well, Mr. Samarth will do that when he refers to it in his reply. I have not the necessary materials before me now. But I will take it at that. Some constitutions framed in the early sixties of the last century or earlier have an obsolete provision which the later advanced reformed constitutions have got rid of and rightly got rid of.

But we as a constitution came much later in the field than the South African Union or the Australian Commonwealth. Either we have a right to a proper constitution in the light of gathering experience or we have not, and when we are on the look out for a proper constitution we naturally look to those that have gone before us, suffered, struggled and won. We are entitled to benefit by the sum total, the

resultant, of experience, all which points to the supreme necessity of the lower Chamber, as it is called being entrusted with exclusive financial responsibility. Unless one has responsibility and ultimate responsibility, you cannot expect the spirit of self-government to develop. As has been pointed out by Mr. Seshagiri Ayyar we do not know where we stand ; and if now and again for lack of a supreme sense of responsibility we make mistakes, I think we may be forgiven. However, Sir, on the pure merits of the question it seems to us that an amendment in the direction indicated in the Resolution is needed and a recommendation from this House is necessary in view of what has happened in recent times. I am sure no Member of this House desires to take away in the slightest degree from the dignity and usefulness of the other Chamber. We are only changeable bodies and some who are here to-day may go to the other Chamber and its Members may come to us. So long as it is a part of the constitution it is up to us to do all we can to support that Chamber with regard to its rights, with regard to its possibilities ; but that which does not belong rightfully to it in the reading of things that we have placed before this House ought to be given up, and powers that ought to belong exclusively to this House should come back to it.

Sir P. S. Sivaswamy Aiyer (Tanjore *cum* Trichinopoly : Non-Muhamadan Rural) : Sir, I had no intention of participating in this debate even for the purpose of investing it with the dignity of a full dress debate, worthy of the proposition moved by my Honourable friend, Mr. Samarth. But having heard the speech of Sir Malcolm Hailey, a speech which perhaps is more skilful and less convincing than any that I have ever heard from him, I am tempted to intervene in the debate. The Honourable the Home Member referred to a number of side issues and unfortunately some of my friends who have preceded me have played into the hands of an all too skilful adversary by raising all sorts of side issues. The real question before us is not the construction of the existing Statute. Upon that differences of opinion may exist and have existed and I have once before expressed my own views upon that subject. The real question is what is the proper function of a second Chamber in any well-devised constitution ? The real issue is the necessity for amending the Act so as to secure to the second Chamber in our Legislature that position which it ought to occupy in any well-devised constitution. Now, I do not think it can admit of any doubt that whether in the English constitution or in those constitutions of the dominions which have adopted a bicameral system the functions of the upper Chamber with regard to money bills are strictly limited. But apart from the question what is the practice in all these Chambers, let us consider the question what should be the proper function of a second Chamber. The Honourable the Home Member said that the harmonious development of our constitution requires a second Chamber with full powers in no way restricted and in no way different from those of the lower House. According to him the harmonious development of the constitution requires the existence of two Chambers with co-ordinate powers. Perhaps if we were to judge of the matter theoretically, without any experience derived from the actual working of the constitutions, there may be something to be said in favour of it. But having regard

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to our experience of the way in which constitutions have actually worked, such a second Chamber with co-ordinate powers is one which will be found to be utterly impracticable. Let me first dispose of one argument by the way. It was said that the second Chamber represented men with large interests, landlords, and moneyed classes, and it was desirable that their opinion should be properly represented and given effect to. I fully appreciate the force of that argument, but if there was any second Chamber in the world which represented wealth and land ownership and other important interests in the country, it is the House of Lords in England and yet it has been found necessary to shear the House of Lords of its powers with regard to money Bills. As regards this claim to more extended powers by a second Chamber on the ground that it represents wealth or money, it is always a very invidious ground of claim, and it has been pointed out that it would be unwise for the representatives of those interests to put forward such a claim. I should like, Sir, to refer to one or two passages in a text-book of some authority, a book on politics by a writer of conspicuous fairness acumen and impartiality. I refer to Professor Sidgwick's book on the Elements of Politics. He starts with the question whether there need be any second Chamber at all. He says that *prima facie* there is no necessity for a second Chamber, but however comes to the conclusion that it is desirable to have a second Chamber. It is a pity that my friend, the Honourable Sir Deva Prasad Sarvadhikary, should have dragged in the controversy of a uni-cameral and bi-cameral legislature, which, I submit, is not quite relevant to the present discussion. Now I will refer to one or two passages from Sidgwick :

“ This last consideration leads us to another, widely prevalent, view of the upper Chamber, which regards it as required to give adequate representation of the aristocratic element of the community, in order to balance the undue preponderance of the masses in the House of Representatives. The need of such a balance I have already recognised : but in considering this method of meeting the need, we have to distinguish clearly two elements, frequently blended in the notion of ‘ aristocracy ’ as thus used : (1) superiority in general culture and political enlightenment, and (2) inherited wealth—especially landed property—considerable in amount. For these two attributes are only to a limited extent likely to be found together ; since, though the leisure and opportunities which large wealth brings with it have a certain tendency to produce culture and enlightenment in their possessors, this tendency is seriously counteracted by the temptations to idleness and self-indulgence which beset the rich.”

He also says, after referring to the invidious opposition between wealth and numbers which it introduces by any such claim :

“ I think, therefore, that a wise partisan of the wealthy minority, in framing a new constitution for a modern country, would accept as a principle of construction that a Senate ought primarily to represent superior culture or political enlightenment rather than wealth.”

Then, Sir, with regard to the co-ordinate powers of the two Chambers, he observes :

“ The most obvious and simple arrangement is to make the two Chambers co-ordinate, with equal powers ; so that the free consent of both shall be necessary to any binding decision of the legislature ; and, therefore, if either House refuse its consent to any proposed legislative measure, it must drop or be postponed. Now, apart from the advantage of harmony between the legislative and executive organs, there would seem to be ordinarily little danger of harm in the postponement in such a case of a proposed law, assuming that the judgment of the Senate on the merits of the law is as good as that of the primary representative Chamber : a conflict

between the Chambers would mostly have only the effect of deferring legislation, of which the advantage is at best doubtful."

I will not trouble the House by reading many more extracts, but after discussing the question, he makes one or two observations which I think it is necessary to read to the Assembly :

" To meet this difficulty—otherwise than by relying on the wisdom and moderation of both Chambers—we must sacrifice either (a) the duality of the Chambers, or (b) the equality of their powers, or (c) the extent of their financial control."

Then the conclusion he comes to is this :

" On the other hand, the system of two really co-ordinate Chambers does not seem to be suited to any form of Parliamentary Government ; "

—not even to a Government which is merely on the road to Parliamentary Government—that is my own observation—

" because a conflict between the Chambers tends to destroy the harmony between legislation and administration, which appears to be the characteristic merit of this form of Government."

Then after further discussing the question, he says on page 471 :

" It appears to me, therefore, that a really co-ordinate second Chamber is an alien element in Parliamentary Government when fully developed."

Now my Honourable friend will perhaps seize this statement and say that it is an alien feature of Parliament Government when fully developed, but when Parliamentary Government is not fully developed, it may be a very legitimate feature of a constitution. But the question that I put is, if it would not be a legitimate feature or a workable feature of a system of Parliamentary Government, is it wise, is it expedient, to introduce such a feature now at the present stage and allow this to develop, and would it be possible, when our constitution is revised, to withdraw powers which have been conferred, which have been exercised, and in regard to which claims of vested rights may possibly be put forward ?

The Honourable Sir Malcolm Hailey : That is Mr. Samarth's proposition.

Sir P. S. Sivaswamy Aiyer : If there is to be a fully developed Parliamentary Government, it is far better to develop it from the beginning on right lines rather than go on the wrong tack first and afterwards change the course.

Then, Sir, it was observed that the second Chamber in England has a power of rejection and that if a Finance Bill were rejected by the second Chamber, they have means of solving a deadlock there, which are not open to us here, but there are means of solving the deadlock here provided by our constitution by means of joint sittings and by various other means, so that no practical difficulties can arise from the possible exercise of a power of rejection. The only issue before the House is this. Seeing that we have gone in for a bi-cameral system, is it or is it not expedient that the second Chamber should have a power of interference in money Bills ? If such a power of interference would not be tolerated in a fully developed constitution, is it wise to introduce such a feature at the present stage and create trouble for ourselves when the constitution has to be properly devised and when we shall be within reach of responsible self-Government. I am sorry, Sir, that for these reasons I have to differ from the Honourable the Home Member.

Mr. B. Venkatapatiraju (Ganjam *cum* Vizagapatam : Non-Muhamadan Rural) : Sir, I agree with the Honourable Sir Malcolm Hailey that the Government of India does not find a parallel in the world. I admit it is an anomalous institution bristling with all kinds of inconsistencies, but the question raised by Mr. Samarth is whether, even by amending the Government of India Act if necessary, we should not confine the power of originating, amending, considering and passing money Bills solely to the Legislative Assembly. Only yesterday, Sir, in the other House a Resolution was moved which was supported by all the non-official Members that whenever a dispute arises between the Government of India and the Home Government, regarding money matters, it should be referred to the Legislative Assembly. Even the Members of the other House did not ask that such disputes should be referred to them also. The basic principle on which Mr. Samarth requires that the power should be confined to this House is that taxation must not go without representation. It is presumed, and we expect it, that the lower House represents all interests in the country. If it does not so represent, it is not the fault of the Assembly, but it is the fault of a constitution which does not properly allow all interests to be represented. When once the Assembly represents all interests, the power should be left in its hands to grant supplies, to agree to taxation, or to allow any expenditure that may be required for the purpose of carrying on the administration. I do not understand, and I have not heard from the Honourable Sir Malcolm Hailey, why they have introduced in the Government of India Act a provision that the Budget should be discussed in the Legislative Assembly. Why should it be that the grant should be made by the Assembly? Why should they have made such a distinction? Of course, the Honourable Sir Malcolm Hailey might say that it does not deprive the other House of the power of amending the Bills, but it shows clearly that the idea is that the Legislative Assembly should have the power of either granting or rejecting money for carrying on the administration. It is true, Sir, that when for the first time the House of Lords attempts in the year 1667 to amend the Bills introduced by the House of Commons, the House of Commons immediately passed that historic Resolution in 1878 to the effect that the House of Lords should never interfere with or amend Money Bills, and they did not thereafter interfere or amend any Money Bills. Of course, their right of rejecting the Bill continued till 1911, though they never exercised it. In 1909 however they exercised it when Mr. Lloyd George brought in the budget. Then a general election came in and in 1911 we had the Parliamentary Act by which they have got the right of rejecting the Bill, but in spite of their rejection, over their heads, it can be passed with the Royal Assent. Now, Sir, so long as we agree that this House represents all interests, money Bills ought to be confined to this House, and taxation must go in with the consent of the peoples' representatives. Of course, in the anomalous administration of India, the certification theory might or might not come in. But leaving all other things aside for the moment, what is the object of asking the second Chamber to interfere in this? Is it to carry on the administration of this country smoothly? The Viceroy has the power of certification and even if there be an objection from one Chamber he will use

it. If he cannot do it, then it is enough to deal with one Chamber, because, if there should be a difference between the first Chamber and the second Chamber and if there should be a Joint Committee of both Chambers, naturally this House would predominate. and therefore, even if they differed, it would not at all affect the question. The final authority must rest with somebody. But what Mr. Samarth suggested is that the other Chamber can make any suggestions and we can cheerfully accept them if necessary, but if we cannot accept them, they ought not to have more value than the recommendations, contained in the Resolutions, just as our present Resolution is a recommendation to the Viceroy and Governor General in Council. Now, if you want to make this Assembly a popular Assembly and if you want the administration to be carried on with the good will of the country, I would request the Government not to oppose such a useful Resolution as this which was moved by Mr. Samarth.

Mr. J. A. Richey (Educational Commissioner) : Sir, as one of the few Members of this House who has had the privilege of also serving in the Council of State I have naturally listened to this debate with particular interest. I should have listened to it with even greater interest had it not confined itself entirely to the constitutional and legal principles involved in the Resolution. For, Sir, the passing of this Resolution may have other than constitutional and legal effects. After all, constitutions are dependent upon the men who work them. Such success as the reformed constitution has met with hitherto and such weight as this House undoubtedly carries in this country is due not so much to the merits of the constitution which is admittedly provisional, but, if, as a new-comer to this House, I may say so, to the men who have been sent here to work it. What is true of the Legislative Assembly is equally true of the Council of State. Sir, we should very much deprecate, we should strongly deprecate any lowering of the standard of membership of this Assembly. We should be equally jealous of the honour of the Council of State. And, Sir, for the purposes of my argument, I am assuming that the Honourable Mover—and I have his own authority to say so—does not suggest in his Resolution that the Second Chamber should not be continued. Well, Sir, has he and his supporters considered what the effect of the passing of this Resolution would be upon the membership of the Council of State? I do not refer to the present personnel of that body. They need no tribute from me. The Council of State contains men of eminence in law, in learning and, above all, in commerce. But it is not the present but the future composition of that body which would be affected by the passing of this Resolution. What type of men do we wish to serve in that body—the true Second Chamber, as it has been described? Sir, on that memorable occasion, when His Royal Highness the Duke of Connaught opened the new Legislatures at Delhi, he addressed the Council of State as a body of elder statesmen. There were some among us who, in spite of the venerable presence of Sir Dinshaw Wacha, Mr. Lalubhai Samaldas and Sir Hirnam Singh, felt perhaps some hesitation as to their right to this title, and some doubt as to their claim either to the adjective or to the substantive. But, on further consideration, Sir, I have come to the

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opinion that the title, the term, which the Duke of Connaught used in addressing the Council of State was both appropriate and, if I may say so, prophetic. We have heard of many functions of a Second Chamber. We have heard to-day much mention of the functions of the House of Lords. Now, Sir, there is one function of the House of Lords which is invaluable. It is to preserve for the benefit of the country the services of those statesmen who have made their mark in the House of Commons. Would not the Empire be the poorer if such men as Lord Morley, Lord Grey, and Lord Balfour, for example, had left the public life when they felt themselves no longer able to stand the strain of work in the House of Commons or to face the ordeal of a General Election? Now, Sir, we may be, as we by implication have been called, a body of younger statesmen: but some of us are not in our first youth. India has not yet faced the violence of a General Election, contested as elections are contested in England, but, if the newspapers are to be believed and in this who can doubt that they are right, we shall have to face such elections in the future. We should, I think, look forward to the time when the natural sequel to a distinguished career in this House will be a period of further service in the more tranquil atmosphere of the Council of State. But, Sir, if the objects desired by the Mover of this Resolution are attained, if the functions of that body are restricted, that hope will never be realised. Sir, the fears which I suggest are not groundless. Already the opportunities offered by the Council of State are limited. The Members of that body feel those limitations. If these opportunities are to be still further restricted, as is proposed by this Resolution, does this House expect—has this House any right to expect that men of weight and learning, that men of affairs, that men of independence and ability, that men who have made their mark in this country, either in this House or outside it, will come forward to fill the gaps in the ranks? (*An Honourable Member*: "Let them come here.") Sir, I was referring to Elder Statesmen such as Sir Dinshaw Wacha who would probably feel the strain of work in this House, as it will be in future too severe. It is so in England; there is no reason to suppose it will be otherwise here; and the elections also, which I mentioned, the elections to the Council of State will always be naturally, I think, more placidly conducted than those for this Assembly. Well, Sir, remember that service in the Council of State offers none of the privileges which attach to membership in the House of Lords. After all, to be a Peer of the Realm is no small thing. Service in the Council of State is its own reward. This Resolution proposes to restrict that service. It even impugns the value of that service and I feel sure, whatever the ultimate effect of this Resolution will be, the more immediate effect of the passing of this Resolution, if it is passed, will be to deter men from coming forward to serve in that Council, men whom the country wants at this time, for, believe me, it is men and not measures that India needs at present.

Sir, I oppose this Resolution.

Rai Sahib Lakshmi Narayan Lal (Bihar and Orissa: Nominated Non-Official): Sir, I rise to add a few words in support of this Resolution.

It is claimed that, under the new constitution, some real powers have been given to this Assembly inasmuch as there is a non-official majority here and that this Assembly has got some control over the purse. But, when this power of dealing with finances and Money Bills is also vested in the other Chamber, which is differently constituted, it looks like giving this power with one hand and taking it away with the other. As for the representative character of the other Chamber, it is evident that if the other Chamber is representative at all, it is representative in a very limited sense. We represent here every one who is represented by them, whereas they do not represent most of those whom we represent here. Every voter of the Central Legislature is represented by this House, whereas only very few voters of the Central Legislature are represented by them. Reference has been made to the second Chamber of other countries. But the constitution of those countries is quite different from that of this country, and any reference to those countries cannot serve any useful purpose. It can be said that this power in the other Chamber to deal with Finance and Money Bills is necessary as a safeguard for it is just possible that this Assembly may not discharge its duties with a full sense of responsibility. But there are sufficient provisions in the Act itself for safeguarding this and there is no need for this additional safeguard.

Mr. L. Graham (Secretary, Legislative Department) : Sir, like my Honourable friend, Sir Sivaswamy Aiyer, I had no intention of taking part in this debate till now, but like him, I am tempted to intervene in the debate. He did not come, and I have not come, prepared. Sir Sivaswamy Aiyer made a very learned speech and he even produced extracts from the works of Professor Henry Sidgwick. I do not think he habitually carries Professor Henry Sidgwick about in his pocket. But we welcome his speech. I only wish to make out this point that there is no pretence about me. I came here prepared. I did not wish to inflict a speech on the House because of a certain physical disability, temporary I am glad to say, from which I am now suffering. I should have retained my seat but that my Honourable friend Sir Malcolm Hailey entrusted to me the task of dealing with one point made by my Honourable friend Mr. Samarth, and that was in connection with certain constitutional cases from the Australian States—not from the Commonwealth, but from the States which have their own constitution. Now, Mr. Samarth as a lawyer has all the cunning of his kind. He has made it clear in the framing of his Resolution when he gave it to be understood that it was by accident that the Council of State enjoyed these equal powers in respect of Money Bills. He came to this conclusion, or rather he put it before the House in this way by taking a single sentence from the report of the Joint Parliamentary Committee. Now, my Honourable friend, Sir Malcolm Hailey, has disposed of that by reading out the whole passage. The sole object of the Joint Committee in constituting what they called a "true second Chamber" was to abolish that untrue second Chamber which was created by the original Bill, which was merely a Government machine for passing unpopular measures. The Joint Committee realised that to be a thoroughly bad kind of machine, and they said "If you want to insist on measures which the representatives of the people do not like, you must take the

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responsibility upon yourself." They proposed to place the responsibility on the Governor General in Council, and eventually the responsibility was placed on the Governor General. When they said they were going to set up a "true Second Chamber" they meant a Second Chamber with an elected majority and nothing more.

Now, Sir, proceeding on the same course Mr. Samarth,—it was of course a slight suppression, shall we say—referred to three cases from the Australian States. First was a case from Queensland, the second from New Zealand, the third from Queensland again.

Mr. N. M. Samarth : I did not refer to three cases. I referred to two.

Mr. L. Graham : The Honourable Member left out the very first one, which was really very important. The first Queensland case was on precisely the same point. Reference was made to the Secretary of State for Colonies and his reply was that the claim of the Upper Chamber to amend Money Bills was not admissible—and why?—because the Upper House was not elected, and therefore, it should follow the practice of the House of Lords in these matters and not amend Money Bills. Now, what is the case from New Zealand? That case was referred to the Law Officers of the Crown. It was also disputed in that case as to whether the Bill was a Money Bill or not. What was the finding? My Honourable friend, Mr. Samarth, was careful not to quote it :

"We think the Bill is a Money Bill and such a Bill as the House of Commons in this country will not have allowed to be amended by the House of Lords."

That was in 1872 long before the Parliament Act was passed. My friend must remember that the position in the Colonies with regard to the two Chambers was the same as that with regard to the House of Lords and the House of Commons, and that the Upper House of New Zealand in those days was not an elected body. Mr. Samarth was very careful to quote the full text of the opinion in the third case because it gave no reasons at all. Their Lordships of the Privy Council answered the first question in the negative and the second question in the affirmative, but they gave no reasons at all. But that opinion was as far back as 1882, was it not?

Mr. N. M. Samarth : 1886.

Mr. L. Graham : That is, long before the passing of the Parliament Act, when the House of Lords was wholly hereditary or practically wholly hereditary and the opinion was given in respect of a Colony which had a nominated Upper House. These cases are all summed up by the learned Professor Keith under the heading "The Nominee Houses and Money Bills" on page 567.

Mr. N. M. Samarth : Page 555, *et seq.*

Mr. L. Graham : No. You are not using the latest edition. I think mine is the latest.

Now, Sir, what was the origin of this trouble in England? The House of Lords was not an elected body. What was the Resolution

which was passed—the first Resolution which really lead up to the Parliament Act? The Resolution which was passed in 1907 in Sir Henry Campbell-Bannerman's time was "That in order to give effect to the will of the people as expressed by their elected representatives it is necessary that the power of the Upper House to alter or reject Bills passed by this House should be so restricted by law, etc." That was the ground of attack on the House of Lords. It was an attack by a body which was wholly elected on a body which was not elected at all. What is the position here in India? I ask the Assembly not to forget its own constitution. My Honourable friend, Sir Deva Prasad Sarvadhikary said, "Sometimes we are told we are representative and sometimes not." I rather think I saw a letter to the same effect in the "Pioneer" yesterday from a distinguished Member of this House. I may say that you are not representative strictly speaking, because you are not all elected. Some of you represent certain constituencies very ably. In the first place, how many people sent you to this House? 909,603, and out of those how many voted? However, my point is this, that it is not a wholly elected House, and until you are a wholly elected House, you cannot claim the privileges and rights of a wholly elected House. Moreover, what is your claim? You have to consider the party against whom you are claiming. As I said, in England the House of Commons was claiming as the elected representatives of the people against a wholly non-elected House. Here you, with an elected majority, are claiming against a House also with an elected majority, and how are you any better than they? Suppose in the ordinary course of events, in the natural development of these two Houses eventually each will be wholly elected. Then you will have a position corresponding on the one hand to the Parliament of the Australian Commonwealth and on the other to the American House of Congress, and it will be for you then to make up your minds which model to follow. The American constitution has worn extremely well. You will possibly by that time be in a position to decide whether the Australian constitution has worn equally well. Australian politics I believe are an extremely unpleasant region. (*Sir P. S. Sivaswamy Aiyer*: "British model".) But that is the point that I wish to put, that this is not the time to come to a conclusion. The whole of this agitation is based on the theory—on the maxim I might say, of no taxation without representation,—that is to say, taxation should only be settled by the elected representatives of the people. I noticed a somewhat curious fact that this motion is brought forward by a gentleman who is not himself an elected representative. Mr. Samarth is in this House, may I remind the House and not him.... (*Mr. N. M. Samarth*: "I am sorry to say that you refer to that fact here".) My point is simply this, that in this House, as at present constituted, this proposal is entirely premature. Whether it will be a right proposal when both this House and the other House are wholly elected is a question to be considered when that occasion arises.

Mr. S. C. Shahani (Sind Jagirdars and Zamindars : Landholders) : Sir, I beg to support the Resolution that has been moved by my Honourable friend Mr. Samarth. I am at one with him not only on the main issue but on the side issue too. It has been said by the Honourable the Home Member that there is no room just now for further reforms, considering

[Mr. S. C. Shahani.]

the import of the Government of India Act ; and yet my Honourable friend Mr. Seshagiri Ayyar has aptly pointed out section 67A of the Government of India Act in which that class of expenditure is enumerated which is not to be referred to the vote or discussion of the Lower House. A statement of the estimated annual revenue and expenditure is to be presented to the two Houses ; but when it comes to enumerating the heads of expenditure which shall not be submitted to vote there is no mention, absolutely no mention, of the other House. What is the import of this omission ? Evidently it is contemplated by the Act that the statement of estimated revenue and expenditure is to be referred for discussion to both Houses but for vote only to one, namely, the Legislative Assembly. If so, is it not right that a reference should be made to the law officers of the Crown, to ascertain whether or not the interpretation that is being put upon this section, among others, is correct. I think Government should readily consent to making such a reference. They will not be right in summarily dismissing the proposal that is before the Assembly to-day.

If we come to the main issue, namely, whether or not the second Chamber should have the right of amending Money Bills, I feel that here it will be very necessary to bear in mind that the second Chamber is not to be an impediment in the way of the Assembly controlling the budget. It is objected that we elected Members of the Assembly are not representative. We are as representative as the constitution would permit us to be. We are as representative as the divergence of opinion between the extreme section and the moderate section of the people would permit us to be. I do not think it behoves the Government to raise doubts as to the representative character of this House. It is unfair, unfair in the extreme, for this reason that this House could be made easily more representative in its character. Only that circumstances of the Government creation do not permit it. The House, as it is, is certainly more representative than the Second Chamber. It has been further objected that in other parts of the British Commonwealth, it is not an uniformly constitutional practice to prevent the Second Chamber from amending money bills. At any rate it is admitted that in Australia and South Africa the Second Chamber is prevented from doing so. It is contended that there the Second Chamber has the right to reject money bills. The same right might be given to the Council of State if in the circumstances under which we are situated it is considered expedient to do so. But as a matter of fact, the Second Chamber in Australia or South Africa has no such real right. That is my information. The House of Lords too technically has the right to reject Money Bills. That right has not been taken away, but it is in disuse, it has never been exercised. British analogy, the Honourable the Home Member maintains, is to be excluded, tabooed. The British constitution has resulted from a long series of premises and traditions. It won't do for us, according to him, to base our claim upon English analogy. India has a long past, but necessarily peculiar to itself. If a long series of premises and traditions like that of England is to be the only justification for the progress of our constitution, I do not think we should be deemed entitled to having the Legislative Assembly that we have at present. This argument if accepted will prevent even those constitutional changes which

are admitted to be desirable in the case of India by both Liberals and Conservatives. You must go in for changes unquestionably calculated to do you good. You could not wait until circumstances are created such as will be considered parallel to the circumstances of England. Recently an occasion arose on account of which the Legislative Assembly, feels disposed to take steps to secure its own powers—powers which, as would seem theoretically, are intended for the Assembly. I use the word 'theoretically,' because I am prevented from making a stronger statement by the wording of section 63 of the Government of India Act. All Bills have to be passed by the two Houses together, though again without amendment or with such amendment only as may be agreed to by both. No doubt strictly speaking the language of one part of this section until modified or authoritatively interpreted should prevent the enforcement of that interpretation which is suggested by my Honourable friend Mr. Samarth. I am therefore referring to the intention of the Act clearly visible in sections 63 and 67A. The very constitution that has been formulated for this our transitional period does according to most of us contemplate the handling of the Money Bills by the Legislative Assembly and the Legislative Assembly alone. The House of Lords has no power to amend Money Bills, and most parts of the Empire have followed the principle and practice of the constitution of England. If that is so, there is no reason why we should not seek to clearly establish a change in our constitution which will be modelled on the constitution of Great Britain. It is admitted by the Honourable the Home Member that under the present constitution there is no necessity, even from the Government point of view, for the Second Chamber interfering, since Government have a perfect machinery provided for them for passing unpopular measures. So far as the future goes, it is, however, apprehended that the Legislative Assembly under the dominion of extremists may claim powers inconsistent with the 'harmonious development' of the country. Sidgwick has been quoted and rightly quoted in a different context by Sir Sivaswamy Aiyer; but things have progressed since Sidgwick; and I do not know that under the conditions under which we now exist it will long be competent to a wealthy minority, however cultured, to control the will of the Lower House. People have to be generally represented and correctly represented in the Lower House. As soon as the popular representation comes to be correct, it is impossible that the Lower House will allow the Upper House here or anywhere else in the world to interfere with its treatment of its estimated revenue and expenditure. It appears probably strange that I should make such an authoritative statement. But I must speak as I know. My own knowledge and experience does point to the correctness of the aforesaid speculation; and I therefore repeat that I shall not wonder if in the near future the exercise of the power to interfere with Money Bills by the Second Chamber comes to be prevented even in those countries in which it is at present theoretically permitted. It has been very rightly urged by the Honourable Sir Sivaswamy Aiyer that we should set about the thing early, and bring about in time an improvement in our constitution that is so greatly needed. It is no use waiting until it becomes a question of mending or ending the Second Chamber. The 'fill the cup' policy ought not to be our goal. We ought to strive to do all that will be calculated to establish harmony between the two Chambers. The two Chambers should

[Mr. S. C. Shahani.]

not be antagonised. If the interpretation of sections such as 63 and 67A is not fixed or if the Act is not so amended as to make the control of the Lower Chamber supreme in the matter of Money Bills, the people will be diverting their energies to the settlement of their accounts with the Upper Chamber. With these remarks I support the Resolution that has been put forward before the House.

The Assembly then adjourned for Lunch till Thirty-Five Minutes Past Two of the Clock.

The Assembly re-assembled after Lunch at Thirty-Five Minutes Past Two of the Clock, Mr. President in the Chair.

MESSAGE FROM THE COUNCIL OF STATE.

THE SPECIAL MARRIAGE (AMENDMENT) BILL.

Mr. President : A Message has been received from the Secretary to the Council of State which the Secretary will now read.

Secretary of the Assembly : The Message runs as follows :

" I am directed to inform you that the Council of State have at their meeting of the 17th July 1923 agreed, without any amendments, to the Bill further to amend the Special Marriage Act, 1872, which was passed by the Legislative Assembly on the 23rd March 1923."

RESOLUTION RE FUNCTIONS AND POWERS OF THE COUNCIL OF STATE—*contd.*

Mr. Pyari Lal (Meerut Division : Non-Muhammadan Rural) : I move that the question be now put.

Mr. N. M. Samarth (Bombay : Nominated Non-Official) : Sir, I do not think I need take up much of the time of the House in replying to the points made by Mr. Graham and the Honourable the Leader of the House, but one or two points I can scarcely allow to go unchallenged. I made a point when I asked " is there any part of the British Commonwealth in which such a thing was conceivable, namely, an Upper House amending a Money Bill," and I was told that in Canada they could do so. Now I question with great deference the correctness of that statement. I have got Professor Keith's " Responsible Government ", Volume I, in my hand. My edition is that of 1912. Now, at page 516 he says :

" It is provided by section 53 of the Great North America Act that Bills for appropriating any part of the public revenue or for imposing any tax or impost shall originate in the House of Commons. There is no other provision limiting the power of the Senate with regard either to finance or to general legislation."

These very words were the subject of the decision of the Privy Council and I quoted those words from the Constitution Act of 1867 of New Zealand. It is provided by section 2 of the Constitution Act of 1867 that " all Bills for appropriating any part of the public revenue or for imposing any new rate, tax or impost shall originate in the Legislative Assembly " and Professor Keith says :

" The exact force of this clause has formed the subject of a report to the Privy Council on reference from the two Houses in 1886."

and it is on that clause that the Privy Council have decided that the Upper House has no power to amend a Money Bill.

Mr. Graham said that the Privy Council have given no reason. If he had only referred to the previous pages, he would have found that the whole application of the Legislative Council and of the Legislative Assembly is

set out, in which the reasons of both bodies are given in full, and the decision of the Privy Council is upon those reasons of both bodies and the issues raised. I do not wish to pursue this subject any further, because, after all, supposing my interpretation is not correct, then, as I said, I ask for the amendment of the Government of India Act, if necessary. The issue really, having regard to the speech of the Honourable the Leader of the House, is this. Is this House going to accept the view of Government, namely, that, in order that we may get responsible Government, the Council of State should have full powers and co-ordinate powers with this Legislative Assembly? My leader, Sir Sivaswamy Aiyer, has already dealt with that point effectively. Well, if this is to be the road to responsible Government, I, for myself, despair of responsible Government ever coming to us. Is it going to be responsible Government or irresponsible Government, when this House and the other House are to have full and co-ordinate powers in every respect, not only in regard to money Bills but in all other respects? Well, it is said that the other House is elected. Mr. Graham made a point that the decision which I quoted referred to Upper Houses which were nominated and not elected. I ask him to read further a page or two from Professor Keith in which he says :

“ It should be noted that no difference has ever been made between nominee Houses capable of being swamped and Houses not so capable ”

in regard to these decisions. Supposing that the Council of State is going to be elected, can any one say that in the House of Lords there are not peers, persons and personages who have no stake in the country and that the Money Bills passed by the House of Commons without reference to the House of Lords, that is to say, without the House of Lords having any power to amend them, that those Money Bills do not affect their properties? Can any one seriously say that that is a point which can be urged against my position? Sir, I trust that some day or other, this is bound to come, sooner, as I said, than later, and I appeal to the British instincts of every Britisher here, probably in vain, and I trust that in their heart of hearts they are in sympathy with my Resolution, and I trust the House will carry it.

The Honourable Sir Malcolm Hailey : I am well aware of the difficulties of urging my case in this Assembly. As I said before, in March 1921 this House showed only too clearly, and at my expense, that they were of opinion that the other House should have no part nor lot in dealing with Finance Bills; they shuddered at the thought that they might even seem to be agreeable that the Council of State could share with them in the consideration of the details of such measures. A house in such a temper of mind, exultant of its growing strength, jealous of its privileges and vowed to extend those privileges, would naturally be in favour of any measure which would tend to prevent intervention either from any other House or from the Executive, with the exhibition of its full authority. I start with a prejudice against me, as strong as it is inevitable. If so, I congratulate myself all the more that this debate, if it can be said to have had any one definite conclusion, has clearly demonstrated that there are no advocates for the principle that we should have no second Chamber at all. There is a consensus of opinion, beginning with Mr. Samarth himself, that for the present at all events, and may be for the future, we need a second Chamber. Sir Deva Prasad Sarvadhikary was the only Roundhead, if he will forgive the term, who

[Sir Malcolm Hailey.]

would have laid the axe to that very useful institution. You will remember the terms of that celebrated indictment of the House of Lords by the Long Parliament of 1649. When I heard Sir Deva Prasad speaking, I recalled the language of that uncompromising body. In round terms it declared :

“ That the Commons of England assembled in Parliament, finding by too long experience that the House of Lords is useless and dangerous to the people of England, have thought fit to ordain and enact that from henceforth the House of Lords in Parliament shall be and is hereby wholly abolished and taken away.”

But I remind him that eight years afterwards a collection of the citizens of London presented to the Protector what was called “ a Humble Petition and Advice ”, and begged that “ Your Highness will for the future be pleased to call Parliament consisting of two Houses ” and the Protector, a man whom nowadays we should describe as a person of a somewhat radical turn of mind, told them in reply that “ by the proceedings of this Parliament, you see that they stand in need of a check or balancing power.” That was our experience in England ; and that has been the experience of the greatest countries in the world. Twice has France attempted in a rapture of republicanism to carry on with a single Chamber, and twice they have returned to a system of two Chambers. Indeed so convinced have they been at intervals of the necessity of constitutional checks and balances that they have on occasion even devised three Chambers. Now I admit that the precedents I have quoted of the Long Parliament, and the experiments of France, and I may add the brief experiment of the United States, have all been in transitional periods. But there the fact remains. No great country of the world—indeed I may say, hardly any little country of the world—has ever succeeded in the attempt to confine its destinies to a single Chamber. It used at one time, in discussions on this subject, to be said that there was one country which had existed with a single Chamber, namely Greece. For 57 years, Greece did exist with a single Chamber but in 1911 it found itself under the painful necessity of instituting—what ? A Council of State ! The experience of history is the conclusion of Lecky :

“ Of all forms of Government among mankind, I do not know of any likely to be worse than the government by a single, omnipotent democratic chamber.”

I do not labour the question any further. I take it that it is generally agreed that the development of India does require a second Chamber, and the only point of difference between us is whether that second Chamber shall be possessed of full powers or not. Now take the arguments that we have heard this morning in favour of curtailing the powers of our Council of State. Take first the argument based on what has been called the intention of the Act. Now I am of course treading on what for me must always be delicate ground. When I have to meet the arguments of constitutional lawyers, I naturally, so far from entering into the controversy myself, prefer to entrust my case to those who are more expert in these matters than I could ever hope to be. The mere layman is frequently in the position of regarding lawyers with admiration ; but on occasions he is tempted to regard them with amusement ; there are occasions when he is compelled to regard them with amazement. And when I hear a lawyer speaking of the intention of an Act, and reciting a number of provisions which he

believes to reveal the hidden meaning of the framers of the Act, and when I hear him in conclusion saying that a radical change in the Act is necessary in order to give effect to that intention—then I pass from the stage of amusement to that of amazement. The argument of my Honourable friends here is that it is implied in the Act that the Council of State should have no power of amending or dealing with our Finance Bills.

Mr. N. M. Samarth : Amending.

The Honourable Sir Malcolm Hailey : Of amending our Finance Bills. They read us section 67 ; they read us its various sub-sections, and they say that since the Council of State can only discuss the Budget and not vote on it ; and since it cannot make any appropriations for the services of the administration, therefore by implication it was intended to be prevented from amending our Finance Bills. And then they proceed to argue that the purpose of the Act in that direction is so obvious that the Act needs amendment in order to carry that intention out. The argument meets itself. We are asked by Mr. Shahani why, in view of the doubts that have been cast upon this position, we do not refer the question to the Law Officers of the Crown. I will give the obvious answer. For two years we ourselves have followed a reading of the law which was supported by Mr. Seshagiri Ayyar and Sir Sivaswamy Aiyer ; on two separate occasions the Council of State has amended Finance Bills without doubt being cast on its capacity to do so. But I do not rest my case there. Like a prudent commander, I keep my heavy artillery in reserve. I have said that Mr. Seshagiri Ayyar and Sir Sivaswamy Aiyer gave us what we considered to be a correct reading of the Act of 1921. But I reserved my final and conclusive argument—it is unnecessary for us to carry this question to the Law Officers of the Crown, since we received identically the same reading of the Act from Dr. Nand Lal ! I have at various times and seasons studied with great care the proceedings of the Joint Parliamentary Committee. I have perused with equal care all the proceedings in Parliament which dealt with this Act on its introduction and its passing into law. Not a single word do I find there which would bear out the contention of my friends opposite that there was any intention whatever on the part of the framers of that Act to curtail the powers of our second Chamber. That being so, I can only assume that they took the reasonable position that this being a popularly elected Assembly it was correct that it should deal with the Budget and with appropriations, but that when we came to Finance Bills larger interests were concerned, the word of a popular House should not be final, and the terms of those Bills should be open to reconsideration and amendment by another House. I pass to Mr. Samarth's second argument, which he has again repeated, that it is unthinkable that there should exist anywhere in the British Commonwealth a second Chamber with power to amend Finance Bills. I had quoted to him the British North American Act. He denies that that Act can bear that interpretation. He supports his view by quotations from decisions which refer to the New Zealand Constitution.

Mr. N. M. Samarth : In identical terms.

The Honourable Sir Malcolm Hailey : In identical terms ; true, but I put it to him, that the New Zealand State is only one of the component States of a Commonwealth. I put it to him further that the interpretation which the Law Officers then gave referred entirely to nominee second

[Sir Malcolm Hailey.]

Chambers, I have here the actual words of the Act. He will agree with me that there is nothing in that Act itself which specifically prevents the Senate from amending the Finance Bill. If he is right, then he is right by virtue of interpretation only ; the Act itself certainly does not forbid the Upper House to amend Finance Bills, and it has never been amended to prevent it taking such course with Finance Bills. But when we are told further that the existence of co-ordinate powers in this matter is in itself unjustifiable, it is only reasonable that I should appeal to constitutions beyond those of the British Commonwealth. I am entitled to refer to a constitution such as that of the United States, not an unsuccessful constitution in working, and one indeed which has been quoted by many political philosophers as having in many respects stood best the assaults of time. What then is the provision of the United States Act ? I quote the Fundamental Law.

“ All Bills for raising revenue shall originate in the House of Representatives ; but the Senate may propose or concur with amendments as on other Bills.”

It has full powers, therefore, in that respect. As a matter of principle and as a matter of political theory, it is certainly not correct to say that the existence of co-ordinate powers of this nature is either unparalleled or unjustifiable. It is suggested—and we owe the suggestion to Sir Sivaswamy Aiyer—that although for the present we may be able to justify the existence of these co-ordinate powers, yet in the fulness of time they would have to be swept away. My answer is, that we can certainly justify the existence of these co-ordinate powers at present. There is no doubt whatever that owing to the great diversity of interests in India the second Chamber should have equal powers in this respect with our Chamber. But if a time comes in the future when this Assembly does occupy the position of the House of Commons, when by tradition long compacted, and by proof of achievement fully admitted, it can prove itself capable of taking charge of all these various interests, then let that power be swept away ; and that is the ordinary process. If you have, owing to the growth of democratic institutions, to reduce or restrict the powers of your Upper Chamber, then in that case you would only be following the example of other countries and pursuing natural development common to history.

Now for the third point. I attempted to justify the existence of full powers on the part of the Council of State on two grounds, first, that it would conduce to the possibility that the British Parliament would at an early date, divest itself of its powers of control in regard to India, if India in itself were in possession of a full-power second Chamber. On that point I was attacked ; I maintain my position, but since it is a matter of anticipation, in which we must all be entitled to our own view, I will let it stand at that. But my opponents went further and attacked my second ground, that the development of India must be harmonious and that there must be full representation and power of control on the part of other interests than those which are now represented and are likely in the future to be represented in this Chamber. I was told that if land owners and rich men desired representation they could come here. That in itself is a return to the simple principle of a single Chamber. But I was putting my case on far other grounds than the necessity of a

Chamber consisting only of landowners and rich men. I made it clear that I did not contemplate that the Upper Chamber of the future would necessarily have the same composition as the Upper Chamber of the present. One of the most difficult questions that have faced those who have framed constitutions comprising a second Chamber, is to find proper differentia for that Chamber. Until these are found, the Chamber will never take its true position in the body of the constitution. It may be that the present composition of our second Chamber is best described as experimental. It is conceivable nay probable that we may have to have a different composition in the future. But what I had in my mind, and what some of my friends who spoke on my side clearly had in their minds also was not necessarily a Chamber merely of landowners and of rich men, nor did we conceive that our opponents should be able to arouse prejudice against our second Chamber, by assuming that its composition would be confined purely to representation of those classes. What we had in mind in the composition of the second Chamber was something far different. We had in mind that it should in its composition offer some of those advantages which Lord Bryce has described as peculiarly flowing from the existence of a second Chamber :

“ A remedy,” he says, “ may be found in the creation of a second Chamber into which men might be gathered who are eminent by their ability and the services they have rendered to the nation or to the district in which they reside, men who have gained experience in various forms of public work such as Local Government and the permanent civil service at Home or abroad, or who possess special knowledge of important branches of national life, as for instance, agriculture, commerce, manufacturing industry, finance, education and the like. Such a chamber might be made a kind of reservoir of special knowledge and ripened wisdom to be added to whatever knowledge and wisdom had already been gathered into the more popular house.”

That was our ideal of a second Chamber.

That then is our case. We believe that a full-power second Chamber is essential to the development of India. We deny that it is in itself without parallel or without justification ; and I repeat again that though the predilection of this Assembly would undoubtedly and must undoubtedly be for a second Chamber curtailed of these important powers, yet the ultimate good of India lies in the retention of a Chamber with the full powers which are given to the Council of State by our present constitution.

The Assembly divided :

AYES—80.

Abdul Hamid Khan Khudadad Khan,
Mr.
Ahmed, Mr. K.
Aiyer, Sir P. S. Sivaswamy.
Asad Ali, Mir.
Asjad-ul-lah, Maulvi Miyan,
Ayyangar, Mr. K. S. R.
Ayyar, Mr. T. V. Seshagiri.
Barua, Mr. D. C.
Basa, Mr. J. N.
Faiyaz Khan, Mr. M.
Gour, Dr. H. S.
Gulab Singh, Sardar.
Hussanally, Mr. W. M.
Ikramullah Khan, Raja Mohd.

Jejeebhoy, Sir Jamssetjee.
Lakshmi Narayan Lal, Mr.
Majumdar, Mr. J. N.
Man Singh, Bhai.
Mudaliar, Mr. S.
Mukherjee, Mr. J. N.
Mukherjee, Mr. T. P.
Nabi Hadi, Mr. S. M.
Nag, Mr. G. C.
Nand Lal, Dr.
Neogy, Mr. K. C.
Pyari Lal, Mr.
Sunartha, Mr. N. M.
Sarvadhikary, Sir Deva Prasad.
Shahani, Mr. S. C.

Ujagar Singh, Baba Bedi,

NOES—35.

Abdul Qadir, Maulvi.
 Abdul Rahim Khan, Mr.
 Akram Hussain, Prince A. M. M.
 Ansonge, Mr. E. C.
 Ayyangar, Mr. R. Narasimha.
 Bardswell, Mr. H. R.
 Barnes, Mr. H. C.
 Blackett, Sir Basil.
 Bray, Mr. Denys.
 Bridge, Mr. G.
 Burdon, Mr. E.
 Butler, Mr. M. S. D.
 Calvert, Mr. H.
 Chatarji, Mr. P. C.
 Chatterjee, Mr. A. C.
 Clarke, Mr. G. R.
 Faridoonji, Mr. R.
 Gebbie, Mr. F. St. J.

Gidney, Lieut.-Colonel H. A. J.
 Graham, Mr. L.
 Gwynne, Mr. C. W.
 Haigh, Mr. P. B.
 Hailey, the Honourable Sir Malcolm.
 Holme, Mr. H. E.
 Ibrahim Ali Khan, Colonel Nawab Mohd.
 Innes, the Honourable Mr. C. A.
 Mittler, Mr. K. N.
 Percival, Mr. P. E.
 Ramayya Pantulu, Mr. J.
 Richey, Mr. J. A.
 Sassoon, Captain E. V.
 Sim, Mr. G. G.
 Singh, Mr. S. N.
 Sinha, Beohar Raghobir.
 Stanyon, Colonel Sir Henry.

The motion was negatived.

RESOLUTION FOR ESTABLISHMENT OF CONVENTION OF NON-INTERFERENCE IN INDIAN AFFAIRS.

Sir P. S. Sivaswamy Aiyer (Tanjore *cum* Trichinopoly : Non-Muhamadan Rural) : Sir, I rise to move the Resolution which stands against my name, and which reads thus :

“ This Assembly recommends to the Governor General in Council that he will be pleased to move the Secretary of State to establish a convention as recommended by the Joint Select Committee and contemplated by section 19A of the Government of India Act, of non-interference, save under exceptional circumstances, in matters of purely Indian interest where the Government and the Indian Legislature are in agreement.”

Sir, I entertain the hope that my task may prove to be a light one. My intentions in moving this Resolution are quite friendly to the Government, and I hope that they will receive it in the same spirit. The object of my Resolution really is to strengthen the hands of the Government and to secure due weight to the concurrent conclusions of the Government of India and the Indian Legislature. My Resolution practically follows the language of the recommendation of the Joint Select Committee. In their recommendation on clause 33 of the Government of India Bill, this is what they stated :

“ The Committee have given most careful consideration to the relations of the Secretary of State with the Government of India and through it with the Provincial Governments. In the relations of the Secretary of State with the Governor General in Council, the Committee are not of opinion that any statutory change can be made so long as the Governor General remains responsible to Parliament. But in practice the conventions which now govern these relations may wisely be modified to meet fresh circumstances caused by the creation of a Legislative Assembly with a large elected majority. In the exercise of his responsibility to Parliament, which he cannot delegate to anyone else, the Secretary of State may reasonably consider that only in exceptional circumstances should he be called upon to intervene in matters of purely Indian interest, where the Government of India and the Legislature are agreed.”

My Resolution simply reproduces the language of this recommendation and keeps in view the principle underlying section 19-A of the Government of India Act. The language of section 19-A is this :

“ The Secretary of State in Council may, notwithstanding anything in this Act, by rule regulate and restrict the exercise of the powers of superintendence, direction and control vested in the Secretary of State and the Secretary of State in Council by this Act or otherwise in such manner as may appear necessary or expedient in order to give effect to the purposes of the Government of India Act, 1919.”

To give effect to my Resolution there will be no necessity to amend the Government of India Act. The powers vested in the Secretary of State in Council under section 19-A are sufficiently ample to enable him to establish this convention which I ask may be established hereafter.

The reasons in favour of the recommendation of the Joint Select Committee were discussed more at length by another Committee which was appointed earlier in the year. I refer to the report of the Crewe Committee which was appointed to report upon the relations of the Secretary of State for India with the Governor General in Council. I beg the leave of the House to refer to a few passages in the Report of the Crewe Committee. On page 6 of their Report, paragraph 13, this is what they observe :

"The features which typify the Reform Scheme are the transfer of some subjects of administration from officers of the Crown to representatives of the people in the provinces and the encouragement in the Indian Legislatures of an authoritative expression of popular opinion to which the Governments will become increasingly responsive."

Then again :

"The new constitution of the Indian Legislative Assembly which will give to the non-official Members a substantial majority is bound to make its weight felt with the Government of India. The problem with which we are immediately concerned is to secure that the opinion of the Assembly should carry corresponding weight with the authorities in whom is vested the power of controlling the Government of India. It appears to us that the conception of the Reform Scheme leads naturally to the acceptance of the principle which we here state in general terms that, where the Government of India find themselves in agreement with the conclusion of the Legislative Assembly, their joint decision should ordinarily prevail. We set out below what we conceive to be the application of the principle."

They first consider the application of the principle in the sphere of legislation and this is what they state. At the outset they think it desirable to secure that the authority of the Legislative Assembly will not be restricted by Government intervention through the Council of State, save in certain circumstances. That remark was made with reference to the then contemplated composition of the Council of State. Later on they say :

"In order, therefore, to give proper influence to the legislative authority in the Assembly we recommend that, whenever legislation has the support of the majority of the non-official Members of the Legislative Assembly, assent should be refused only in cases in which the Secretary of State feels that he is responsible to Parliament for the peace, order and good government of India or paramount considerations of imperial policy require him to secure reconsideration of the matter at issue by the Legislative Assembly."

Then, with regard to the budget and general administration, this is what they observe :

"In the examination of the budget and in the criticism of general administration, the Legislative Assembly can express its views only by means of Resolutions and this will continue to be advisory in character without legal sanction. The Government may accept a Resolution either because they agree with it from the outset or because they decide to defer to the opinion of the Assembly. Where, for any reason, reference to the Secretary of State is considered necessary, we recommend that a joint decision of the Government of India and the majority of the non-official Members of the Assembly, reached by discussion of the Resolution, should be given the same degree of authority as similar decisions for legislative proposals and the principle we have stated in paragraph 15 should apply in this case also."

Then they go on to deal with matters of pure administration and say :

"We think it unnecessary to say more on this head than that the degree of discretion allowed in matters of pure administration should be enhanced in general"

correspondence with the wider authority to be allowed in future in matters of legislation and finance."

Then, the conclusion is :

" We have stated our conclusion as to the extent to which the co-operative authority of the Government of India and the Legislative Assembly should be recognised, and the corresponding degree in which revision from home should by constitutional practice be limited."

In paragraph 20, they say :

" In approaching the main subject of our inquiry, we have necessarily dwelt on certain aspects of the Reform Scheme on the Indian side in order to throw into relief the changes in home administration to which they point. The conditions of reform obviously postulate a change of atmosphere in the conduct of the administration by the supreme executive, but it is in our view that to complete the structure at this end, the need for something more than a change of atmosphere is imperative."

The recommendations of the Crewe Committee are summed up on page 13. The second recommendation is :

" Where the Government of India are in agreement with the majority of the non-official Members of the Legislative Assembly, either in regard to legislation or in regard to Resolutions on the Budget or on matters of general administration, assent to their joint decision should only be withheld in cases in which the Secretary of State feels that his responsibility to Parliament for the peace, order and good government of India or paramount considerations of imperial policy require him to secure reconsideration of the matter at issue by the Legislative Assembly."

Sir, I do not think it is necessary to trouble the House with more extracts from this Committee's Report or with any further arguments in favour of the proposition which I move. In fact, I cannot conceive on what possible grounds the Government of India can oppose this Resolution. One possible argument I can imagine,—but not one coming from the Government of India itself,—namely, that the Government of India may grow a little too responsive to the wishes of the Assembly. If that consummation happens, we for our part should welcome it, but it is quite possible that there may be another angle of vision, especially in England. It is quite possible that they may think that the Government of India may, by political pressure or by reason of the habit of deference which they are likely to contract towards the Assembly, be a little too complaisant towards the Assembly and may perhaps agree with them in matters on which it is necessary in those interests which are meant to be safeguarded that they should not yield. I am only making a conjecture. I am not in a position to state what exactly may be the objection on the other side. The Crewe Committee, the members of which could not be accused of any ultra-radical tendencies with regard to Indian questions, and the Joint Select Committee, of which the same mentality may be predicated, were both in favour of establishing this Convention. It is a safe presumption from the concurrent recommendations of these two Committees that there cannot possibly be any harm in establishing such a convention. What exactly the attitude of the Home Government may be, I do not know, and what exactly the present attitude of the Government of India may be, I do not know. I do not know whether the Government of India perhaps feel in their heart of hearts that even in cases where they may find it embarrassing not to concur with the Assembly, they should be over-ruled by the autocrat of Whitehall. I am not in a position to speculate upon these things. But what I do

venture to submit is that in the interests of co-operation between the Legislature and the Government and in the interests of that harmonious development of which we heard so much in the morning, the Government of India ought to welcome this Resolution ; I trust that my Resolution may meet with a more favourable reception than the one which was moved in the morning and a more sympathetic treatment—sympathy not in the sense in which a prefatory expression of it precedes a refusal, but sympathy real and active. In the Resolution itself there are qualifying words under which the Secretary of State may find a loophole whenever he finds it convenient to break through the convention. You have the words “ save in exceptional circumstances ”. You have the words “ of purely Indian interest ”. It is open to him to say that a particular matter is not a matter of purely Indian interest. It is open to him to say that a particular case is one of exceptional circumstances. If the Home Government really cannot make up its mind to assent to this Resolution it must rather be because they do not know the stuff of which at any rate the English Members of the Government are made. We have stalwart champions of Imperial interests in the Executive Council, and I think the Government at Home may very well trust the Members of the Executive Council to look after Imperial interests and to take sufficient precautions in cases in which this convention may be undesirable. There is another safeguard, namely, the safeguard of previous consultation, a practice which from our point of view cannot be looked upon as one of unmixed advantage. They have got a hundred and one ways of giving effect to their own views wherever they really differ from us. It is only in those cases in which the Government of India and the Legislature are in perfect accord that we wish their concurrent opinions to be invested with due weight. It seems to me, Sir, to be unnecessary to labour this proposition any further and I hope that the House will accept it including the Treasury Bench.

Dr. Nand Lal (West Punjab : Non-Muhammadan) : Sir, I should designate this Resolution as a harmonising measure. Here the Assembly does not advocate only the maintenance of its own privileges but also pleads for the Government of India. What does this Resolution contemplate ? What it contemplates is this, that when there is a concurrence of opinion of both the Government of India and the Indian Legislature, then the Secretary of State should not interfere unduly. The terms of this Resolution are very modest. They are :

“ This Assembly recommends to the Governor General in Council that he will be pleased to move the Secretary of State to establish a convention as recommended by the Joint Select Committee and contemplated by section 19A. of the Government of India Act, of non-interference ”

—now mark, Sir, the saving clause which is incorporated in this modest Resolution ; the words of that saving clause are :

“ save under exceptional circumstances, in matters of purely Indian interest where the Government and the Indian Legislature are in agreement.”

It could not be more modest. And, Sir, has it got any support ? It has the support of the greatest possible authority. I may invite your attention to pages 192 and 193 of “ India in 1919.” I shall not read the whole paragraph but I shall quote that portion which is indispensably necessary to substantiate my argument. It reads thus :

“ It further recommends that with a view to removing the belief that India's fiscal policy was directed from Whitehall in the interests of the trade of Great Britain

[Dr. Nand Lal.]

a convention should be instituted by which the Secretary of State was to refrain from interfering with fiscal measures upon which the Indian Legislatures and the Executive were in agreement. . . . ”

Now, Sir, can there be a better authority than this in support of this Resolution? Then, again, the provisions of section 19-A of the Government of India Act, 1919, are quite eloquent and very explicit, so far as support for this Resolution is concerned. The words are :

“ The Secretary of State in Council may notwithstanding anything in this Act, by rule regulate and restrict the exercise of the powers of superintendence, direction and control, vested in the Secretary of State and the Secretary of State in Council by this Act, or otherwise, in such manner as may appear necessary or expedient in order to give effect to the purposes of the Government of India Act, 1919. ”

So, it establishes to the hilt that there is a great harmony between the provisions of this section 19-A of the Government of India Act, 1919, and this Resolution. Therefore, Sir, it does not require great elaboration or flow of eloquence. The Resolution speaks for itself and I whole-heartedly support it.

Sir Deva Prasad Sarvadhikary (Calcutta : Non-Muhammadian Urban) : Sir, there is a strong feeling in the House that with your permission the House might now adjourn for such time as you may be pleased to fix—for about an hour or for the day—to enable Members to attend at the railway station to pay their respects to the remains—to speed him on his last journey—of our deceased colleague. The train will be leaving with his remains either for Allahabad or Benares in a short time and we are all anxious that this last respect should be paid. I therefore move that the House do now stand adjourned.

Mr. President : Does the Honourable Member wish to move an adjournment of the House for the whole of to-day until to-morrow, or an adjournment of the debate? I am prepared to take the sense of the House on either proposition. I quite appreciate the Honourable Member's object in making this proposal. It is a fitting occasion for an adjournment. I put the question that this debate be now adjourned.

The Honourable Sir Malcolm Hailey : My only difficulty in the case is that while fully appreciating the feeling expressed by Sir Deva Prasad Sarvadhikary and the object with which he desires to adjourn the House, I see that adjournment will affect the fate of the Resolutions which remain on to-day's paper. It might, I am afraid, result in their being abandoned. But as far as Government is concerned, we do not wish to oppose the adjournment of the House either for a time or for the day, in view of the object with which the adjournment is urged.

Mr. President : I hope the House fully understands that if it adopts the question that the debate be now adjourned I shall thereafter adjourn the House till to-morrow morning. The question is that this debate be now adjourned.

The motion was adopted.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 18th July, 1928.