

Thursday, 29th September 1921

THE
COUNCIL OF STATE DEBATES
(Official Report)

VOLUME II

SECOND SESSION

OF THE

COUNCIL OF STATE, 1921



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COUNCIL OF STATE.

Thursday, the 29th September 1921.

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

QUESTIONS AND ANSWERS.

FACILITIES GIVEN BY P. AND O. COMPANY TO GOVERNMENT.

11 A. M. 179. The HONOURABLE MR. LALUBHAI SAMALDAS : Will Government be pleased to state what facilities, if any, have been given by the P. and O. Company to Government, apart from the service in connection with the mails, and whether passages on Government account are issued at reduced rates ?

The HONOURABLE MR. H. A. F. LINDSAY : A number of P. and O. vessels were requisitioned by Government during the war on terms fixed by the Ministry of Shipping, but Government have no information to show that military stores shipped on P. and O. vessels not requisitioned were taken at special rates except in the case of deceased officers' baggage, which, as far as is known, was conveyed free up to five tons on each vessel going to England.

The India Office benefits equally with other Departments of the British Government by the terms of any contract between that Government and shipping companies, but the terms of such contracts are naturally confidential.

POSITION OF BANK OF ENGLAND.

180. The HONOURABLE MR. LALUBHAI SAMALDAS : (a) Have the Indian Merchants' Chamber and Bureau of Bombay asked Government for information relating to the position of the Bank of England in connection with the 7 per cent. sterling loan ?

(b) Have Government supplied the information in question ?

(c) Will Government communicate the information to the Council ?

The HONOURABLE MR. E. M. COOK : (a) I presume that the information referred to by the Honourable Member relates to the names of the underwriters with whom the sterling loan was actually placed by the Bank of England and to the arrangements made for the distribution of the underwriting charges amongst those concerned. If so, the answer is in the affirmative.

(b) and (c). No. The recognised practice in England is that, when arrangements have been made between principals for guaranteeing the full subscription to a loan, the arrangements made by the guaranteeing party (in this case, the Bank of England) in respect to sub-underwriters and their remuneration, are regarded as strictly confidential, and the names of sub-underwriters are not disclosed.

INDIANS IN PILOT SERVICE.

181. The HONOURABLE MR. LALUBHAI SAMALDAS : Will Government be pleased to state what steps have been taken by them to introduce Indians in the Pilot Service at the principal ports?

The HONOURABLE MR. H. A. F. LINDSAY : The Pilot Services at Bombay, Karachi, Aden, Madras, Rangoon and Chittagong are not under the control of Government, but of the various Port Trusts.

The Bengal Pilot Service at the Port of Calcutta is the only Pilot Service under the control of Government. As a result of the recommendations of the Public Services Commission, provision has been made in the revised rules of the service for the appointment of statutory natives of India, if they possess the necessary qualifications.

PURCHASE OF WHEAT, ETC., BY MILITARY AUTHORITIES.

182. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Will the Government kindly state—

- (a) What was the amount of wheat, other food-grains, ghee, wood fuel, and bhoosa purchased by the Indian Military authorities in the year ending *Rabi* crops, 1914?
- (b) What has been the quantity of the above commodities purchased during each of the subsequent years up to date?
- (c) How much of the increase in these purchases has been for the requirement of armies stationed outside India but based on this country?
- (d) How much of the increase in these purchases has been due to a change in the system of rationing troops, Indian as well as European?
- (e) In what way does the present system of rationing troops differ from the system prevalent in pre-war days?

The HONOURABLE MR. H. D. CRAIK (for His Excellency the Commander-in-Chief, : (a), (b), (c) and (d). An effort will be made to collate the information desired by the Honourable Member. Government cannot, however, undertake to furnish it, if on examination it is found to involve a disproportionate amount of labour.

(e) Before the war, Indian troops, except when on field service or in a few localities, made their own arrangements for purchasing their rations, usually by regimental arrangements, a deduction of Rs. 3-8-0 per mensem being made from the pay of each man, and the balance of the cost of the standard ration being met by the grant of an allowance which varied from time to time with the cost of foodstuffs.

Under the present system, Government supplies the bulk of the rations of the Indian Army, and no deduction is made from the pay of the troops on this account.

RISE IN PRICES OF WOOD FUEL.

183. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Is the Government aware that the prices of wood fuel have gone up very

high? Do the Government contemplate taking any action to lower the price of this commodity? If so, will they kindly explain the step they are taking in the matter?

The HONOURABLE MR. B. N. SARMA : The Government of India believe that the cost of wood fuel, like that of other commodities, has risen. The causes are doubtless to be found in the increased cost of labour and transport. The action, if any be necessary to lower prices, can only be taken by the Provincial Governments concerned. The areas directly under the control of the Government of India are small and so far as is known call for no action.

INDIAN UNDER SECRETARYSHIP.

184. The HONOURABLE MR. G. S. KHAPARDE : (a) Will the Government be pleased to state whether any Under Secretaryship has been conferred upon any Indian, who is not a member of the Indian Civil Service?

(b) If the answer be in the affirmative, will the Government be pleased to state the Department or Departments in which such Under Secretaryships have been so conferred?

(c) If the answer be in the negative, will the Government be pleased to state whether they propose to make any such appointment?

The HONOURABLE MR. H. D. CRAIK : (a) The answer is in the negative.

(b) The question does not arise.

(c) The Honourable Member is reminded that the Secretariat Procedure Committee recommended generally that Under Secretaryships should be replaced by Assistant Secretaryships, and this process has begun. Appointments of Under Secretary will, in the future, continue to exist only where the nature of the work to be done requires the special experience of a member of the Indian Civil Service or other service. It is hardly necessary to add that such appointments, if any, will be made not on a racial basis, but by the selection of the officer who appears to be the best qualified.

CONVERSION OF UNDER SECRETARYSHIP TO ASSISTANT SECRETARYSHIP.

185. The HONOURABLE MR. G. S. KHAPARDE : Will the Government be pleased to state in what circumstances the Under Secretaryship of the Finance Department has been converted into an Assistant Secretaryship?

The HONOURABLE MR. E. M. COOK : As the Home Secretary has just now mentioned, the Secretariat Procedure Committee recommended the abolition of all Under-Secretaryships and the substitution therefor of posts of Assistant Secretary, except that in the Finance Department. The reason for this exception was that the Under Secretaryship in the Finance Department was practically the only appointment in India giving an opportunity to a junior member of the Indian Civil Service to gain an acquaintance with the more technical side of the Department, *viz.*, questions of currency, exchange, loans, banking, and so forth. On the occurrence of the last vacancy the Government of India found some difficulty in obtaining the services of any junior officer of the

Indian Civil Service of suitable qualifications. On the other hand, they were able to obtain as Assistant Secretary an officer of the Enrolled List of the Finance Department whose qualifications for the post were particularly good, and accordingly it was decided to hold the Under Secretaryship in abeyance.

RESIDENTIAL ACCOMMODATION IN NEW DELHI.

186. The HONOURABLE MR. G. S. KHAPARDE : (i) Will the Government be pleased to state—

- (a) the number of residential houses or bungalows for officers or clerks that have been built in Raisina ;
- (b) the classes, if any, into which such bungalows and houses are divided ;
- (c) the principle on which this classification is based ?
- (ii) Will the Government be pleased to lay on the table a statement showing—
 - (a) what each bungalow has cost Government ;
 - (b) the rent leviable in respect of it under the Public Works Department rules ;
 - (c) the rent it is actually expected to fetch during the Delhi season ; and
 - (d) the approximate rate of interest on the capital outlay this rental is likely to yield ?

The HONOURABLE MR. B. N. SARMA : (i) (a) 100 bungalows for Officers.

162 European Clerks' quarters.

762 Indian Clerks' quarters.

(b) The original classification was as follows :—

OFFICERS' BUNGALOWS.

		Rs.	Rs.
Class I for Officers on salaries ranging from	3,200 to 5,000 p. m.
Class II for Officers on salaries ranging from	2,000 to 3,199 p. m.
Class III for Officers on salaries ranging from	1,250 to 1,999 p. m.
Class IV for Officers on salaries ranging from	800 to 1,249 p. m.
Class V for Officers on salaries ranging from	701 to 799 p. m.
Class VI for Officers on salaries ranging from	500 to 700 p. m.

CLERKS' QUARTERS.

Europeans.

Class I for Assistants and Clerks on salaries ranging from	...	301 to 499 p. m.
Class II for Assistants and Clerks on salaries ranging from	...	201 to 300 p. m.
Class III for Assistants and Clerks drawing	...	200 and below, p. m.

Indians.

Type B for Assistants and Clerks on salaries ranging from	...	301 to 499 p. m.
Type C for Assistants and Clerks on salaries ranging from	...	201 to 300 p. m.
Type D for Assistants and Clerks on salaries ranging from	...	100 to 200 p. m.
Type E for Assistants and Clerks drawing less than	...	100 p. m.

This classification has, however, recently been revised as shown below :—

OFFICERS' BUNGALOWS.

			Rs.	Rs.
Class I for Officers drawing	...	...	3,500 and above	p. m.
Class II for Officers on salaries ranging from	...	...	2,500 to 3,499	p. m.
Class III for Officers on salaries ranging from	...	...	1,750 to 2,499	p. m.
Class IV for Officers on salaries ranging from	...	...	1,250 to 1,749	p. m.
Class VI for Officers drawing less than	...	...	1,250	p. m.

CLERKS' QUARTERS.

Europeans.

			Rs.	Rs.
Class I for Assistants and Clerks on salaries ranging from	...	...	350 to 500	p. m.
Class II for Assistants and Clerks on salaries ranging from	...	...	251 to 349	p. m.
Class III for Assistants and Clerks drawing	...	...	250 and below	p. m.

Indians.

Type B for Assistants and Clerks on salaries ranging from	...	...	350 to 500	p. m.
Type C for Assistants and Clerks on salaries ranging from	...	...	251 to 349	p. m.
Type D for Assistants and Clerks on salaries ranging from	...	...	151 to 250	p. m.
Type E for Assistants and Clerks drawing	...	...	150 and below	p. m.

(c) The classification is based entirely on the pay drawn.

(ii) The information called for by the Honourable Member is placed on the table.

(ii) (a), (b), (c) and (d). No bungalow or quarter is as yet complete in all respects and it is not possible therefore to reply categorically.

The following table exhibits the information asked for so far as it is now possible to give it.

Class.	Capital cost of the building.	Rent assessable under current rates per mensem.	Rent to be recovered per mensem.	Average monthly salary of occupant.	Percentage of rent to average salary of occupant.	Percentage of rent to Capital cost.
<i>Gazetted Officers' Bungalows.</i>	Rs.	Rs.	Rs.	Rs.		
Class I	51,000	280	240	4,000	6	5.3
Class II	43,500	223	180	2,750	5.75	4.4
Class III	36,300	185	115	2,100	5.50	3.3
Class IV	28,900	138	70	1,350	5.25	3.1
Class VI	18,900	98½	40	800	5.00	2.5
<i>European Clerks' Quarters.</i>						
Class I	10,000	54	21½	420	5.1	2.4
Class II	8,000	41	18½	300	5.5	2.4
<i>Indian Clerks' Quarters.</i>						
Class I	8,850	45	18	420	4.3	2.4
Class II	5,800	29½	11½	300	3.9	2.4
Class III	4,250	21½	8½	200	4.2	2.4
Class IV	2,720	13½	5½	100	5.5	2.4

2. A saving of Rs. 2 lakhs has been effected on the scheme for Gazetted Officers' Bungalows and is being utilised on the scheme for Clerks' Quarters. This has been done in order to improve the scale of accommodation for Clerks and to reduce the scale of accommodation for officers so as to bring it within their financial means.

SUPPRESSION OF REPORT ABOUT ALI BROTHERS, ETC.

187. The HONOURABLE MR. G. S. KHAPARDE : (a) Will the Government be pleased to state if it is a fact that the report about Messrs. Muhammad Ali, Shaukat Ali and Kitchlew and others was either suppressed or held up for 48 hours and, if so, why ?

(b) Are the Government aware that the suppression of this news for 48 hours has given rise to a crop of rumours and reports ?

The HONOURABLE MR. H. D. CRAIK : (a) Yes ; such action was taken by the Government of Bombay in the interest of the public safety.

(b) No.

REPORTS OF PRESS LAWS AND REPRESSIVE LAWS COMMITTEES.

188. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY, OF KASIMBAZAR : Will the Government lay on the table the full reports, with all transcripts of evidence, of the following Committees :—

(a) The Press Laws Committee,

(b) The Repressive Laws Committee ?

The HONOURABLE MR. H. D. CRAIK : A copy of each of the reports is laid on the table. The evidence given before the Press Committee will shortly be published, with the exception of that of certain witnesses who have objected to publication. The question of publishing the evidence given before the Repressive Laws Committee is still under consideration, but much of the evidence was of a confidential character, and it is very doubtful whether the witnesses will agree to its publication.

Report of the Committee appointed by the Government of India to examine the Press and Registration of Books Act, 1867, and the Indian Press Act, 1910, and the Newspapers (Incitements to Offences) Act, 1908.

In accordance with the instructions contained in the Home Department Resolution No. 534, dated the 21st March 1921, we the Members of the Committee appointed by the Government of India to examine the Press and Registration of Books Act, 1867, the Indian Press Act, 1910, and the Newspapers (Incitements to Offences) Act, 1908, have the honour to report for the information of Government and such action as they may think desirable, our conclusions on the questions referred to us for examination.

2. These conclusions have, we may state, been reached after a careful survey of the political situation, an exhaustive examination of witnesses who appeared before us and a scrutiny of voluminous documentary evidence including the valuable and weighty opinions of Local Governments placed at our disposal by the Government of India as well as of the memoranda submitted to us by various members of the public. Many of these memoranda were sent in response to a general invitation issued by the Government of India to those interested in the subject under discussion to communicate their views to Government for the information of the Committee. We have examined orally eighteen witnesses, all connected with the Press and we also invited eight other prominent journalists to give evidence ; to our great regret, they were however, either unable or, in some cases, unwilling to accept our invitation.

3. Of the Acts referred to us for examination, the Indian Press Act, 1910, is by far the most important and it will therefore be convenient if in the first place we record our conclusions in respect of that Act. This is the more desirable because our recommendations in respect of the other two Acts referred to us, must be largely dependent on our findings regarding this measure.

It is unnecessary to discuss in this report, the reasons which induced the Government of India to place the Indian Press Act on the Statute Book. Those who are interested in the subject will find the facts fully explained in the report of the discussions on the Bill in Council. It is apparent, however, that the main object of the Act was to prevent the dissemination of incitements to violence and of sedition, although the scope of Section 4 of the Act is much wider. Since 1910, however, circumstances have changed very materially and we have to consider the necessity for the continuance of this law in the light of a political situation entirely different from that in which it was enacted.

4. The chief questions that have to be examined in our opinion are, firstly, whether the Act has been effective in preventing the evil against which it was directed; secondly, whether legislation of this character is now necessary for the maintenance of law and order; and thirdly, whether on a comparison of the advantages and disadvantages which the retention of the Act would involve, its continuance is desirable in the public interest. We may say at the outset that on a careful consideration of these points, we are of opinion that the Act should be repealed.

5. As to the effectiveness of the Act, it is generally admitted that direct incitements to murder and violent crime which are specifically referred to in Section 4 (1) (a) of the Act are rarely found in the Press to-day. This was not the case in 1910 so far as a certain section of the Press was concerned and it is the view of at least one Local Government that the Press Act has contributed to the elimination of such public incitements. We are not, however, satisfied that the cessation of such incitements is due solely or even mainly to the Act or that in present conditions the ordinary law is not adequate to deal with such offences. Further, it must be admitted that in so far as the law was directed to prevent the more insidious dissemination of sedition, of general misrepresentations of the action of Government, of exaggerations of comparatively minor incidents, of insinuations of injustice and of articles intended to exacerbate racial feeling, the Act has been of little practical value, for we find that a section of the Press is at present just as hostile to Government as ever it was and that it preaches doctrines calculated to bring the Government and also occasionally particular classes or sections of the community into hatred and contempt as freely now as before the Act was passed. Moreover, we believe that the more direct and violent forms of sedition are now disseminated more from the platform and through the agency of itinerary propagandists than by the Press, and no press law can be effective for the repression of such activities. In our opinion, therefore, it must be admitted that the Act has not been wholly effective in securing the object which it was enacted to achieve. We observe that one witness before us went so far as to say that it had been futile and irritating.

6. Turning to the question of the necessity for such legislation we find that it was an emergency measure enacted at a time when revolutionary conspiracies, the object of which was directly promoted by certain organs of the Press, were so active as to endanger the administration. We believe that this revolutionary party is now quiescent, that the associations supporting it have been broken up and that many members of the revolutionary party have realized that the object which they had in view can, under present conditions, be achieved by constitutional means. Further, the political situation has undergone great changes since 1910 and the necessity for the retention of the Act must be examined in the light of the new constitutional position created by the inauguration of reforms. Many of us feel that the retention of this law is, in these circumstances, not only unnecessary but incompatible with the increasing association of representatives of the people in the administration of the country. We believe also that the malignant influence of seditious organs of the press will in future be, and in fact is already beginning to be, counteracted by the growth of distinct parties in politics, each supported by its own press, supplemented by the activities of a properly organized Bureau of Information, the value of which was admitted by many witnesses. It is true the scope of the Act is not limited to the prevention of sedition but it is not necessary for us to discuss in detail the subsidiary provisions included in Section 4 of the Act as we believe that these provisions have seldom been used and that the evils against which they are directed can be checked by the ordinary law. We think therefore that under present conditions the retention of the Act for the purposes for which it was enacted is unnecessary.

7. On an examination of the third aspect of the case, *viz.*, the comparative advantages and disadvantages of retaining the Act, we find that, while many Local Governments advocate its retention in the interests of the administration, on the other hand the Act is regarded with bitter hostility by nearly all shades of Indian opinion. Most of the witnesses examined before

us believe it to be indefensible in principle and unjust in its application. It has been said that the terms of Section 4 of the Act are so comprehensive that legitimate criticism of Government might well be brought within its scope; that the Act is very uncertain in its operation; that it has been applied with varying degrees of rigour at different times and by different Local Governments and in particular that it has not been applied with equal severity to English-owned and Indian-owned papers. A general feeling was also apparent among the witnesses that the Act is irritating and humiliating to Indian journalism and that the resentment caused by the measure is the more bitter because of the great services rendered to Government by the Press in the war. Many witnesses indeed are of opinion that the Act is fatal to the growth of a healthy spirit of responsibility in the Press and that it deters persons of ability and independent character from joining the profession of journalism. Finally it is maintained that the Act places in the hands of the executive government arbitrary powers, not subject to adequate control by any independent tribunal, which may be used to suppress legitimate criticism of Government and that such a law is entirely inconsistent with the spirit of the reforms scheme and the gradual evolution of responsible Government.

8. There is in our judgment great force in many of these criticisms. We find, as already noted, that the Act has not proved effective in preventing the dissemination of seditious and that it is doubtful whether it is necessary to retain it for the purpose of preventing incitements to murder and similar violent crime; further in view of the cogent criticisms made as to the principles and operation of the Act, we have come to the conclusion that it would be in the interests of the administration that it should be repealed. In making this recommendation, we have not overlooked the opinion expressed by various local Governments that the retention of the Act is desirable in the interest of law and order. We observe, however, that there is a considerable divergence of opinion among those Governments on this point, and while we realise that the views of those who are opposed to the repeal of the Act are entitled to great weight, and indeed that these views have been accepted by the Government of India frequently in times past, we are satisfied that there is a genuine popular demand for its repeal and we consider that in the altered circumstances created by the reforms, the advantages likely to be secured by repeal of this measure outweigh the benefits which could be obtained by its retention on the Statute Book.

9. In our examination of the question of the repeal of the Press Act, we also considered the further question as to which, if any, of its provisions should be retained by incorporation in other laws. Various suggestions have been placed before us in this connection, some of greater and some of minor importance. Perhaps the most important of these is the question whether the dissemination of disaffection against Indian Princes through the Press of British India should be penalized in any way. We have been handicapped in our examination of this question by the very inadequate representation of the views of the Princes, many of whom were unwilling to allow their opinions to be placed before the Committee. We have however had the advantage of seeing some minutes submitted by them and of examining Sir John Wood, the Secretary of the Political Department. It has been argued that the Government of India is under an obligation to protect Indian Princes from such attacks, that the Press Act alone affords them such protection and that if it is repealed it is unfair, having regard to the constitutional position of the Government of India, *vis-à-vis* the Indian States, that the Press in British India should be allowed to foment disaffection against the rule of an Indian State. On the other hand, various witnesses have protested in the strongest terms against any such protection being afforded to the Princes. It is alleged that the effect of any such provision in the law would be to stifle all legitimate criticism, and deprive the subjects of such States of any opportunity of ventilating their grievances and protesting against maladministration or oppression. We understand that before the Press Act became law, it was not found necessary to protect Indian Princes from such attacks, and we note that the Act, so far as the evidence before us shows, has only been used on three occasions for this purpose; we do not, in the circumstances, think that we should be justified in recommending on general grounds any enactment in the Penal Code or elsewhere for the purpose of affording such protection in the absence of evidence to prove the practical necessity for such provision of the law. Our colleague Mr. Asad Ali desires to express no opinion on this question.

10. We have also considered the question of vesting Courts of Justice with power to confiscate a Press, if the keeper is convicted for the second time of disseminating seditious. Although Section 517 of the Criminal Procedure Code affords some faint authority for the enactment of such a provision in the law, we feel that it would operate inequitably, particularly in the case of large and valuable presses used not only for the printing of a particular

paper but also for other miscellaneous work. In the case of smaller presses the forfeiture of the press would probably not be an effective remedy and on a careful consideration of the facts we doubt the necessity for inserting any such provision in the law.

11. There is indeed only one provision of the Act which we think should be retained; namely, the power to seize and confiscate newspapers, books or other documents which offend against the provisions of section 124-A of the Penal Code. If this power is retained the ancillary power of preventing the importation into British India, or transmission through the post of such documents, on the lines now provided for in sections 13, 14 and 15 of the Indian Press Act is a necessary corollary if the law is to be effective. The confiscation of openly seditious documents in no way, we believe, constitutes an interference with the reasonable liberty of the Press and the openly seditious character of some of the documents which are now circulated in India has convinced us of the necessity of retaining this power as a regular provision of the substantive law. The exact method by which this should be effected is we think a matter for the expert advisers of the Government of India to decide. We would however also provide for redress in cases in which the owner of a press or any person interested in the production of any such document or in the possession of any particular copy of the document considers himself aggrieved by allowing such persons to apply to the High Court and challenge the seizure and confiscation of the document. We would also provide that when such an application is made the onus of proving the seditious character of the document should be on the Government. We think that the powers conferred by sections 13 to 15 of the Press Act might be conveniently incorporated in the Sea Customs Act and the Post Office Act so that the Customs and Postal Officers should be empowered to seize seditious literature within the meaning of section 124-A of the Indian Penal Code subject to review on the part of the Government, and to challenge by any person interested, in the courts. We recommend that in this case and in the case of seditious leaflets seized under the conditions referred to in the earlier portions of this paragraph, the orders of the Government should be liable to be contested in the High Court.

12. It follows almost of necessity from what we have said above that we recommend the total repeal of the Newspapers (Incitements to Offences) Act, 1908. We may observe that this Act has not been used for the last 10 years.

13. As to the Press and Registration of Books Act, we recommend that this Act should be retained with the following modifications :

- (1) that no person should be registered as a publisher or printer unless he is a major as defined by the Indian Majority Act;
- (2) that in the case of all newspapers, the name of the responsible editor should be clearly printed on the front sheet of the paper and that an editor should be subject to the same criminal and civil liability in respect of anything contained in the paper as the publisher and printer;
- (3) that the term of imprisonment proscribed in sections 12, 13, 14 and 15 should be reduced to six months;
- (4) that the provisions of section 16 of the Press Act should be reproduced in this Act.

We have also considered certain other matters of detail which are of a technical nature. We think they should be left to the expert department to deal with.

14. We append a summary of our conclusions :—

- (1) The Press Act should be repealed.
- (2) The Newspapers (Incitements to Offences) Act should be repealed.
- (3) The Press and Registration of Books Act, the Sea Customs Act and the Post Office Act should be amended where necessary to meet the conclusions noted below :—
 - (a) The name of the editor should be inscribed on every issue of a newspaper, and the editor should be subject to the same liabilities as the printer and the publisher as regards criminal and civil responsibility.
 - (b) Any person registering under the Press and Registration of Books Act should be a major as defined by the Indian Majority Act.
 - (c) Local Governments should retain the power of confiscating openly seditious leaflets, subject to the owner of the press or any other person aggrieved

being able to protest before a Court and challenge the seizure of any such document in which case the local Government ordering confiscation should be called upon to prove the seditious character of the document.

- (d) The powers conferred by sections 13 to 15 of the Press Act should be retained, Customs and Postal Officers being empowered to seize seditious literature within the meaning of section 124-A, Indian Penal Code, subject to review on the part of the local Government and challenge by any persons interested in the proper courts.
- (e) Any person challenging the orders of the Government should do so in the local High Court.
- (f) The term of imprisonment prescribed in sections 12, 13, 14 and 15 of the Press and Registration of Books Act should be reduced to six months.
- (g) The provisions of section 16 of the Press Act should be reproduced in the Press and Registration of Books Act.

TEJ BAHADUR SAREU, *Chairman.*

W. H. VINCENT,

JAMNADAS DWARKADAS,

SOHAN LAL,

T. V. SESHAGIRI AYYER,

SHAHAB-UD-DIN,

JOGENDRANATH MUKHERJEE,

MIR ASAD ALI,

ISWAR SARAN.

} *Members.*

Dated the 14th July 1921.

GOVERNMENT OF INDIA.

HOME DEPARTMENT.

RESOLUTION.

POLITICAL.

Simla, the 19th September, 1921.

No. 714. — By Home Department Resolution No. 533-Political, dated the 21st March 1921, as subsequently amended, the Governor General in Council was pleased to appoint a Committee to examine the repressive laws on the Statute Book and to report whether all or any of them should be repealed or amended. The Report submitted by the Committee is published below for general information.

2. The Governor General in Council has considered the Report and has decided to accept the recommendations made by the Committee. Steps will be taken as soon as may be to introduce legislation to give effect to them.

ORDERED that the Resolution be published in the *Gazette of India*; and that a copy be forwarded to all local Governments and Administrations and to the several Departments of the Government of India.

H. D. CRAIK,

Offg. Secretary to the Government of India.

Report to the Government of India of the Committee appointed to examine repressive laws.

A Resolution was moved on the 14th February 1921, in the Council of State by the Honourable (now the Right Honourable) Mr. Srinivasa Sastri to the effect that a Committee be appointed by the Governor General in Council to examine the repressive laws on the Statute Book, and to report whether all or any of them should be repealed or amended. This

Resolution was carried, and in accordance with the instructions contained in Resolution No. 533-Political, dated March 21st, 1921, we have examined the following Regulations and Acts :—

- (1) The Bengal State Offences Regulation, 1804 ;
- (2) Madras Regulation VII of 1808 ;
- (3) Bengal State Prisoners Regulation, 1818 ;
- (4) Madras Regulation II of 1819 ;
- (5) Bombay Regulation XXV of 1827 ;
- (6) The State Prisoners Act, 1850 ;
- (7) The State Offences Act, 1857 ;
- (8) The Forfeiture Act, 1857 ;
- (9) The State Prisoners Act, 1858 ;
- (10) The Indian Criminal Law Amendment Act, 1908 ;
- (11) The Prevention of Seditious Meetings Act, 1911 ;
- (12) The Defence of India (Criminal Law Amendment) Act, 1915 ;
- (13) The Anarchical and Revolutionary Crimes Act, 1919.

2. Appendix A to this report gives the names of the witnesses who were invited to give evidence. We examined at considerable length 25 witnesses, some of whom came from distant provinces at much personal inconvenience. We desire to record our appreciation of their public spirit. We have also considered the opinions of Local Governments and some written statements sent by witnesses or by recognised associations. In addition we perused a large amount of documentary evidence in the shape of reports of disturbances, confidential reports on the political situation, speeches delivered at public meetings, debates in the Legislative Council when the Acts under consideration were introduced, and correspondence with Local Governments regarding the exercise of powers under these Acts, and the proceedings of the previous Committees, including the Sedition Committee.

3. The reports from Local Governments show that recourse was had to these ' repressive ' or ' preventive ' enactments only in cases of emergency, or to deal with exceptional disorder for which the ordinary law did not provide any adequate remedy. It is also proved that the Government of India have scrutinized with the greatest care all requests for either the introduction of the Seditious Meetings Act or action under the Defence of India Act or the Indian Criminal Law Amendment Act, 1908. During the war the maintenance of internal peace was a supreme consideration and early preventive action was essential.

The first question then that we have to decide is whether with the conclusion of the war and the introduction of constitutional changes in the Government of India, there has been such an improvement in the general situation as to justify the repeal of all or any of these measures. We have particularly to consider whether there exists such an anarchical movement as prevailed in Bengal during the last decade, or any probability of recrudescence of a movement, which at that time seriously disturbed the tranquillity of certain parts of India. On this point plain speaking is unavoidable.

4. The evidence of many witnesses indicates that the constitutional reforms have produced a distinct change for the better in the attitude towards Government of the larger portion of the literate classes. As regards the illiterate masses, the position is much less satisfactory. It must be recognised that recent appeals to racial feeling, religious prejudice or economic discontent have in fact shaken respect for law, government and authority, and " created an atmosphere of preparedness for violence." Intimidation, social boycott and the establishment of courts, the jurisdiction of which is in some cases enforced by violence and insult, are among the methods employed to create a situation full of dangerous potentialities. Similarly, while many witnesses expressed the view that the general position had improved and that the cult of non-co-operation had generally failed to appeal to more thoughtful persons, we are forced to the conclusion that the leaders of this movement have succeeded in arousing a deep and widespread feeling of hostility towards Government. It is, however, as yet more marked in urban than in rural areas. The large number of serious riots during the past seven months* cannot be regarded merely as passing ebullitions of temporary discontent. The disturbances in places so widely apart as Rae Bareilly, Malagan, Nagpur, Giridih, Dharwar, Aligarh and Matari indicate a growing contempt for law and order. We have no doubt that economic and agrarian discontent has been exploited by agitators, and that these riots have in many cases disclosed a disregard of authority or an attempt to intimidate the courts or officers carrying out the orders of the courts, which justifies us in ascribing them to an active and malicious propaganda. In attempting any survey of the

* Vide Appendix B.

present political situation we cannot leave out of account further dangerous developments adumbrated by leaders of the non-co-operation party. To illustrate this point we cite some extracts from recent speeches.

(1) "Mahatma Gandhi says that if you are determined *Swaraj* can be attained within one year. The machinery of the Government is entirely in your hands. * * * * * At first we will request the military and the police to throw up their services with the Government. If this request is rejected the public will be asked to refuse to pay taxes and then you will see how the machinery will work. We do not recognise the authorities of the present Government and refusal to pay taxes will settle every thing. This can only be achieved by unity. Now it rests with you whether you will sit under the *Satanic* flag or will come under the flag of God. The day will come when the sweepers, washer-men and others will be asked to boycott those who are on the side of *Satan*."

(2) "I believe that the real struggle with Government will commence when we withhold payment of taxes. In that case Government will come to its senses. I require students these days. Some are required for (work among the) tenantry. When they will refuse to pay taxes and Government will issue warrants and send its sepoy, the peasants will boldly defy its order and will say 'Kill us or put our property to auction, but we would not pay taxes with our hands.'

(3) We may also quote an extract from an article in "Young India" by Mr. M. K. Gandhi :—

"Civil Disobedience was on the lips of every one of the members of the All-India Congress Committee. Not having really ever tried it, every one appeared to be enamoured of it from a mistaken belief in it as a sovereign remedy for our present-day ills. I feel sure that it can be made such if we can produce the necessary atmosphere for it. For individuals there always is that atmosphere, except when their Civil Disobedience is certain to lead to bloodshed. I discovered this exception during the *Satyagraha* days. But even so a call may come which one dare not neglect, cost it what it may. I can clearly see the time coming to me when I must refuse obedience to every single state-made law, *even though there may be a certainty of bloodshed* (our italics). When neglect of the call means a denial of God, Civil Disobedience becomes a preeminent duty."

(4) The following are Resolutions passed by the All-India Congress Committee of Bombay :—

(i) "The All-India Congress Committee advises that all persons belonging to the Congress shall discard the use of foreign cloth as from the 1st day of August next and advises all Congress organisations * * * * * to collect foreign cloth from consumers for destruction or use outside India at their option."

(ii) "It is of opinion that Civil Disobedience should be postponed till after the completion of the programme referred to in the Resolution on *Swadeshi* after which the Committee will not hesitate, if necessary, to recommend a course of Civil Disobedience even though it might have to be adopted by a special session of the Congress. Provided however it is open to any Province or place to adopt Civil Disobedience subject to the previous approval of the Working Committee obtained within the Constitution, through the Provincial Congress Committees concerned."

Witnesses unanimously agreed that Civil Disobedience particularly if it took the form of a "no-revenue" or "no-rent" campaign, would result in widespread disorder, and that a boycott, whether of foreign goods or of liquor, if accompanied by intimidation, might result in violence. The boycott of foreign cloth is apt to raise prices, and the consequent economic distress would end in "hat looting" such as has occurred in the past.

5. In the light of the evidence before us it is therefore impossible to describe the state of affairs to-day as normal. Nor is India singular in this respect : the reaction from the war is world wide and no country has escaped its effects. There are however grounds for hoping that an improvement has begun : there are signs of a gradual adjustment to *post bellum* conditions : a favourable monsoon would do much to remove economic discontent : the relations between Government officials and the public, between the Ministers and officers serving under them are admittedly undergoing successful readjustment : finally, the response made to the opportunities offered by the Reformed Councils, no less than the attitude of the Executive and the Legislators of mutual co-operation is encouraging. But as militating against this improvement, there is an active widespread campaign which, if judged by recent utterances, is certain to increase economic difficulties and to promote disaffection and violence.

6. We have carefully scrutinised the evidence dealing with the *Khilafat* movement. With its religious aspect the Committee is in no way concerned: indeed we fully sympathise with the desire for favourable peace terms for Turkey, but it is our duty to examine closely the activities of the extreme leaders of this movement and the methods by which they seek to attain their aims. We are informed that any real appreciation of the difficulties of the situation is confined to a small class, but it cannot be denied that the terms of the Turkish peace treaty have been used to cause a dangerously bitter feeling amongst the masses, and that religious enthusiasm exploited by unscrupulous agitators has in many places developed into fanatical hostility to the British Government. Thus, despite frequent and authoritative contradiction by the Government in the Legislative Assembly and outside, the lie that holy places have been desecrated is still repeated. We cite below extracts from reports of speeches submitted to us.

(1) At Karachi a Hindu 'Ecclesiastical' supporter advised "sympathy with their Moslem brothers because the power that had caught hold of the Muslim holy places would not spare those of the Hindus."

(2) Or again, "The British had caused Hindu and Muhammadan brothers to fight and have thus made straight their own road. They had destroyed Mecca and Madinah. Shots had even fallen on the Prophet's remains. All Muhammadans who had fought against the Turks should be divorced."

(3) "Referring to the fight in Mecca he said that the *Sharif* was the master of the place. There were only 30 or 35 Turkish soldiers. When the British Army reached Mecca they killed 3 of the Turkish soldiers who were found marketing. Two others, who took shelter in the *Kaaba* (the holy temple) where not a tiger nor even a fly was allowed to be killed according to religion, were slaughtered by the British soldiers. Moreover the holy carpet of the *Kaaba* which was prepared by the hands of the innocent little girls was burnt by the fire of the British shells."

(4) The following extract refers to the Kheri murder case:—

"I am going to pronounce the order of God that if the slayer of a heathen is killed, he will certainly become a martyr. If he dies it is your duty to pray for him."

"One Englishman has died here; lakhs of Hindus and Mussalmans have been martyred there—

"If after lakhs of Mussalmans have been martyred in Smyrna, somebody has killed, Christians, Christians have retaliated entering Constantinople. If he has committed the murder for the sake of religion and he is slain he will attain martyrdom. Heavens await him and the *houries* are standing (to welcome him) with cups in their hands."

7. It was, we were told by a frontier officer, statements of this kind, particularly relating to the defilement of holy places, which has created such bitterness and led to the Hijrat from Upper Sindh and Peshawar with such disastrous consequences. Instances of gross misrepresentation are numerous. Nor does it end here. Perhaps the most sinister feature in this campaign of calumny is the direct attempt to seduce the military and the police force from their allegiance. Evidence has been adduced of many specific instances of such attempts, which the military authorities regard as most mischievous. Speeches have also been reported:—

(1) "Tell every Muhammadan clearly that it is his religious duty to avoid being recruited for the army. Do not give a single soldier that he may behead his brother with his own hands."

(2) "Your religion is calling for help, but you do not lay down your life for God; you join the army or police on fourteen rupees a month. You say you are a Government servant; but you are God's servant."

8. We have also had placed before us reports of many speeches made by various leaders of the movement which can only be considered as direct incitements to disloyalty and internal disorder, as well as an encouragement to foreign invasion. The following are instances:—

(1) "If the Amir of Kabul does not enslave India and does not want to subjugate the people of India who have never done any harm and who do not mean to do the slightest harm to the people of Afghanistan or elsewhere, but if he comes to fight against those who have always had an eye on his country, who wanted to subjugate his people, who hold the Holy Places of Islam, who want to crush Islam in their hostile grip, who want to destroy the Muslim faith and who were bent

on destroying the *Khilafat*, then not only shall we not assist, but it will be our duty and the duty of every one who calls himself a Mussalman to gird up his loins and fight the good fight of Islam."

(3) "When we have to kill all Englishmen we will not come stealthily, we will, that very day, declare openly that there is (war with) the sword between you and us now and it will be sheathed only when either your neck disappears or ours."

(8) "The object of my speaking so plainly is assure you that in the question of *Khilafat* we have not gone an inch against the doctrines of Islam. In my religion, to die and to kill in the cause of God are both good deeds."

(4) "He told his audience that their time had at last come. Everything was ready for *jihad* and the signal was about to be given. He exhorted them to be bold and steadfast. The weapons of the British soldiers and sepoys could not harm them for he had the power to render them innocuous. This time there was little talk of non-co-operation. The business for the moment was war."

(5) "If you do not come forward, God shall raise another nation for Islam's defence. These who wage the war of *jihad* will not mind any remonstrances.

Swaraj is a religious obligation with me. I am doing my work for the sake of the holy *Kaaba*, Medina and the Quran. It is better to be slaves of Muhammadans than of the English. It is our duty to help the Amir if he comes to carry on *jihad*. I am prepared to fight the battle of Independence whether my Muhammadan brothers help me or not."

(6) "In the next Congress in December, which is to be held at Ahmedabad, the Indian Mussalmans will ask the Congress to tear up their old creed, which is twelve months old, and take India out of the British Empire and hoist a tri-coloured flag of Indian independence with a spinning wheel in the centre and declare India a republic. This is our reply. This is our ultimatum. You have not given an ultimatum to the Turks, but we give an ultimatum to you. There is peace between you and us for three months more. After three months there will be conflict. After conflict there will be peace. And the peace will be that you will go out of India. You wanted to turn out the Turks bag and baggage, but we will make you leave the bags and baggage here as it is ours."

Such quotations could be multiplied. After a careful perusal of these and other similar utterances, we have no hesitation in holding that this form of propaganda is directly calculated, when addressed to an impressionable and excitable audience, to lead to violence.

9. We endeavoured to ascertain the effect of this combined movement (the Non-co-operation and the *Khilafat*) on the student community, and have received valuable evidence from educational authorities. The situation was at one time disquieting. Direct appeals were issued of which we give one example by a prominent leader of the *Khilafat* movement:—

"Those who read the newspapers know the part taken by the students in all countries in these days. The first example was set by the students of Russia at the time of revolution. They took great part therein and you know the result. In China also the students agitated and the courses of the universities were changed according to their wishes. Look at the condition of Egypt and the work done there by the students? They have obtained the religious form of instruction. They have agitated for years and in the long run they have been successful in their revolution. Both boys and girls took share in the revolution. Our only hope of spreading agitation is by means of the students who are always enthusiastic."

Our general impression is that the student community at large has not been permanently or seriously affected by such mischievous appeals, save in the way of sentimental sympathy for the non-co-operation movement and the personality of its leader. The 'national' institutions have obtained meagre support whether in the shape of funds or pupils. Several have now been closed. There was at first some response in the form of strikes, but the large majority of students returned. The result of the University Examinations, and the number of entries show that there has been no appreciable falling off in the number of admissions or of candidates. It is noticeable that the effects varied in different institutions, which we attribute to the influence or lack of influence of the Principal and Professors. We are however convinced that as in the case of the public generally, so with the students there is less respect for authority than there was before. Nor can we overlook the fact

that there is a small residue of misguided boys who, by forsaking their studies, have not only imperilled their future career but would seem to have elected that of the professional agitator. We have dwelt upon this aspect of the situation in view of the unhappy activities of certain members of the student community of Bengal ten years ago.

10. Taking into consideration all the evidence we have received, and the points to which we have adverted, and bearing in mind the still prevailing economic discontent, we cannot dismiss as improbable the danger of sudden sectarian, agrarian or labour disorder on a large scale culminating in riots.*

11. We may now in the light of this appreciation of the present political position examine the question of repealing or retaining the various Acts under consideration. Dealing with the older Acts first, we notice that they relate generally to a state of affairs which no longer exists. We regard it as undesirable that they should be used for any purpose not contemplated by their authors. The objections to them are obvious. Some, as for example, Bengal Regulation 10 of 1804, or the Forfeiture Act of 1857, are inconsistent with modern ideas; others are clothed in somewhat archaic language and are applicable only to circumstances which are unlikely to recur. Many arm the Executive with special powers which are not subject to revision by any judicial tribunal. Their presence on the Statute Book is regarded as an offence by enlightened public opinion. The arguments for their retention are as follows. The use of the Bengal State Prisoners Regulation, 1818 (Regulation III of 1818) in Bengal was necessitated by the revolutionary movement which the ordinary law failed to check. The wholesale intimidation of witnesses rendered recourse to the ordinary courts ineffective. Though we have evidence of a change in the attitude of individual leaders of the anarchical movement in Bengal, we are warned that similar symptoms of intimidation have been noticed, and that, should there be a recrudescence of any revolutionary movement, it would, in the absence of these old preventive Regulations, be impossible to cope with the situation, and fresh emergency legislation would be necessary. Lastly, the plea is advanced that these old Acts may be regarded as measures intermediate between the ordinary law of the land and martial law, the ultimate result in case of extreme disorder. The abolition of these special laws, it is suggested, may mean earlier recourse to martial law than might otherwise be the case.

12. We recognise the force of these arguments, in particular the difficulty of securing evidence or of preventing the intimidation of witnesses. We also appreciate the fact that the use of the ordinary law may in some cases advertise the very evil which the trial is designed to punish. But we consider that in the modern conditions of India that risk must be run. It is undesirable that any Statutes should remain in force which are regarded with deep and genuine disapproval by a majority of the Members of the Legislatures. The harm created by the retention of arbitrary powers of imprisonment by the Executive may, as history has shewn, be greater even than the evil which such powers are directed to remedy. The retention of these Acts could in any case only be defended if it was proved that they were in present circumstances essential to the maintenance of law and order. As it has not been found necessary to resort in the past to these measures save in cases of grave emergency, we advocate their immediate repeal. In the event of a recurrence of any such emergency we think that the Government must rely on the Legislature to arm them with the weapons necessary to cope with the situation.

13. Our recommendation in regard to Regulation III of 1818 and the analogous Regulations in the Bombay and Madras Presidencies is subject, however, to the following reservations. It has been pointed out to us that, for the protection of the frontiers of India and the fulfilment of the responsibilities of the Government of India in relation to Indian States, there must be some enactment to arm the Executive with powers to restrict the movements and activities of certain persons who, though not coming within the scope of any criminal law, have to be put under some measure of restraint. Cases in point are exiles from foreign or protected States who are liable to become the instigators or focus of intrigues against such States; persons disturbing the tranquillity of such States who cannot suitably be tried in the Courts of the States concerned and may not be amenable to the jurisdiction of British Courts; and persons tampering with the inflammable material on our frontiers. We are in fact satisfied of the continued necessity for providing for the original object of this Regulation, in so far as it was expressly declared to be "the due maintenance of the alliances formed by the British Government with Foreign Powers, the preservation of tranquillity in the territories of Native Princes entitled to its protection and

* *NOTE.*—After this report had been drafted we received information of the grave and wide spread disorders in Malabar, which, in our opinion, more than justify the apprehensions leading to this conclusion.

the security of the British Dominions from foreign hostility," and only in so far as the inflammable frontier is concerned, from "internal commotion."

We desire to make it clear that the restrictions which we contemplate in this connection are not of a penal or even irksome character. We are satisfied that they have not been so, in cases of the kind referred to above, in the past. Indeed in several instances they have been imposed as much in the interests of the persons concerned as in the interests of the State. The only desideratum is to remove such persons from places where they are potential sources of trouble. Within such limits as may be necessary to achieve this object they would ordinarily enjoy full personal liberty and a freedom from any kind of stigma such as would be associated with restrictions imposed by criminal law. We therefore recommend the amendment of Regulation III of 1818, limiting its application to the objects outlined above.

This reservation may also involve the retention in a modified form of the State Prisoners Acts of 1860 and 1868, but this is a matter for legal experts. We have carefully considered the cases in which the Madras State Prisoners Regulation of 1819 has been used. The procedure adopted was certainly simpler and more effective, but if the ordinary law is insufficient, we think it is for the local Government to consider whether any amendment of the Moplah Outrages Act XX of 1859 is needed.

14. Turning now to the more modern Acts, we notice that the Defence of India (Criminal Law Amendment) Act, 1915, will in the ordinary course of events shortly expire. It is, we understand, at present only used in order to give effect to the Government of India's policy in the matter of colonial emigration. Section 16-B of the Defence of India (consolidated) Rules, 1915, is at present employed to prevent the departure from India of unskilled labour, which does not come within the definition of 'emigration' given in Act XVII of 1908. We understand that a Bill to meet the case of Indian Emigrants has already been introduced.

A special regulation may, we think, also be needed for the exclusion of persons whose presence may endanger the peace and safety of the North-West Frontier Province. We recommend that the Defence of India Act be repealed at once, as it was only intended to cope with difficulties arising from the war.

15. The Anarchical and Revolutionary Crimes Act, 1919, (popularly known as "the Rowlatt Act"), has never been used. Its enactment was extremely unpopular; it was to continue in force only for three years from the termination of the war. We consider that the retention of this Act is not necessary or advisable. The power to restrain personal liberty without trial conferred by this Act is not consistent with the policy inaugurated with the recent constitutional changes, and we therefore recommend its immediate repeal. It is however necessary to strike a note of warning. While we think that there has since 1918 been some improvement in the situation so far as the anarchical movement is concerned, we realize that strong measures may be needed for the suppression of any organised attempt at wide-spread disorder. We prefer, however, to leave this contingency to be dealt with when and if it arises, rather than retain a statute which is regarded as a stigma on the good name of India.

16. There remain then two Acts, the Indian Criminal Law Amendment Act, 1908, and the Prevention of Seditious Meetings Act, 1911. It is around those two Acts that controversy has centred and regarding which we have been careful to obtain a full expression of opinion. These Acts also differ from those to which we have already referred in that, while the Committee was sitting, they were actually being used in the Punjab, Delhi and the United Provinces. The evidence of some of the witnesses goes to show, that their effect was beneficial and that their application was necessary to maintain public tranquillity. It is affirmed that local officers responsible for the maintenance of peace and order would, under existing conditions if these Acts were repealed, find themselves in an impossible situation faced, it might be, with disorder on a large scale which they could not prevent. The application of these Acts moreover is subject to safeguards which ensure that sanction to their introduction is only granted after careful scrutiny of the necessity for such action. The local Governments are unanimous in asking for the retention of the Seditious Meetings Act. Most of the local Governments similarly affirm the need for retaining Part II of the Criminal Law Amendment Act, 1908. It is desirable therefore to examine most carefully the reasons for and against their repeal.

17. These Acts are first attacked as being "unconstitutional," and, like the Act of 1919, inconsistent with the present policy of Government. In support of this view our attention has been directed to the law that obtains in England with regard to public meetings. The

following dictum of Professor Dicey is quoted : " The Government has little or no power of preventing meetings which to all appearance are lawful even though they may in fact turn out when actually convened to be unlawful because of the mode in which they are conducted." We would point out that the learned Professor is merely stating what are actually the principles underlying the law in England. He does not attempt to discuss their propriety, nor, we may add, their applicability to other countries. He does however allude to " the policy or the impolicy of denying to the highest authority in the State the very widest power to take in their discretion precautionary measures against the evils which may flow from the injudicious exercise of legal right." The learned author also points out that the right of public meeting is " certainly a *singular* instance of the way in which adherence to the principle that the proper function of the State is the punishment, not the prevention, of crimes, deprives the Executive of discretionary authority." Apart from the great difference in the class of audience which may be addressed, we recognise that while democracy and all the rights that it entails have been the result of gradual growth through the course of centuries in Great Britain, they are a recent introduction into India.

18. The next argument advanced for the repeal of these Acts is that they offend public sentiment and that their retention would be a direct incitement to further agitation. This argument is one to which we attach great weight, even though we recognise that the repeal of these Acts would only appeal to a few. We realise that the wholesale repeal of these Acts would do much to strengthen those who are anxious to assist Government and would be useful for the purposes of counter propaganda. We realise also that substantial support is necessary for Government to meet the non-co-operation movement, which is the greatest obstacle to the successful development of the reforms recently introduced and to all political and industrial progress.

19. The real point, however, at issue is whether the ordinary law (that would remain) would provide sufficient means for coping with any existing or reasonably apprehended disorder. Evidence has been adduced to show that in certain places the ordinary law is inadequate and this evidence we are not prepared to reject.

This brings us to the third objection that the ordinary law alone should be applied to prevent the evil with which these two Acts are designed to cope. We have had long discussions as to the manner in which Section 144 of the Criminal Procedure Code has been recently applied. It is no part of our duty to express an opinion on any individual case in which this Section has been used or to enter into any legal argument. In the opinion of those best qualified to judge this Section cannot be used effectively when there is danger of wide spread disorder. We also note the argument that Section 144 of the Criminal Procedure Code was not designed to prevent meetings over a large area, and that its use for such a purpose arouses probably as much resentment as the application of the Seditious Meetings Act. It is the only preventive Section in the ordinary law. Section 108-A of the Criminal Procedure Code is only partially preventive. Section-120-A and B, 124-A, and 153-A of the Indian Penal Code are punitive. Further, even if satisfactory evidence is available, these Sections can be used only against individuals and not to prevent seditious meetings or speeches. We consider it probable that if in those areas to which the Seditious Meetings Act has recently been applied, no preventive action, other than that possible under Section 144 of the Criminal Procedure Code, had been taken, the dangers of disorder would have been appreciably increased, and the number of prosecutions under these punitive Sections would have been larger, which might have had the effect of exasperating public opinion. We would point out that in some cases referred to in Appendix B, the riot was directly connected with such a prosecution.

20. A fourth argument is based on the recent findings of the Committee appointed to examine the Press Act. It is unnecessary for our purpose to discuss whether the written or the spoken word commands the greater circulation. We agree with that Committee that " the more direct and violent forms of sedition are now disseminated more from the platform and through the agency of itinerant propagandists than by the Press." The prosecution of a paper is moreover much simpler than the prosecution of a speaker, attended as the latter is by the difficulties of obtaining an accurate report of the speech delivered. We think that the instances we have given above are sufficient illustration of the danger of allowing violent and inflammable speeches. Though the speaker can be prosecuted, the mischief may have been done. Of this there have been lamentable illustrations.

21. Fifthly, it is argued that the Seditious Meetings Act of 1911 not only stifles noxious speeches at public meetings but also deters people who might assist in counter propaganda. Cases have been quoted of persons otherwise well disposed to Government who declined " to ask for leave to hold a meeting or make a speech." We recognise that this is a necessary

and undesirable result of the application of the Seditious Meetings Act. It is, however, a lesser evil than allowing speeches to be made which result in such disorder as would equally prevent any exponent of opposite views from obtaining a hearing. Such intimidation is, we learn, by no means uncommon.

22. In this connection, since we regard it as important that every opportunity should be given to the electorate of hearing both sides of a question, we recommend, before the next general election, the introduction of a Bill on the lines of the Disorderly Public Meetings Act, of 1903 (8 Edward VII), which makes a disturbance at a public meeting an offence, and provides a heavier penalty when this offence is committed during a Parliamentary election. We would also suggest that should such a Bill be presented, it should include a clause making it incumbent on the promoters of any meeting to provide adequate facilities and security for such reporters as the District Magistrate may wish to depute. We recommend that, when the Seditious Meetings Act is repealed, the District Magistrate should be empowered, by law, with the consent of the Local Government, to demand in any area of his district, notified in this behalf, that notice be given to him of the intention to hold a public meeting, so that he may be able to make proper arrangements for obtaining a report of the proceedings. This, we may observe, is entirely different from demanding that a person should obtain leave to hold a meeting.

23. Finally, it is pointed out that, in the last resort, should the ordinary law prove insufficient, recourse can be had to legislation by Ordinance. We would deprecate any suggestion that the exercise of the extraordinary powers of the Governor General should be regarded as an appropriate method of legislation save in abnormal circumstances. These powers should, we think, be reserved for exceptional or sudden emergencies. To regard them as in any way the normal method of legislation implies a distrust of the Legislative Assembly and Council of State to which we would be sorry to subscribe. In fact, the most potent argument advanced in favour of the repeal of these two Acts is that such repeal would be an illuminating object lesson in the value of constitutional reforms. 'Trust your Legislatures,' we are told, 'confidence will beget confidence. If you need exceptional powers, prove your necessity and the Legislatures will grant them.' We accept this principle. We have adopted it to the utmost limit consistent with safety in advising the repeal of the enactments to which reference has been made. But we feel that we should not, under present conditions, be justified in advising the immediate repeal of these two Acts. We may also point out that their provisions are not of a drastic character. In this connection we may quote from the speech of the late Honourable Mr. Gokhale on the Seditious Meetings Bill: I will freely admit that from the standpoint of Government it could not have introduced a milder measure than this. The more objectionable features of the Act of 1907 have been removed, and if, when the need arises, the law is applied with reasonable care and caution, it is not likely to produce any serious hardship... .. If the need of the Government is urgent and immediate, then of course all ordinary considerations must be put aside, and every loyal citizen must range himself on the side of the Government in sanctioning and enforcing the measures that are thought to be indispensable. In a state of actual disturbance, in a state of dangerous activity on the part of elements hostile to the very existence of the Government, I can understand the Government calling on all loyal citizens to rally round it in this matter". Though seldom applied, these two enactments have recently in the present situation been found necessary for the preservation of law and order. Further, an obvious objection to a more complete acceptance of this principle is that in allowing proof of the necessity for legislation to accumulate, even stronger measures than those now under consideration might eventually be required for the suppression of disorder. By the time public opinion had become sufficiently alarmed to demand or approve legislative action, the damage might be irretrievable.

24. As regards the Indian Criminal Law Amendment Act, 1908, it has been suggested that sections of the Indian Penal Code are sufficient to cope with any situation that is now likely to arise. It is generally accepted that Part I of this Act has failed to achieve in Bengal the purpose for which it was designed. As regards Part II, the conspiracy sections of the Indian Penal Code might meet the case if, but only if, evidence were forthcoming. It was in no small measure the impossibility of obtaining evidence owing to the intimidation of witnesses that led to this enactment. As we have already seen, there is definite evidence of certain organisations encouraging acts of violence or resorting to intimidation. Recently in Delhi it has been necessary to declare certain Associations of Volunteers unlawful under Section 18 of this Act. We have carefully examined the circumstances which led to this action. The Volunteer movement began with "social service," but the adherents soon developed a definite tendency to interfere with the duties of the Police and the liberty

of the public. They then began to intimidate and terrorise the general body of the population. There was a tendency towards hooliganism. It has been proved that some of these Associations resorted to violence, that their behaviour at Railway Stations and public meetings was objectionable and rowdy, that they obstructed the funeral of an honoured citizen and held a most undesirable demonstration at the house of another. They actively interfered with the elections by threats and picketing. There was every reason to believe that their activities, if left unchecked, would lead to serious disorder. The conclusion we have arrived at is that some of these Volunteer Associations in Delhi were seditious organisations, formed for the purpose of intimidating loyal citizens, and interfering illegally with the administration of the province. The result of the action taken by Government has been, we were told, to 'destroy the worst features of volunteer activity in so far as it was synonymous with rowdiness in the city of Delhi.' We have received information of a possible recrudescence of secret associations in another part of India. It has also been stated in evidence that Bolshevik emissaries have entered India, and we cannot overlook the possibility of illegal associations promoted by them terrorising the population, and engaging in a campaign of crime and terrorism. Actually Part II of this Act has been sparingly used. Its object is not only to break down existing unlawful associations, but to deter young and comparatively guiltless persons from joining these bodies and to discourage the supply of pecuniary assistance. We regret that we cannot at this juncture recommend the immediate repeal of Part II of this Act. There are too evident indications that its application might be necessary to prevent the formation of secret societies. It must be remembered that there is no legislation in India 'for the prohibition of drilling and military training without lawful authority' on the lines of the English statute (60 Geo. III). Nor can we for the reasons already given advise the immediate repeal of the Seditious Meetings Act of 1911. We were informed that the result of the application of the Act in each case has been that sober-minded people approved the action taken by Government, and that the application of the Act was of the greatest value in preserving public tranquillity.

25. Our recommendation follows that made by the Bihar and Orissa Government: 'Subject, however, to the reservations temporarily made in favour of the Seditious Meetings Act and Part II of the Criminal Law Amendment Act, which cannot be abandoned until the present tension created by the non-co-operation movement has been relieved by the action of its leading promoters, His Excellency in Council desires again to emphasise the importance of removing from the Statute Book as far as possible all special laws of this character, so that the Government of India under the reformed constitution may proceed with a clean slate. At the same time, however, His Excellency in Council is conscious that in the future the need for special powers may again arise.'

In view of the grave situation which exists and which may become more serious, we also think that it would be prudent to defer actual repeal of these Acts until such time as the situation improves. Many of us hope that it may be possible for the Government to undertake the necessary legislation during the Delhi session. We can make no definite recommendation on this point at present. We trust that the repeal of these Acts may be expedited by a healthy change in the political situation. The duration of retention rests in other hands than ours.

26. To this endeavour to adjust the conflicting claims of political considerations and administrative necessity we have applied the principles on which the Constitutional Reforms are based. The problem before us is, we consider, a test case of the "co-operation received from those upon whom new opportunities of service will thus be conferred and the extent to which it is found that confidence can be reposed in their sense of responsibility." We recognise our responsibility in the maintenance of peace and order. We are prepared to trust both the Provincial Councils and the Imperial Legislatures for such support as may be necessary. We believe that the Executive will use any exceptional powers with the utmost caution and restraint. Their action may always be challenged in the local legislatures. Lastly, we desire also to take into account the difficulties which at the present time confront local officers. Evidence before us shows* that the Magistrates and the Police have on many occasions been sorely tried, and we wish to record our appreciation of their loyalty in very difficult positions. Animated by these ideas, we therefore recommend the repeal of all the Statutes included in the terms of reference to this Committee, with a reservation as to Bengal Regulation III of 1819 and the corresponding Regulations of the Madras and Bombay Presidencies, but we advise that the repeal of the Prevention of Seditious Meetings Act,

1911, and Part II of the Indian Criminal Law Amendment Act, 1908, should be deferred for the present. Their retention is necessary in view of recent occurrences and possible developments, which we cannot but regard with the gravest apprehension.

TEJ BAHADUR SAPRU,

Chairman.

W. H. VINCENT,
P. S. SIVASWAMY Aiyer,
J. CHAUDHURI,
E. L. L. HAMMOND,
G. M. BHURGEE,
N. M. SAMARTH.
H. S. GOUD,
SHAHAB-UD-DIN.

Members.

Dated the 2nd September 1921.

APPENDIX A.

List of Witnesses invited to give evidence.

MADRAS.

Mr. G. A. Natesan,
Editor, "Indian Review,"
Madras.

* P. Kamasvar Pillai,
Gooty, Madras.

BOMBAY.

Mr. W. W. Smart, I.C.S.,
District Magistrate,
Karachi.

Mr. Bhulabhai Desai,
Advocate, High Court,
Bombay.

* Mr. N. C. Kelkar, B.A., L.L.B.,
Poona.

* Mr. M. R. Jayakar, Bar-at-Law,
Bombay.

* Sant Das Mangaram,
Hyderabad (Sind).

* Mr. B. P. Karandikar,
Vakil, High Court,
Patana.

BENGAL.

Mr. J. Donald, M.A., C.I.E., I.C.S.,
Officiating Chief Secretary,
Bengal Government.

Babu Krishna Kumar Mitter,
Editor, "Sanjivani" Newspaper,
Calcutta.

Dr. Akmasun Suhrawardy,
Member of the Bengal Legislative Council,
Calcutta.

* Mr. N. B. Gupta, C.I.E.,
Officiating Judicial Secretary,
Bengal Government.

* Maulvi A. K. Fazlul-Haq, M.A., B.L.,
Vakil, High Court,
Calcutta.

UNITED PROVINCES.

Mr. D. R. Lyle, I.C.S.

Pandit H. N. Kunera, M.L.C.

Mr. B. Sanjiva Rao,
Principal, Kayastha Pathshala,
Allahabad.

* Pandit Gokaran Nath Misra, M.A., L.L.B.,
M.L.C.,
Lucknow.

* Nawab Muhammad Ahmad Saiyid Khan,
Nawab of Chitari,
Bulandshahr District.

* Nawab Sadiq Ali Khan, M.L.C.,
Lucknow.

PUNJAB.

The Hon'ble Sir H. J. Maynard, K.C.I.E.,
C.S.I., I.C.S.,
Member of the Executive Council of the
Governor of the Punjab.

Major M. L. Ferrar, O.B.E.,
Deputy Commissioner,
Lahore.

Mr. H. D. Craik, I.C.S.,
Officiating Secretary,
Home Department,
Government of India.

Mr. Anand Narain Sewal,
Assistant Editor,
The "Tribune."

Mr. Manohar Lal,
Advocate, High Court,
Lahore.

* Mr. Muhammad Shah Nawaz, L.L.B.,
Barrister-at-Law,
Lahore.

* Mr. Ghulam Yaseen,
Barrister-at-Law
Amritsar.

BIHAR AND ORISSA.

Rai Bahadur Dwarka Nath, B.A., LL.B., M.L.C.,
Vakil,
Muzaffarpur.

Mr. Mohamad Yunus,
Barrister-at-Law,
Patna.

*Mr. Sayed Hassan Imam,
Advocate, High Court,
Patna.

*Rai Bahadur Purnendu Narain Sinha,
Vakil, High Court,
Patna.

CENTRAL PROVINCES.

Mr. N. A. David, M.L.C.,
Nagpur.

*Sir B. K. Bose, Kt., C.I.E.,
Rai Bahadur,
Nagpur.

*Mr. C. N. Thacker,
Barrister-at-Law,
Raipur.

*Dr. B. S. Moonjee,
Nagpur.

NORTH-WEST FRONTIER PROVINCE.

Major F. H. Humphreys, C.I.E.,
Deputy Secretary,
Foreign and Political Department.

Nawab Ahmed Nawaz Khan, M.R.E.,
Saddozai of Dera Ismail Khan.
Mr. Tahl Ram Ganga Ram,
Honorary Secretary,
National Liberal League,
Dera Ismail Khan.

DELHI.

The Honourable Mr. C. A. Barron, C.I.E., I.C.S.,
Chief Commissioner,
Delhi.

HEADQUARTERS.

Lieutenant-Colonel C. Kaye, C.S.I., C.I.E.,
Director, Intelligence Bureau.

The Honourable Mr. Denys de S. Bray,
C.I.E., C.B.E., I.C.S.,
Officiating Foreign Secretary,
Foreign and Political Department.

Colonel W. H. Beach,
C.B., C.M.G., D.S.O., R.F.,
General Staff Branch,
Army Headquarters.

Mr. K. C. Roy,
Managing Director,
Associated Press of India,
Simla.

NOTE.—The persons against whose names an asterisk appears did not appear before the Committee.

APPENDIX B.

Notable instances of disorder during the year 1921.

No.	Date.	Disorder.
1	7th January 1921	Agrarian disturbances in Rai Bareilly and Fyzabad Districts accompanied by extensive looting.
2	24th January 1921	District Rai Bareilly. Police party besieged in a house after one of their number was killed.
3	26th January 1921	Serious riot at Tarn Taran.
4	7th February 1921	Strike at the East Indian Railway Colliery, Giridih, District Hazaribagh, Bihar and Orissa.
5	10th February 1921	Strike on the Oudh and Rohilkhand Railway; Punjab Mail stoned and Magistrate assaulted.
6	18th February 1921	Riot in Kalighat section of Calcutta Tramway by strikers.
7	18th February 1921	District Saran, Bihar and Orissa. Police while investigating complaint against locally self-constituted panchayat were assaulted.
8	19th—20th February 1921	Naukara Sahib affair in Punjab.
9	21st—25th February 1921	Disturbances at Nagpur arising out of temperance campaign of non-co-operators.
10	March 1921	Strike accompanied by rioting at Lillooah workshops.
11	March 1921	Hartal at Karachi accompanied by violence of mob.
12	21st March 1921	Halem Tea Estate, Assam. Strike by tea garden labourers who assaulted officials of tea garden.
13	24th March 1921	Outbreak in Rajshahi Jail in Bengal.
14	3rd April 1921	Riots at Kumbakonam due to labour strikes.

No.	Date.	Disorder.
15	6th April 1921	... Riot at Kamalia, Montgomery District, Punjab, owing to dispute over Prem Sati Gurdwara.
16	15th April 1921	... Ghosuri Jute Mill, Bengal. Riot accompanied by violence ; manager seriously injured.
17	19th April 1921	... Riot at Shikarpur, Bombay, when non-co-operators, interfered with yearly meeting of Pritman Dharma Sabha.
18	25th April 1921	... Owing to trial of a non-co-operation volunteer, 10,000 people at Giridih, District Hazaribagh, endeavoured to storm sub-jail, looted police station and burnt records.
19	25th April 1921	... Disturbances at Malegaon, Bombay, arising out of trial of Khilafat Volunteers. Sub-Inspector of Police and four constables killed.
20	26th April 1921	... Disturbance at Ottapalam, Madras ; fight between Reserve Police and Khilafat Volunteers.
21	May 1921	... S. D. O., Sitamarhi (District Muzaffarpur, Bihar and Orissa), compelled to leave Mela ; public intimidated.
22	11th May 1921	... Riot in Kanchrapara workshops, Eastern Bengal State Railway. Several thousands took part in riot caused by strikers of Eastern Bengal State Railway Workshops, Kanchrapara.
23	16th May 1921	... Riot accompanied with violence occurred at Kaloj Valley Tea Estate, Darjeeling District.
24	19th-20th May 1921	... Trouble at Chandpur in connection with tea garden labourers leaving Assam.
25	22nd May 1921	... Serious affray in Mahagaon, District Allahabad.
26	26th June 1921	... Disturbance at Tata Mills Limited, Dadar, Bombay.
27	1st July 1921	... Riots at Dharwar, Bombay, arising from liquor shop picketting.
28	July 1921	... Strikes in Buckingham and Carnatic Mills, Madras, began, accompanied by wide-spread arson.
29	5th July 1921	... Riot at Aligarh arising out of trial of non-co-operators.
30	13th July 1921	... Serious riot at Bariha Village, District Lucknow.
31	July 1921	... Disturbances and disorders occurred in Bengal, both in Calcutta and at Chittagong, during trial of non-co-operators.
32	21st July 1921	... Disturbances at Matari arising out of interference by non-co-operators with an Aman Sabha meeting.
33	July 1921	... Picketting of liquor shops at Karachi caused cases of obstruction and assaults ; one leading agitator rescued by crowd from Police ; when convicted mob threw stones at Police and passers-by ; various Europeans and Indian were hurt.
34	1st August 1921	... Riot at Jamalpur workshops of the East Indian Railway resulting from hartal.

APPENDIX C.

Extract from Weekly Report for one Province for one week. It should be noted that this report, although incomplete, as reports from four districts were not received in time for inclusion, records the following occurrences.

Picketting, etc. ... of schools (people lying down to prevent students entering school picketted), one case.
of cloth shops, one.
of liquor shops, one.
of workmen, by strikers, two ; one of which " developed into a riot with grievous hurt," two constables being severely wounded.
of municipal sweepers, one.
An attempt (unsuccessful) was made to break up an Aman Sabha meeting.

- Picketing—contd.** Volunteers reported to be “conspiring to commit assaults on police officers in order to deter them from opposing the non-co-operation movement and railway strikers, one.
One case in which sulphuric acid was thrown at a Government servant—Rs. 500 reward offered for detection.
One case in which windows of an office were smeared with night-soil. Two anonymous threatening letters.
- Social boycott** ... One person for not joining the non-co-operation movement.
Two persons on the drink question.
Two persons threatened with—for having given evidence in a court of law.
Shop-keepers threatened with—, if they did not give up selling and wearing foreign cloth, in three different places.
One person threatened with—, for refusing to accept a Panchayat decision.
- Chaukidars** ... 11 socially boycotted.
3 threatened with boycott.
10 forced to resign by threats.
Several Chaukidars and Dafadars threatened with boycott.
- Domestic boycott** ... 6 persons’ servants forced to leave.
One person boycotted by his servants.
One person boycotted by barbers.
One case in which “notices are to be served on Government servants occupying houses to vacate them.”
- Refusal of shop-keepers to sell.** to a Government servant on suspicion of his drinking.
to the crew of a Government steamer launch.
to the Manager, Amlas and servants of a Zemindari.
to municipal sweepers who refused to join in a *hartal*.
two cases in which lists were prepared (38 in one case number unspecified in the other) of “co-operators and Government servants who will not be given ‘permit’ chits to buy food.”

MILITARY REQUIREMENTS COMMITTEE.

189. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY OF KASIMBAZAR : Will the Government lay on the table the full transcript of all evidence recorded by the Military Requirements Committee?

The HONOURABLE MR. H. D. CRAIK, (for His Excellency the Commander-in-Chief) : I would refer the Honourable Member to the reply given on the 15th September to the question asked by the Honourable Mr. G. M. Bhurgri, No. 74.*

MUNITIONS BOARD CASE.

190. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY OF KASIMBAZAR : (a) Will the Government lay on the table all papers in connection with the initiation of criminal proceedings by the Munitions Board against some Indian Merchants and Bankers of Calcutta, and the subsequent withdrawal of proceedings against them from the Police Court of that city?

(b) Will the Government lay on the table the expenditure so far incurred on account of the above prosecution, and state whether the Government of India or the War Office in England are to bear the expenses of this trial?

The HONOURABLE MR. H. A. F. LINDSAY : (a) The Government is unable to lay on the table the papers asked for, but the Honourable Member is referred to the full statement made by the Government of India in their Communique published on the 28th August 1921.

* Vide p. 147 of Vol. II, No. 3 of Council of State Debates.

(b) The Honourable Member is referred to the reply given on the 15th* September 1921 to the Question by the Honourable Saiyid Raza Ali. The expenses of the Case fall upon the Government of India.

TRAINING IN MILITARY SCIENCE AND ARTS.

191. The HONOURABLE RAJA MOTI CHAND : Do the Government propose to take early steps to provide for students in Indian Universities instruction and training in Military Science and Art ?

The HONOURABLE MR. J. A. RICHEY (for the HONOURABLE MR. SHAFI) : The Government have already authorised the formation of units of the University Training Corps, constituted under the Indian Territorial Force Act, 1920, from the staff and students of six Universities.

OVERSEAS ALLOWANCES.

192. The HONOURABLE SAIYID RAZA ALI : Will Government be pleased to state the principle on which the overseas allowance has been awarded to individual members of the Indian Educational Service ?

The HONOURABLE MR. J. A. RICHEY (for the HONOURABLE MR. SHAFI) : Overseas pay is granted to members of the Indian Educational Service who are of non-Indian domicile and to such members of that service as are of Indian domicile and were in the service before December the 1st, 1919.

DEFENCE OF INDIA ACT.

193. The HONOURABLE SAIYID RAZA ALI : (a) Is the Defence of India Act still in force ? If so, when will it cease to be in operation ?

(b) Will Government be pleased to state whether certain orders of externment passed under the Act by several Local Governments, especially the North-West Frontier Administration, during 1918, 1919 and 1920, are still operative ? If so, do Government propose to take steps to get those orders cancelled ?

The HONOURABLE MR. H. D. CRAIK : (a) The Honourable Member's attention is invited to paragraph 14 of the Report of the Repressive Laws Committee appended to the Home Department Resolution No. 714, which was published as a Gazette Extraordinary on the 19th September.

(b) Yes. The cancellation of existing orders is a matter for the Local Governments which passed them.

MUHAJIRINS.

194. The HONOURABLE SAIYID RAZA ALI : (a) Are Government in a position to state how many *Muhajirins* left India last year in connection with the *Hijrat* movement, and how many of them have since returned to this country ?

(b) Are there any statistics to show how many of them belonged to the North-West Frontier Province, and what steps were taken by the aforesaid local administration to help those, who had returned, to start life afresh ?

The HONOURABLE MR. H. D. CRAIK : (a) and (b) About 19,500 left and 17,000 returned. Of the total number, about 18,000 belonged to the

North-West Frontier Province. A special staff including some local notables was appointed by the local Administration for repatriating these returned emigrants. Advances of grain and money were made to many of them and a relief fund was started. The efforts of the local Administration were attended with a large measure of success and were gratefully acknowledged by the people concerned.

PROSCRIPTION OF LEAFLET CONTAINING EXTRACTS FROM THE DELHI FATWA.

195. The HONOURABLE SAIYID RAZA ALI: (a) With reference to the Honourable Mr. Craik's reply to my Question No. 73* on the 6th September 1921 that "the leaflet was not in fact the *fatwa* drawn by the Ulama's conference of November last, but purported to contain extracts from that *fatwa*," are Government aware that 812 copies of the *fatwa*, not of the forfeited leaflet were seized on search last month by the Delhi police and have not been returned yet? Do Government propose to take steps to return the aforesaid 812 copies of the *fatwa*?

(b) Are Government prepared to state what evidence there is to show that 'it (the leaflet) was widely distributed in the Armys'?

The HONOURABLE MR. H. D. CRAIK: (a) The leaflet was proscribed by the Chief Commissioner of Delhi because this was the document which first came to notice. It has since been ascertained that the Delhi police during the course of their search seized 812 copies of a document purporting to be a *fatwa*, because this document contained the matter of the leaflet. A notification had previously been issued by the Bengal Government proscribing all documents containing the matter of the leaflet. The answer to the last clause of this part of the question is in the negative.

(b) No. Government possess evidence of wide distribution, but do not consider it would be in the public interest to publish this evidence.

The HONOURABLE SAIYID RAZA ALI: May I ask a supplementary question?

The HONOURABLE THE PRESIDENT: If it arises out of the answer.

The HONOURABLE SAIYID RAZA ALI: Having regard to the fact that the *fatwa* was never forfeited by the order of the Chief Commissioner of Delhi, will Government be pleased to explain how is it that they (the Khilafat workers) were not allowed to retain the 812 copies of the *fatwa* which was never forfeited? It was the leaflet that was forfeited by the order of the Chief Commissioner of Delhi, and not the *fatwa*.

The HONOURABLE MR. H. D. CRAIK: I understand the Honourable Member questions the legality of the action of the police. If he will refer to section 72 of the Indian Press Act, he will see that the police are entitled to seize a document which has been proscribed, wherever it is found. The Bengal Government, as I explained, issued a notification proscribing the leaflet and any document containing the matter of the leaflet. The action of the police, therefore, appears to me to have been perfectly legal.

EUROPEAN OFFICERS IN THE INDIAN CIVIL SERVICE.

196. The HONOURABLE SIR ALEXANDER MURRAY: Will the Government of India be pleased to state—

(a) The number of European officers recruited to the Indian Civil Service during the years 1920 and 1921?

- (b) If any examination has been held for this service during the past few years? If so, how many European candidates have appeared?

The HONOURABLE MR. H. D. CRAIK : (a) In 1920, Fifty-five.

In 1921, Twenty-two (including 10 not yet arrived but expected shortly). In addition to these 43 candidates have been selected and will be appointed to the service subject to passing a final examination at the end of the probation that they are now undergoing in the United Kingdom.

(b) An open competitive examination has continued to be held annually throughout the war, but on a restricted scale. The available information as regards the number of European candidates appearing is as follows :—

1917	...	...	...	3	
1918	...	...	...	4	
1919	...	...	...	1	
1920	...	...	...	1	
1921	...	...	...	26	(The latter figure includes candidates for the Home Civil Service).

The Reconstruction Scheme also provided another means of entry for candidates with war service, both European and Indian, namely, selection from among candidates who had previously passed a qualifying examination. Information of the number of Europeans appearing for the qualifying examination is not available in India, but all the officers referred to in part (a) of the Question above were appointed from this source.

EXPORT OF GRAIN TO FOREIGN COUNTRIES.

197. The HONOURABLE SIB ZULFIQAR ALI KHAN: Will Government be pleased to state:—

- (a) The amount of grain exported from India to foreign countries?
 (A) The amount of grain actually purchased by those companies which deal in the grain export trade?

The HONOURABLE MR. B. N. SARMA : (a) A statement giving the information asked for for the years 1920-21 and 1921-22 (as far as available) is placed on the table.

(b) 61,400 tons of wheat were purchased on private account by the following firms as shown below :

Messrs.	Ralli Brothers	...	...	...	11,683	tons.
"	Sunday Patrick and Co.	...	...	...	6,156	"
"	Clements Robson and Co.	...	...	...	10,348	"
"	Louis Dreyfus and Co.	...	...	...	23,240	"
"	Strauss and Co., Ltd.	...	...	...	6,663	"
"	E. D. Sassoon and Co.	...	...	...	3,815	"
				Total	61,400	"

Statement showing the export of grain during the years 1920-21 and 1921-22 (i.e., from 1st April 1921 to 31st July 1921).

1920-21.			1921-22.	
Grain.	Including Burma.	Excluding. Burma.	Including Burma.	Excluding Burma.
Rice	1,115,716	145,080	635,837	57,476
Wheat	237,665	237,665	69,854	69,854
Barley	6,060	6,060	7,089	7,089
Jowar and Bajra	13,129	13,129	2,312	2,312
Maize	3,762	3,762	1,602	1,602

LETTER-BOXES, DESPATCHES AND DELIVERIES OF MAILS.

198. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Is it a fact that Government has from some time past curtailed the clearance of letter-boxes, despatches and deliveries of mails? If so, will the Government kindly state the reason for this new practice?

The HONOURABLE MR. B. N. SARMA: During the war, owing to financial stringency and to reduced train services, it was necessary, in some of the larger and more important centres, to adopt the measures referred to by the Honourable Member. Services which were temporarily withdrawn or reduced have since been restored wherever possible. A reference is also invited to paragraph 6 of Chapter VIII of the Postal Committee's Report. It was necessary to afford the staff some relief from their long hours of duty, but any curtailment of public facilities to effect this object has only been carried out after consulting representative bodies or the district authorities.

PURAN NALA IN THE NORTH-WEST FRONTIER PROVINCE.

199. The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: (a) Is it not a fact that Puran Nala in the North-West Frontier Province, which irrigated sixteen villages lying between Paharpur and Mandhra was stopped because the new Rajwah Canal was expected to irrigate the lands under the command of the Puran Nala?

(b) Is it not a fact that the new Rajwah Canal utterly failed to irrigate the lands of the sixteen villages? If so, do Government propose to take any action?

(c) Do the Government propose to award compensation to the landholders affected?

The HONOURABLE MR. B. N. SARMA: The Government of India have no information on the points referred to, but inquiries are being made from the Local Administration, the result of which will be communicated to the Honourable Member in due course.

RAJAH OF ANAGONDI.

200. The HONOURABLE DIWAN BAHADUR V. RAMA BHADRA NAIDU :

(a) Will the Government be pleased to state, after the demise of the Rajah of Anagondi, who is it that is in receipt of the pension granted to him?

(b) Has his widow and her children been granted any help or pension from the Government?

This question was not answered.

GENERAL POST AND TELEGRAPH OFFICE, SIMLA.

201. The HONOURABLE LALA SUKHBIR SINHA: (i) Is the Government aware that the General Post and Telegraph Office at Simla, which is under construction, will consist of not less than six storeys?

(ii) Is it not unsafe to have such a high building on a small piece of land on a crowded thoroughfare like the Mall.

(iii) When was this new building commenced, and how much longer will it take to be completed?

The HONOURABLE MR. B. N. SARMA:

(i) The building referred to is to consist of five storeys.

(ii) No.

(iii) The building was commenced in August 1919 and is expected to be completed by the middle of April 1922.

The HONOURABLE THE PRESIDENT: I have received private notice from the Honourable Saiyid Raza Ali of a question which he wants to put which is not on the question paper. I would ask the Honourable Member to read it.

CONDITION OF AFFAIRS IN MALABAR.

The HONOURABLE SAIYID RAZA ALI: Will the Government be pleased to lay on the table the further information that it may have received since the 17th September relating to the condition of affairs in Malabar, and to state when it is proposed to withdraw Martial Law from the disturbed area?

The HONOURABLE MR. H. D. CRAIK: The latest information received by the Government of India is to the effect that the Moplah armed fighting gangs probably total ten thousand strong; that their resistance is becoming stronger; and that their programme is based on guerilla warfare, plunder, terrorism and avoidance of battle. Military operations, probably involving the use of increased forces, and necessitating the strict enforcement of Martial Law, are therefore likely to be protracted: and it is impossible to forecast the date on which Martial Law can be withdrawn.

JOINT COMMITTEE'S REPORTS ON THE INDIAN ELECTRICITY (AMENDMENT) BILL AND INDIAN FACTORIES (AMENDMENT) BILL.

The HONOURABLE THE SECRETARY of the Council: Sir, I lay on the table the report of the Joint Committees on the Bill further to amend the Indian Electricity Act, 1910, and the Bill further to amend the Indian Factories Act, 1911.

REPORT OF SELECT COMMITTEE ON AMENDMENT OF STANDING ORDER NO. 70.

The HONOURABLE MR. V. G. KALE : Sir, I beg to present the report of the Select Committee appointed to consider and report on the proposed amendment of Standing Order 70 of the Council of State Standing Orders.

The HONOURABLE THE PRESIDENT : The Honourable Member may move.

The HONOURABLE MR. V. G. KALE : I beg to move that the Report of the Select Committee be taken into consideration.

The Motion was adopted.

AMENDMENT OF COUNCIL OF STATE STANDING ORDER No. 70.

The HONOURABLE MR. V. G. KALE : I move that the Amendment proposed by the Select Committee, namely—

‘ For Standing Order 70 of the Standing Orders of the Council of State, the following shall be substituted, namely :

‘ 70. (1) There shall be no discussion of the budget on the day on which it is presented to the Council.

(2) On a day to be appointed by the Governor General subsequent to the day on which the budget is presented, and for such time as the Governor General may allot for this purpose, the Council shall be at liberty to discuss the budget as a whole or any question of principle involved therein, but no motion shall be moved, nor shall the budget be submitted to the vote of the Council.

(3) The Finance Member shall have a general right of reply at the end of the discussion.

(4) The President may, if he thinks fit, prescribe a time-limit for speeches.’ ”
be passed.

The HONOURABLE SAIYID RAZA ALI : I do not think, Sir, it is necessary for me to say much on this point. As one of those who signed the Report of the Select Committee, I would submit that, as Honourable Members will see, our Amendments are based on the lines which are to be found in rule 46 of the Manual of Business of this Council, and they give us all that we desire without encroaching on the rights of anybody else. In this connection I must express our sense of obligation to the Honourable Mr. H. Moncrieff Smith, who has taken great pains in connection with the framing of the Report of the Committee.

The Amendment was adopted.

RESOLUTION *RE* PURCHASE OF STORES IN ENGLAND—*contd.*

The HONOURABLE THE PRESIDENT : The Council will now resume the interrupted discussion on the Resolution* moved by the Honourable Mr. Lalubhai Samaldas on the 26th September 1921.

The HONOURABLE SARDAR JOGENDRA SINGH : Sir, I was absent when the discussion on this Resolution was first initiated.

11-26 A.M. While broadly supporting the Resolution moved by the Honourable Mr. Lalubhai Samaldas regarding the placing of orders in the cheapest market, I have heard that the personality of Sir William Meyer was

* ‘ This Council recommends to the Governor-General in Council to send instructions to the High Commissioner in England that, at the time of placing orders for materials required in India by Government, he should put them in the cheapest market for materials of the same quantity.’

[Sardar Jogendra Singh.]

brought under discussion, and I take this opportunity for emphatically asserting that services rendered by Sir William Meyer during the war entitle him to India's confidence and support. India could not have had a stronger or a more conscientious Finance Minister in those troublesome times, and we owe him a deep debt of gratitude for managing our finances so well, so strongly, and so impartially. So far as Sir William Meyer, our High Commissioner, is concerned, I think we can depend on him serving the best interests of India, but, at the same time, I do feel the necessity of placing our orders in the cheapest market available, and I do hope that, when the time arrives, and we can find a suitable man, an Indian High Commissioner will be appointed who would serve the interests of both countries to his best possible capacity.

The HONOURABLE THE PRESIDENT : Before we go on with this discussion, I may point out that the question of an Indian High Commissioner hardly arises out of the Resolution.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN : Sir, I am sorry to sound a discordant note. If Government is going to accept the principle of the Resolution, I am sorry I should have to oppose it. Sir, the first thing we want is always the best stuff. It may be dearer but it will last long. Before the war it was very well known that Germany sent lots of stuff into India and had a big trade, but we all knew that their goods did not last, while the goods which were purchased in England were much better material and in the end it paid. As the saying goes, "Penny Wise Pound Foolish." Then, Sir, we have seen during the last war that the Japanese came in with their trade and we all know what stuff it was and how long it lasted. No doubt, Sir, if things are made in India, I am absolutely for trying them, but when we cannot find them in India our best place to buy them is England. There are many reasons for it. When we trade with other countries, they may be our friends to-day, and our foes to-morrow. After all, trade is a thing by which money goes to that country which sells the stuff. It is known to all, Sir, that a very large amount of money was taken away by the Germans by trading with India and by the same money later on they made canons and turned them on Indians; hundreds of us were killed by our own money. We always hear in India 'Buy Khadar.' That is a rotten stuff and dearer at the same time. Well, can't we rise in the way of buying Swadeshi to a still higher level. That is, all those countries which are under one Crown let us think of them as one community and one nation, and then trade with them—even give preference to the Colonies as well as to England, but only those Colonies no doubt which consider Indians their equals. It was said, already by our Sardar Sahib, of course I won't mention the name, that the High Commissioner did good service. I know, Sir, when I was in England there was an order about motor cars; he, instead of placing that order in England, went to the cheapest market and bought them in Italy. I think if there is a very big difference no doubt one should go to the cheapest market, but I personally think that as long as we can retain our money in the Empire, it is in the long run better for us, because if there is any trouble, our money is in that Empire and we can ask for loans and get money, but only if that money is there. If that money be not there and we go and place it in the hands of other nations, we cannot get it and it may be later on used for the destruction of our own lives. We know, Sir, that

there are lots of new things—new weapons, new gases—all these things are coming in, and as far as we can we ought to trade within the Empire and consider this question on a higher basis of Swadeshi. That is all I want to say, Sir, and on that principle I do not support the Resolution.

The HONOURABLE MR. C. A. INNES: Sir, I must confess that I rise to speak in this debate with a considerable degree of nervousness. 11-33 A.M. In the first place, Sir, it is the first time that I have spoken in the Council of State; and, secondly, it is barely a fortnight since I took over temporary charge of the Department of Commerce and Industry, and when I look round these benches, I must confess that I feel that there are some gentlemen here who, by reason of their knowledge and their experience, are more qualified than I am to hold that office. Also, Sir, if you will indulge me so far, I should like to take this opportunity of making an apology to the House. In the last few days certain Bills and Resolutions with which my Department was intimately concerned have come up for consideration in the Council of State, and I have felt very strongly that, as Commerce Member, I ought to have been present at those deliberations. But, Sir, I hope that no one in this House will accuse me of having absented myself out of any lack of recognition of the importance of the deliberations in this House, or on account of any want of respect. If there is anybody who thinks so, I hope that he will accept my assurance that the sole reason of my absence has been pre-occupation in another place with business which I could not miss. As a matter of fact, Sir, I have been particularly asked to be in my seat in the other House to-day, but I have thought it necessary to attend this debate for a very special reason.

I understand, Sir, that when this Resolution came on for discussion two or three days ago, the opportunity was taken by an Honourable Member of this House to make a full dress attack upon one of India's most loyal and distinguished servants, I mean, Sir William Meyer, the High Commissioner for India in London, and I feel, Sir, that the Government of India owe it to Sir William Meyer that his defence should be undertaken by the Member in charge of the Department concerned. I only wish, Sir, that I was more competent to undertake that defence, and if, Sir, there are any deficiencies in what I have to say to-day, I hope they will be attributed, not to the weakness of my case, but to my lack of skill in debate and lack of skill in speaking.

The main point I have to make, Sir, is a very simple one, and I make it here and now. I desire to say, Sir, with all the emphasis at my command, that the Government of India have the most entire confidence in Sir William Meyer. It ill becomes me who am so much his junior to praise Sir William Meyer, but I feel that I will have behind me the support of every fair-minded man in this House when I say that we recognise in Sir William Meyer an officer who has grown grey in the service of India, an officer who, when he was Finance Member, exposed himself to criticism, often ill-informed, and even in malevolent criticism, by reason of his watchful care for the financial interests of India, and an officer, Sir, who in the high office to which he has now been called, can be trusted to continue to exercise that watchful care with the same single-minded devotion to the interests of India. I am at a disadvantage, Sir, in that I was unfortunately unable to be present when the Honourable Mr. Sethna's speech was made, and I have had to depend upon second-hand evidence for the details of that speech. The House will imagine therefore with what eagerness I turned to the papers last evening in the hope of finding a full report of his speech. I did read indeed, Sir, that the Honourable

[Mr. C. A. Innes.]

Mr. Sethna had made a slashing attack upon the methods of the High Commissioner, but when I turned to the detailed report of the speech, I read as follows: "Mr. Sethna in seconding the Resolution made a long speech and said that the solution of the problem lay in the appointment of an Indian as High Commissioner." Well, Sir, if that is a fair account, all I can say is that the attack was not made on very high ground. But, Sir, I am quite willing to admit that this brief paragraph has done the Honourable Mr. Sethna an injustice. I am quite willing to admit that the Honourable Mr. Sethna is jealous, as I am jealous, as I am sure Sir William Meyer is jealous, and as we are all jealous, that the impression should not be allowed to get abroad that India is in any way the tied house, as it was put in another place, of British manufacturers. I am quite prepared to admit that this was the sole object with which the Honourable Mr. Sethna spoke, and that he had no idea of using the papers which the Government of India published recently merely as an argument to enforce the plea which has been raised in certain quarters that an Indian should be appointed High Commissioner. We are all agreed that for that post, we want the best man, Indian or European, and I also am personally sure that we could not get a better man than Sir William Meyer. I am given to understand, Sir, that the burden of the Honourable Mr. Sethna's complaint was that the High Commissioner has been led by considerations of the interests of British manufacturers to sacrifice the interests of the Indian taxpayer, and that India has had to pay for the safeguarding of British industries against foreign competition. I understand that the complaint was based mainly on the High Commissioner's minute of the 8th August and upon his evidence before the Railway Committee, both of which documents have recently been made public by the Government of India, and I believe that special stress was laid on Sir William Meyer's statement before the Railway Committee which reads as follows:—

'The general principle I have laid down (it is subject to specific and possibly different applications in particular cases) is that if the British tender is within 10 per cent. of the German or Belgian tender, I give it to the British firm.'

Well, Sir, I have studied these documents with the very greatest care, and while I am not prepared to commit myself to any particular margin of difference, I am prepared to defend both Sir William Meyer's policy and his methods of business. The mere fact that we have published these papers shows that we are not afraid of criticism, either on our own account or on Sir William Meyer's account.

I take the question of policy first, and the first point I have to make is that conditions are at present entirely transitional and abnormal. I desire to emphasise the fact that Sir William Meyer has summed up his policy in the following words: "A moderate amount of preference to British firms while the present economic situation continues." I hope that the House will mark these words. Neither Sir William Meyer nor the Government of India has the remotest intention of departing permanently from the policy that the lowest satisfactory tender should be accepted, and this, I take it, is the principle which the Honourable Mr. Lalubhai Samaldas' Resolution is intended to enforce. As Sir William Meyer himself said in his evidence before the Railway Committee, it is not the business of the Indian tax-payer to subsidize British industry and British labour. But deliberately and of set purpose he has

exercised his discretion to depart from time to time, in existing abnormal circumstances, from the policy of buying in what for the moment may be the cheapest market. This is the head and front of his offence. This is why the Honourable Mr. Sethna accuses him of sacrificing the interests of the Indian tax-payer. Well, Sir, in my opinion, the difference between the Honourable Mr. Sethna and Sir William Meyer is this. Sir William Meyer takes the long view; he considers what will be to the best interests of India in the long run. The Honourable Mr. Sethna takes the narrow, short-sighted view; he cannot see beyond the expediency of the moment. The Honourable Mr. Sethna knows, as well as I do, the conditions of trade at the present time throughout the world. He must know, Sir, that these countries with depreciated exchanges are an economic danger. He must know, Sir, that almost every country in the world has taken measures to guard against this danger. He must also know, Sir, that every country in the world has for the moment departed from the principle of buying in the cheapest market. If he is not aware of that fact, let me ask him to refer to the recent French Tariff with its expedient of coefficients of increase which enables the Executive Government at any time to protect itself against this very danger, I mean the danger of countries with depreciated exchanges. The same action has been taken in Italy. In Great Britain a safeguarding of Industry Act has been passed and almost every country has put on very high surcharges on their import duties to guard against this very danger.

Mr. Sethna must know that Germany at the present time is pursuing a deliberate policy. She has set herself out to depreciate the exchange value of her mark in order that she may capture the markets of the world. Mr. Sethna must know that Germany with the mark at 420 to the pound and Belgium with its wealth of battle scrap and its depreciated exchange can undersell any other country, and yet he would neglect this danger. Sir William Meyer is wiser and more far-sighted. He recognises that his modest preference in favour of the British manufacturer is in the nature of an insurance. He recognises that, if purely as an emergency measure, he does not assist the British manufacturer to keep his head above water, India may in the future be handed over to the tender mercies of combines of manufacturers of Continental countries. I ask this House with confidence which is the wiser view, that of Sir William Meyer or that of Mr. Sethna?

Now, Sir, I turn to the question of business methods, and here again I feel I am on equally strong ground. What are the facts? The Stores Department of the High Commissioner's Office buys stores in England in the course of the year amounting to some 14 million pounds. Between the 16th November 1920 and the 28th July 1921, Sir William Meyer admits that in six purchases, aggregating £89,000, he accepted British tenders which were not the lowest tenders, and that thereby he caused a loss to the Indian tax-payer. In each particular case, he has given his reasons for his action. These reasons are based on such considerations as superior reliability of the firm whose tender was accepted, quickness of delivery, ease of inspection and so on. And yet Mr. Sethna accuses him of unbusiness-like methods. Mr. Sethna is himself a business-man, and I defy him to say that it is always good business to accept the lowest tender. I defy him to challenge Sir William Meyer's statement of policy that the true principle is to accept the lowest satisfactory tender, and as Sir William Meyer himself points out, the term "satisfactory" covers matters such as the quality of the article tendered,

[MR. C. A. PINES.]

the reliability of the firms tendering, the date of promised delivery, consideration whether delivery on the promised date can be relied on, case of inspection, and so on. These points are so obvious that I need hardly labour them before this House, but I must stress one or two considerations. Even Mr. Sethna will admit that conditions are abnormal, and one of the difficulties arising out of these abnormal conditions is our ignorance of the capacity and reliability of individual firms in Germany. It must be some time before their real capacity is known. Now, even before the war, what was the reputation of German firms? Let me quote in this connection what has recently been said by a distinguished business man :

'Some time before the war I used to do a very considerable trade with Germany. I found the price right, very much right as compared with British manufacturers. I found the delivery right, and I found the samples excellent. When I came to receive delivery, which was generally about two or three months after that promised, I usually found the quality completely wrong. I put the matter to arbitration. The arbitrators confirmed it. I put in my claim and found that it was practically impossible to get any redress. So that two or three years before the war, I stopped my trade with Germany and they still owe me a considerable sum of money.'

If that was the case before the war, what about now? On the one hand, you have tenders from British firms, old tried manufacturers for India, firms on the quality of whose products you can rely. On the other hand, you have tenders from German firms—sending no doubt excellent samples and promising early delivery—but firms of whom little is known and who cannot be relied on. Their prices may have been lower, but is there no such thing as paying for known quality and reliability, especially when, as Sir William Meyer points out, the safety of the public may be implicated?

I do not suppose, Sir, that there is any difference of principle between Mr. Sethna and myself. We both agree as to what the permanent policy of the Stores Department should be—it is the policy laid down by Sir William Meyer himself. The sole point of difference between us is, whether Sir William Meyer was justified in departing from that policy in special cases in present abnormal conditions, and I say, Sir, that Mr. Sethna has deliberately excluded from consideration the very great difficulties with which Sir William Meyer has been faced. The House, I am sure, will be wiser, and I feel confident that they will agree with me that the right policy in these abnormal times is to trust Sir William Meyer—the man on the spot. We can be certain that he will discharge his high office with single-minded devotion to India's true interests.

I am afraid, Sir, that I have dealt so long with the Honourable Mr. Sethna's speech that I have left myself little time for the main Resolution before the House, namely, the Resolution moved by the Honourable Mr. Lalubhai Samaldas. I am free to admit, Sir, that I do not altogether like the wording of the Resolution, but I do not think it necessary for me to take any exception to it here. I am quite prepared to accept the Resolution provided that it is understood that "cheapest" is a relative term, and does not mean the actual lowest tender but, as I tried to put it and as Sir William Meyer put it, the lowest satisfactory tender. And I should here like to emphasise the point that it is not merely quality which has got to be taken into consideration, but delivery and other considerations like that. I think Mr. Lalubhai Samaldas and myself are quite in agreement on these points, and, that being so, I have no objection to accepting this Resolution on behalf of the Government.

The HONOURABLE LALA SUKHBIR SINHA : Sir, with your permission
 11-50 A.M. I would like to move an Amendment to the Resolution moved by
 my friend the Honourable Mr. Lalubhai Samaldas. It runs
 thus :

'That at the end of the Resolution the following be added : First in India, and if the materials required are not available in India at a reasonable price, then elsewhere.'

The HONOURABLE THE PRESIDENT : There is just one point I would like to ask the Honourable Member. His Amendment, which of course he can move if he likes, seems to me to be open to some objection. It seems to imply that the Governor General in Council should give instructions to the High Commissioner in England to purchase in India. If that is his intention, then the Honourable Member may argue the point ?

The HONOURABLE LALA SUKHBIR SINHA : Yes, Sir, that is my intention. The object of this Amendment is to lay down the policy that has been stated by Sir William Meyer in his statement before the Railway Committee. It runs thus :

'The present policy is that, whenever possible, they shall purchase things in India at of course a reasonable price compared with England. They make up their minds as to what they can purchase in India, and then they indent for the residue, which is either stuff which is not procurable in India, or could only be procured at prohibitive expense or entirely through the agency of private firms.'

Well, Sir, the object of my recommendation is, that the High Commissioner may first place orders in India so long as he is able to find the materials required at a reasonable price. At present he has to bear the price in England. Well, it is obvious to all of us that Indian things cannot compete with machine-made things in England, and therefore the price may be shared. What I want to say is that, though the price may be higher in India, still, looking to the improvement and development of industries in this country, we should be given the preference, and, so far as possible, orders may be placed in India so long as the materials are available at a reasonable price.

If the prices are prohibitive and the things cannot be got here, then of course orders can be placed in other countries where the things can be had at the cheapest price. That is the object of my Amendment, and I hope the Honourable Mover and the Council will accept it.

The HONOURABLE THE PRESIDENT : The original question was that the following Resolution be adopted :

'This Council recommends to the Governor General in Council to send instructions to the High Commissioner in England that, at the time of placing orders for materials required in India by Government, he should put them in the cheapest market for materials of the same quality.'

Since when an Amendment has been moved :

That at the end of the Resolution the following be added :

'First in India, and if the materials required are not available in India, at a reasonable price, then elsewhere.'

This Amendment and the Resolution are now open to discussion by the Council. Honourable Members who have spoken on the original Resolution before can only speak on the Amendment.

[Mr. H. A. F. Lindsay.]

THE HONOURABLE MR. H. A. F. LINDSAY : Sir, I have only a few words to say in regard to this Amendment. The whole position 11-55 A.M. has been stated clearly by Sir William Meyer in the evidence he gave before the Railway Committee. Preference is invariably given, in the purchase of stores in India, to goods manufactured in this country, and indents sent Home to the High Commissioner represent the balance of stores not available of Indian manufacture. If the Amendment is accepted, we are going to ask the High Commissioner to make a very long arm and purchase his requirements first in this country, from his headquarters in London. That is obviously absurd and I should like to suggest that perhaps in the circumstances the Amendment may be withdrawn.

THE HONOURABLE MR. PHIROZE C. SETHNA : I have already made my submission on the Resolution, and in accordance with 11-56 A.M. your ruling, Sir, I shall only confine myself to the Amendment. Before I do so you will permit me, Sir, to offer a personal explanation.

The Honourable Mr. Innes has referred to my speech on the last occasion as a very slashing attack on Sir William Meyer, but I am glad to say that he commenced his speech by saying that he had this disadvantage of not hearing it. Those who have heard me will confirm me when I say that that attack was not an attack on Sir William Meyer whom I respect as much as any Member here present, not because I have had the advantage of knowing him as long as they have, but because I have watched his career in this country from a distance with great interest. Sir, my attack was on the system which prevails in England in the matter of purchasing stores for our railways in this country. I say Sir William Meyer is actuated by the best of motives, and I am prepared to give him credit for that to the same extent as, and even greater than, any Honourable Member of this House is prepared to do. Sir William Meyer himself has said that he understands that the interests of India have to be safeguarded ; but a strong man as he is, an able man as he is, he is forced to admit in his evidence that he had to yield to the pressure brought to bear upon him by vested interests in England. That explains itself, and that is the only remark which I have to make against Sir William Meyer. Otherwise, all that I have to say and which I shall now say in support of the Amendment is an attack on the system which prevails in the matter of purchasing our railway stores in England.

I rise to support the underlying idea of this Amendment. In my speech the other day the Honourable Members will remember that I observed that charity begins at home. If we can buy these stores in India, we should preferably do so, and this is exactly what the Honourable Mover desires in his Amendment. If you are able to do so, then some of the difficulties raised by the Honourable Mr. Innes will not arise. First of all, he referred to the abnormal conditions prevailing as a consequence of which there is the exchange question. There will be no exchange question to the continent if our purchases are more or less made in England.....

THE HONOURABLE THE PRESIDENT : Is it a fact that the High Commissioner buys stores in India ?

THE HONOURABLE MR. PHIROZE C. SETHNA : No. I suppose the intention of the Honourable Mover is that whoever buys these stores may preferably buy in India.

The HONOURABLE THE PRESIDENT : Then I doubt if the Amendment is within the scope of the Resolution. It should deal with the purchase of stores by the High Commissioner.

The HONOURABLE MR. PHIROZE C. SETHNA : Do I understand, Sir, that I am not to speak on this Amendment ?

The HONOURABLE THE PRESIDENT : I wish to point out that he must speak to the Amendment and not to the underlying idea.

The HONOURABLE MR. PHIROZE C. SETHNA : I shall confine myself to the Amendment. As I have said, the exchange question will be done away with, and everything else, and the instances such as Sir William Meyer himself has quoted would not arise. For example, there is the instance of wheels and axles offered by a British manufacturer at £83-15-0. There was an offer from the Continent, I do not know whether it was from Germany, Belgium or France or anywhere else, at £45, a difference of nearly fifty per cent. What does the High Commissioner do ? The High Commissioner invites the British manufacturer to quote again. The British manufacturer before there is any fluctuation in the market, on the same day is able to reduce his quotation from £83-15-0 to £67, which is a difference of 20 per cent. Now, I ask this Honourable House, composed as it is of some of the ablest commercial men in this country, whether they will call such a tender a *bona fide* tender, as the tenderer in the same breath is able to reduce his price by 20 per cent. Further, Sir William Meyer says that on account of this

The HONOURABLE MR. C. A. INNES : I rise to a point of order, Sir. The Amendment before the House is a motion that the High Commissioner should buy stores first in India, and if the material is not available in India, then elsewhere.

The HONOURABLE MR. PHIROZE C. SETHNA : I am speaking to the Amendment, Sir. I submit I am quite in order. If we were able to buy in India, this condition would not arise, and that is why I am saying.....

The HONOURABLE THE PRESIDENT : I think the Honourable Member has strayed from the Amendment a little, but it is very difficult, I admit, to speak to this Amendment. I must ask the Honourable Member to stick to the Amendment as much as he can.

The HONOURABLE MR. PHIROZE C. SETHNA : As the Honourable Mr. Innes has pointed out, Sir William Meyer has decided to discriminate, and rightly discriminate, in his opinion in favour of the British manufacturer to the extent of 10 per cent. May I ask my Honourable friend if in this particular instance it is so ? For Sir William Meyer instead of offering ten per cent on £45 which would have come to £49-10, asked the British manufacturer if he would be disposed to accept at £55, which is 22 per cent above the Continental quotation. Sir, as I have said before, my attack is on the Department. For all the advertising that we had to obtain tenders from the Continent, we might have saved that expenditure. You may call this what I am saying as a slashing attack, but I persistently remark that no encouragement should be held

The HONOURABLE THE PRESIDENT : I have given the Honourable Member very considerable latitude because I thought his speech the other day

[The President.]

was brought to an abrupt finish ; but I cannot allow him to make a second speech on the Resolution.

The HONOURABLE MR. PHIROZE C. SETHNA : I contend that the Honourable Mr. Innes has made certain remarks to which I can consistently reply as speaking on the Amendment.

The HONOURABLE THE PRESIDENT : I am sorry that is out of order. I have allowed him to make a personal explanation.

The Honourable Lala Sukhbir Sinha got up.

The HONOURABLE THE PRESIDENT : Does the Honourable Member propose to speak twice on this Amendment ?

The Honourable Lala Sukhbir Sinha again got up.

The HONOURABLE THE PRESIDENT : There is no right of reply on the Amendment. The Honourable Member has already spoken. Does he wish to withdraw his Amendment ?

The HONOURABLE LALA SUKHBIR SINHA : With your permission, Sir. The object of my Amendment . . .

The HONOURABLE THE PRESIDENT : The Honourable Member must simply withdraw it, and not explain why.

The HONOURABLE LALA SUKHBIR SINHA : I beg to withdraw.

The HONOURABLE THE PRESIDENT : The question is that leave be given to the Honourable Lala Sukhbir Sinha to withdraw his Amendment.

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

The HONOURABLE THE PRESIDENT : The Council is now back to the original Resolution.

The HONOURABLE MR. LALUBHAI SAMALDAS : Sir, I feel that
12-5 P.M. I owe an explanation, firstly to the Minister in charge of Commerce and Industries and also to this House for having moved my Resolution, with only a very few remarks. I hope you will allow me, Sir, to offer this explanation to the House. I shall first give the genesis of this Resolution. What happened, Sir, was this. When the 7 per cent sterling loan was issued in England and it was announced that the money would be used for making purchases there, my Chamber, the Indian Merchants' Chamber and Bureau, saw that that announcement meant that all the monies would be spent in England, and that no opportunity would be given to either Continental or American firms to quote for railway materials. My Chamber, Sir, I believe, wrote to the Financial Secretary and also to the Commerce and Industries Department on this subject. We had a discussion with the then Member for Commerce and Industry when he came down to Bombay, and it was, as a result of that discussion, that I asked leave to move this Resolution in this House. At the same time my friend Sir Vithaldas Thackersey moved a similar Resolution in the other House, and he was given a special Government day for this purpose. If I had known that his Resolution would be reached, and had been sure of that fact, I would not have taken up this Resolution, but as I knew that that Resolution was to be moved on the day when the Supplementary Grants were to be taken up in the other House, and when I saw that time would be taken up in debating certain questions, I feared that this Resolution might

not be reached : and it was with that idea that I selected this Resolution when I drew the ballot. However, as soon as I learnt that the Government of India had accepted Sir Vithaldas Thackersey's Resolution, or rather the first portion of that Resolution, which is practically tantamount to my Resolution, I saw the Honourable Member and we thought that it was much better not to take up the time of the House. I was formally to move the Resolution, and there was no necessity for any discussion, as Government would accept it, and thus the House would not have to lose any time on this Resolution. It was with this idea, Sir, and as it was the end of the day, when I was called upon to move this Resolution, that I thought I might save a few hours if I merely moved this Resolution because the Honourable Member in charge might then get up and accept it. If I had wanted to speak on the Resolution I would have brought up almost all the points that the Honourable Mr. Sethna did, though I would not perhaps have been able to make the forcible speech that he did ; I have not the command of the language that he has, neither his oratorical powers. I would not have referred to Sir William Meyer's position as High Commissioner, because, Sir, as my Honourable friend, Mr. Innes has said, I have a very high opinion of his capacity and of his interest and of his desire to protect and safeguard Indian interests. We all feel, Sir, that during the war he safeguarded the interests, the financial interests of the country, and he put up strong fights with the British Government. We can never forget, never be ungrateful to him by attacking him in this way : and I am voicing the opinion of Mr. Sethna when I say that he personally has the same regard for him as I and those of us who have followed his career and know Sir William Meyer's concern for the interests of this country, have for him. So I assure the Honourable Mr. Innes that we on this side of the House are entirely in agreement with him and with all that fell from him as regards the eminent services rendered by Sir William Meyer. There is a feeling, Sir, and I hope my Honourable friend Mr. Cook will not mind, if I say that if Sir William Meyer had been here for the last two years.....

THE HONOURABLE THE PRESIDENT : Order, order.

THE HONOURABLE MR. LALUBHAI SAMALDAS : But that is the feeling of the country, then the Government would not have made the mistake with regard to Reverse Councils.

Coming back to my own Resolution, I have a few remarks to make. I thank the Honourable Sardar Jogendra Singh for his support. As regards the remarks made by my Honourable friend, Sir Umar Hayat Khan, I quite agree with him when he said that very often German material that came in pre-war times was of inferior quality, but if he had been good enough to see my Resolution—I said that for materials of the same quality—I do not want inferior materials to be brought into this country. I am also entirely in agreement with what fell from the Honourable Mr. Innes when he said that we must buy the best materials. And as regards quality, I am prepared to accept the explanation given by Sir William Meyer, as to the meaning of "satisfactory,"—that instead of "materials of the same quality" I am prepared to accept "satisfactory tender is offered" and "satisfactory" meaning as regards quality of articles tendered, reliability of tendering firm, date of delivery, etc.—and he added, which I am prepared to accept "facilities for inspection," because that is the most important thing, Sir. My Honourable friend Mr. Sethna referred to an order which a company in which he and I

[Mr. Lalubhai Samaldas.]

both are interested had placed in England. There we had a tender, a very low tender from a Prague firm. That tender was something like 30 per cent. low, but we thought that the difficulties of inspecting the materials, as they were being manufactured, of delivery in time and of exchange were so great that we laid down certain conditions and said that if those conditions were accepted, we would accept it. In the meantime the English manufacturers brought down their price, which was practically within 10 per cent., as my Honourable friend Mr. Sethna has said, and then we placed the order with an English firm.

I am also prepared to accept to a very small extent, what fell from my Honourable friend Sir Umar Hayat Khan that we must recognize, in placing an order, some idea of patriotism, and that in the matter of placing an order with British firms we must give them a preference if the difference is very slight; I am prepared to agree with him so far, but he went further. He appeared to seem to be a greater loyalist than the King himself, because while he wants Sir William Meyer to give preference to Colonies, Sir William himself never meant that such preference should be shown.

Even the small preference of which I spoke, we on our side are prepared to give only as a temporary measure and in view of the present abnormal conditions in the industrial world. When those abnormal conditions have disappeared we want that orders should be placed in the cheapest market if satisfactory tenders are offered.

One word more, Sir, and I have done. As I said in the beginning, we do not want to cast any aspersion against Sir William Meyer, but it was because we felt that he himself would like to have the support of this Council and of the Government of India in all his dealings with British manufacturers and to be able to tell them that he cannot in any way meet their wishes, if Indian interests will suffer by his so doing, that I and my friend Sir Vithaldas Thackersey have brought forward this matter.

In conclusion, I will merely say that I am thankful to Government for accepting this Resolution.

The Resolution* was adopted.

RESOLUTION RE FISCAL POWERS UNDER CONSTITUTIONAL REFORMS.

The HONOURABLE MR. V. G. KALE: Sir, the Resolution which I have 12-15 P.M. to move is as follows:

'This Council recommends to the Governor General in Council the desirability of the Government of India making a declaration of its deliberate policy fully to exercise, in concert with the Indian Legislature and in what it deems to be the best interests of this country, the fiscal powers which have been conferred on it under the recent constitutional reforms.'

Sir, in moving this Resolution I have to make it clear that I do not wish to raise a debate upon the general question of what different people might regard as the right fiscal policy for this country.

* This Council recommends to the Governor General in Council to send instructions to the High Commissioners in England that, at the time of placing orders for materials required in India by Government, he should put them in the cheapest market for materials of the same quality.

(At this stage the Honourable the President vacated the Chair and the Honourable Sir Alexander Murray took it.)

Nor do I wish to make any detailed reference to the agitation that is being carried on in England by the representatives of Lancashire against the import duties which have been imposed in this country upon foreign piece-goods. My Resolution asks Government to make a declaration of their policy to adopt, in concert with the Indian Legislature, what they consider as the best fiscal policy in the interests of India. I shall not go into the history of the import duties, or of the agitation of Lancashire as regards those duties. I will not go even to the year 1917 when during the war the import duties upon foreign piece-goods were enhanced and there was a good deal of agitation against this policy in Lancashire. I will only say this, that in the Delhi Session of this Council, my friend on my right moved a Resolution asking the Government of Great Britain to grant full fiscal autonomy to this country under the control of the Indian Legislature. For reasons into which it is not necessary for me to go, that Resolution was not accepted. However, the Government of India, as we now know from the information which has been published in the Gazette of India, sent a Despatch to the Secretary of State explaining why that Resolution could not be accepted, and the Secretary of State for his own part, towards the end of June last, practically endorsed the Resolution which had been ultimately passed by this Council and clearly declared what the policy of His Majesty's Government was with reference to what we have come to regard as fiscal autonomy for India. I may say here that there are two currents of opinion in connection with this question of fiscal autonomy. In the first place, there are many people who want this country to enjoy complete fiscal freedom, the Government of India exercising the right of complete fiscal freedom under the control of the Indian Legislature. Secondly, there is a movement in the opposite direction in England, where people will not concede to the Government of India or to the Indian Legislature any substantial right in this behalf. Now, under the Reforms and according to the instructions of the Joint Parliamentary Committee which have been entirely accepted by the Secretary of State, under certain circumstances, namely,—when the Government of India and the Indian Legislature agree, it has been decided, subject to two conditions, that the Secretary of State will not interfere with the decisions of the Government of India and the Indian Legislature. In an extract which has been published by the Government of India from the reply the Secretary of State made to the deputation from Lancashire with regard to the Indian import duties on cotton goods, which was received in the India Office on 23rd March of this year—from that it will be quite clear to Honourable Members that the Right Honourable Mr. Montagu has made it clear to the representatives of Lancashire that having once conceded—the Parliament having once conceded to India a large measure of fiscal autonomy,—he or His Majesty's Government are not going to interfere with any fiscal measures that may be taken by the Government of India in concert with the Indian Legislature. Now that was in March 1921. This was the reply given by Mr. Montagu to the deputation from Manchester towards the end of March of this year. Since that date, however, an agitation has been carried on by these people, and I want to draw the attention of the House to the almost kaleidoscopic changes which have taken place in the attitude of Lancashire during the last few weeks. In the first place, an effort was made to bring pressure to bear upon the Secretary of

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State by the representatives of Lancashire by agitation among Members of Parliament and in the Press. The object of that agitation was to compel the British Parliament to take steps so as to force the hands of the Indian Government in the matter of the obnoxious import duties. What I want particularly to emphasise is the attitude that was taken up in this matter, which was constitutionally wrong. It was said with regard to the statement that the decision of these financial questions lies with India alone, and this was stated in the letter which was issued to members of Parliament by the Manchester people, that the truth is that constitutionally Mr. Montagu is responsible first and last, and Mr. Montagu is answerable to Parliament. This was towards the end of July, and in August the signatories to this letter went further and they questioned the representative character of the Indian Legislature itself. Now this is a most important constitutional issue, and we have to be very clear as to what that means to us. Mr. Montagu having however emphatically declared that a promise means a promise, and that a promise having been made that India must enjoy, subject to the two conditions I have referred to, as much fiscal freedom as any other part of the British Empire, the Secretary of State or His Majesty's Government could do absolutely nothing. Then the representatives of Lancashire appear to have climbed down a little. They said :—" we shall no longer bother the Secretary of State : he is so strong and stiff ; he is not going to listen to us, and therefore we must change the direction of our attack. We must send a deputation to India and we must see what we can do with the Indian Government and the Indian Legislature. After all, the Secretary of State cannot interfere, but the Government of India and the Indian Legislature must determine this policy. Let us then first send a deputation to India and let us see what will happen there." But it would appear that even that idea is on the point of being abandoned. The Chairman of the deputation that waited upon Mr. Montagu—Sir Edward Stockton—made it clear to his own people that it was hopeless to fight the Secretary of State and Parliament on this question. He said :—" Our Indian experts are unanimously convinced that the only method of securing a sympathetic reconsideration of this matter is by following the suggestion made by the Secretary of State for India which is to appeal to India direct instead of agitating for Government action from this side. We are strongly opposed to the duties which they regard as harmful in the long run for both India and Lancashire, but at the same time we cannot force India against her will. The only way is to attempt to arrive at a mutual understanding with those responsible in India." So that is the new attitude which has been forced upon the people of Lancashire, and if the contents of a telegram which has appeared in some Calcutta papers be true, even this idea of sending a deputation to India is going to be abandoned. " It is understood," we are told, " that the Lancashire representatives have abandoned the idea of sending a deputation to India in regard to the cotton duties in view of Mr. Montagu's statement that Indian officials and non-officials nearly all favour protection and that India's economic policy will be decided by the recently appointed Fiscal Commission." This is the latest news that we have on this question, and from this it appears that Lancashire has given up the Government of India and the Indian Legislature as hopeless protectionists, and it is no use sending a deputation to this country. Now, the view I take of this matter is that we are not committed at the present moment either to protection or to free trade or Imperial Preference. That is

a matter which is going to be discussed and on which recommendations are to be made by the Fiscal Commission which will be sitting very soon. What I am anxious that the Government of India should do is this. The Secretary of State having from his side clearly defined his position and having left it to the Government of India and the Indian Legislature to do whatever they like in fiscal matters, subject to the conditions with which we are all familiar, it remains for the Government of India to reciprocate and say what they have got to say on this side. The Government of India has no doubt published these despatches, but as I have already pointed out, the Despatch of the Secretary of State was sent down so far back as the 30th June 1921. It has been published in the Government of India Gazette on the 3rd September, but the Government of India itself, except that it sent a Resolution which was passed by this House in March last, has not made a declaration on its own account. The public expects such a declaration. I have no reason to doubt what position the Government of India will take. I am pretty certain that the Government of India will take the same view which the Indian public takes. The Government of India has been given a certain measure of fiscal independence, but subject to the condition that the Government of India must agree with the Indian Legislature. Neither the Indian Legislature by itself nor the Government of India by itself has got any fiscal independence. The Executive Government of India is subject to the control of the Secretary of State, that is to say, of the British Parliament. But the British Parliament has decided that the Secretary of State will not exercise his control, provided the Government of India and the Indian Legislature agree. Therefore, it is necessary for the Government of India to agree with the Indian Legislature. That is to say, there must be co-operation, for the decision of questions of this nature, between the Indian Legislature and the Executive Government of India. The public expects that the Government of India will take up the thread where it has been left by the Right Honourable Mr. Montagu. He has said that it is entirely left to the Government of India and the Indian people. The Parliament has left it to us, and therefore he is not going to do anything in connection with our fiscal policy. If that is so, is it not necessary that we on this side should reciprocate the feelings and the principles which the Secretary of State has himself given emphatic expression to? In order that the policy might be completed, in order that we might get a complete view of the whole fiscal policy, it is necessary, in my opinion, that the Government of India should make a declaration that they will exercise what powers have been conferred upon them by the Government of India Act in concert with the Indian Legislature in the best interests of this country. So, in this Resolution I am not going to ask the Government to do anything which is not consistent with the Government of India Act or with the rules. I am not asking the Government of India to make any departure whatsoever with regard to their fiscal policy. What I am asking the Government of India to do is, that which I think they will very willingly do, and therefore I see no difficulty from the point of view of Government with regard to the acceptance of this Resolution. With these few words, Sir, I commend this Resolution, to the acceptance of this House.

The HONOURABLE MR. H. A. F. LINDSAY : Sir, I do not intend to detain the House very long in speaking on this Resolution. The issue it raises seems to be perfectly simple and straight-forward. What are the

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facts? On the 23rd February last this Council passed a Resolution which asked that the Secretary of State be addressed to the effect that the Government of India should be granted full fiscal autonomy subject to the provisions of the Government of India Act. Now, Sir, the Secretary of State took this into consideration and has made a definite announcement in confirmation. He has definitely stated his policy and his attitude towards all fiscal decisions of the Government of India made in concert with the Indian Legislature. Here are his words :—

‘The Secretary of State should, as far as possible, avoid interference on this subject when the Government of India and the Indian Legislature are in agreement, and it is considered that his intervention when it does take place should be limited to safe-guarding the international obligations of the Empire or any fiscal arrangements within the Empire to which His Majesty’s Government is a party.’

That, Sir, is a very clear and definite pronouncement, and it was made public in a Resolution of the Government of India to which my Honourable Friend has referred. Now, what are we asked to do in the Resolution before us? We are asked to approach the Governor General in Council with a request that he shall make a still further declaration. We are apparently not quite satisfied with what he has already announced; we want him to go further and say that the Secretary of State has given us these powers and that it is our intention to use them. Now, Sir, is it quite consistent with the dignity of this House that we should go to the Governor General in Council with a request of this nature? Is it especially consistent with the dignity of this House that the question of a Lancashire deputation should have been made the turning point of the Resolution? Are we to ask the Governor General in Council to repeat his assurances every time a deputation is sent to this country? Supposing that a deputation of Canadian businessmen wanted to appeal to the Government of India for some measure of Imperial Preference by way of reciprocity between Canada and India. Are we again going to ask the Governor General in Council to make a declaration of his policy?

I do not ask the House, Sir, as I do not intend myself, to vote either for or against this Resolution. But I am perfectly prepared to state that the Government of India have every intention of exercising, in concert with the Indian Legislature, and in what it believes to be the best interests of the country, the fiscal powers which have been conferred on it under the recent constitutional reforms.

THE HONOURABLE SIR E. HOLBERTON : Sir, I have been listening with the utmost attention to the remarks of the Mover of the Resolution and also to Government’s reply, and I am still rather at a loss to understand what we are debating. Everybody knows the statement that has been made by the Secretary of State with reference to the policy of non-intervention with any fiscal decisions agreed upon by the Government of India and the Legislature. Everybody also knows that the fiscal position of India and its policy in future is to be investigated by a Commission which is to spend a good many months on that very arduous duty. Surely, with these two pieces of information before us, it is unnecessary and possibly unwise to ask the Government to make any fiscal declaration whatever?

But I rather gathered from both the speakers who have spoken that it is not a fiscal declaration that is to be made, but a humble petition to the Viceroy that he should say that he is not going back on what has already been promised by the Secretary of State. Gentlemen, I do strongly hope that, when the records of the work we have done for this past season are closed, we shall not have been found to have put ourselves in the position of recommending to the Governor General in Council so unimportant a Resolution as that.

THE HONOURABLE SARDAR JOGENDRA SINGH : Sir, there is only one point to which I need draw the attention of this Council. As Sir Edgar Holberton has pointed out, it is very difficult to find out what we are debating upon. I think we are really debating upon the underlying fear that somehow the Lancashire and other influences in England will prevail and our fiscal autonomy will not take effect. On the other hand, taking into consideration the declaration made by the Secretary of State and the fact that a Commission is going to consider the fiscal questions now, I do not see how the Honourable Mr. Kale can press his Resolution for vote in this Council and ask the Governor General to declare what has been already declared by the Secretary of State. My one fear as a free-trader is, that fiscal autonomy will lead to protection. We have such questions asked us to how to reduce the price of fuel by the Honourable Lala Ram Saran Das, and keeping an embargo on the export of wheat owing to ignorance of the economic factors underlying all these things. I see the President shaking his head and I shall not trespass on points outside the scope of the Resolution. The only thing, however, I wish to point out, is that at the present moment I do not think it would be advisable to press this Resolution to the vote, since the Secretary of State has declared his policy and the Fiscal Commission is going to consider the whole question of fiscal autonomy in India. I agree with the Honourable Mr. Kale that it remains for this House and the Government of India to justify the confidence which the Secretary of State has reposed in them by upholding fiscal autonomy under all conditions and resisting all pressure that may be brought to bear to change this fiscal autonomy.

THE HONOURABLE MR. V. G. KALE : Sir, the only opposition that has been shown to my Resolution is based on the apparent, alleged superfluity of the recommendation that I am making in the course of this Resolution. It has been stated that everybody knows what the fiscal policy of the Government of India is, and that everybody knows that a Fiscal Commission is going to make an inquiry into the whole question. It seems to have been forgotten, however, that at the outset of my speech I had already said that I did not want to raise any debate with regard to the particular fiscal policy to be adopted by us—whether free trade or preference or protection. What I wanted to point out was the new constitutional position which the Government of India and the Indian people have come to occupy under the reforms, and I was anxious to show that it lay in our hands to make proper use of the position and power which have been accorded to us. It has been contended that the Secretary of State has made a declaration of policy. Very well; I started from that very declaration. I never doubted that the declaration was made, but I wanted that we in this country should clearly understand and should clearly proclaim what our constitutional position has come to be, and I thought, on reading the Despatches which have been published, that the Government of India has not clearly placed its position before the country. It was in March.

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that the discussion took place. It was towards the end of June that a Despatch was sent by the Secretary of State, and I do not think the Government of India has made its position as clear as the Secretary of State has done his own. That was the ground on which I wanted the Government of India to make a declaration of its policy. However, in view of what has fallen from the Honourable Mr. Lindsay, namely, that the Government of India is going to carry out the policy referred to by me, is going to exercise what fiscal powers have been conferred upon it under the Government of India Act, and is going to reciprocate the policy which has been pronounced by the Secretary of State,—in view of what has fallen on behalf of the Government from the Honourable Mr. Lindsay, I do not want to press my Resolution, because I have got what I wanted to get, namely, a declaration. In view of this, I would ask the permission of the House to withdraw my Resolution.

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

(At this stage the Honourable the President resumed his seat.)

MESSAGE FROM LEGISLATIVE ASSEMBLY.

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

The HONOURABLE THE PRESIDENT: Let the message be read.

The HONOURABLE THE SECRETARY OF THE COUNCIL:

'I am directed to report that the further Amendment made by the Council of State in the Maintenance Orders Enforcement Bill namely, insertion of the words 'outside British India' after the word 'Dominions' in the definition of 'Reciprocating territory' in Clause 2 of the Bill, was taken into consideration by the Legislative Assembly at its meeting to-day and that the Legislative Assembly has agreed to the Amendment.'

RESOLUTION RE ABOLITION OF PIECE-SYSTEM IN GOVERNMENT PRESSES.

The HONOURABLE MR. G. S. KHAPARDE: Sir, the Resolution which I wish to propose reads as follows:—

12-42 P.M.

'This Council recommends to the Governor General in Council that either the piece-system at present obtaining in the Government Presses be abolished and the employees be converted into Government servants, or a mixed committee of officials and non-officials be appointed to consider their grievances and propose remedies.'

This question was raised by me on the 14th of September 1920 in the last Council, and it was debated in this Chamber here and after a long discussion it was not resolved but any how promised by the Honourable Member then in charge of Commerce that he would give a trial to the new system which he had introduced, and after a trial for twelve months, he would lay full information before the Council on this matter and then, if it was found that the people concerned had not benefited, he would tear up the new system and then consider whether these people should be converted into Government servants or not.

Those conditions, I believe, have been now fulfilled. To-day is the 29th September, so one year has passed. Then the matter was dealt with by certain questions put in the other place by Mr. Neogy and answers were given there. Here also the other day the Honourable Maharajah Manindra Chandra Nandy put many questions on the same point and answers have been recently given, which are, I believe, within the memory of the House and so I need not repeat them.

The whole question comes to this, that these employees of the Government Presses are in a very anomalous position as I have pointed out before. They are not piece-workers exactly, because after a number of years service they are given a certain pension. They are not entirely Government servants, because they are not paid monthly salaries as all Government servants are paid. They are paid according to certain amount of work which they are supposed to do. That amount of work, in order to enable it to be done, has to pass through nearly nine hands before it is finished. I described that system in detail last year and I do not think it necessary to detail it again. Practically, it was then admitted that it was so. After the work is given to a man to do, he has to go to various persons. He has got to go to the typist, then collect types and in getting the types there are delays. After getting the materials it is composed, and then he has to go and get a copy printed. That copy is to go to the section-holder, and from the section-holder to the reader, and from the reader it has to come back corrected, and then he has to go through the whole process again, to the typist, the stores man, and so on and so forth, until it comes back again corrected to the reader, and then from the reader to the compositor, and from the compositor it goes to a certain person called impositor whose duties I have not been able to ascertain. Ultimately what is to be paid to that man for that piece of work is dependent on those things. This is a cumbrous process, and the man himself is neither a Government servant nor a contractor. He is neither fish, flesh nor red herring. There the thing ends. I complained about that system on their behalf last year, and the Honourable Member for Commerce then said that he was introducing a new system. That new system has been tried. On the 14th June these press people submitted a memorial to His Excellency the Viceroy, and the answer given to that was that "they (I believe the Government of India) have undertaken to examine the results of the present system so far as wages of piece-workers are concerned after the system has been in force for 12 months." This period of 12 months has now expired since the assurance was given last year by the then Honourable Member for Commerce. All I say is that at present so far as I can see, this system has been found not to be useful, at any rate not satisfactory to the persons concerned. And those people should be converted into Government servants. I remember it was said last year that there were no data on which their pay could be fixed. I replied then, and it is my reply now, that as pensions are given to these people on their average emoluments during the previous six years, their pay also might be fixed according to the average of their earnings during the last six years, and all these troubles and difficulties would cease. The advantage of converting them into Government servants is that they get leave which Government servants get for sickness, they will get increments according to rules, and they will be eligible for pension. At present the pension that is given is rather peculiar. A man earns a good deal when he is young and strong, but as he gets older and older

[Mr. G. S. Khaparde.]

he begins to earn less and less because he cannot work as he did in his youth, and when pension is calculated on the last six years' average earnings it is calculated on the lowest of his earnings during that period. I have here a case in which a man after serving for 25 years retired on a pension of Rs. 3 a month. That is not a reasonable way of calculating pension. The man when he is serving earns, 30, 40, 50, 60, 70, rupees a month, and when he retires he retires on a pension of Rs. 3 ! This anomaly has got to be cured, and it will not be cured until we convert them into so many Government servants. Last year I argued that the people who keep private presses also keep employed people as servants. In the Government of India itself the Private Secretary's Press consists of people who are Government servants. Other presses there are which consist of Government servants. Why is this one press to be singled out to be divided into piece-workers and salaried people, the salaried people not agreeing with the piece-workers and causing conflict and friction between them. I suggest that for the sake of unanimity and peace these people should be converted into Government servants.

If, however, that recommendation does not meet with the approval of Government, I then fall back upon my original proposition, that at least a fair and thorough inquiry should be held before any decision is arrived at and that inquiry should be conducted by a mixed committee of officials and non-officials. The necessity for this committee has become more apparent since in answer to a question put by my Honourable friend Mr. Neogy in the other House, it was pointed out that there were long calculations to be gone through and the statements were fairly complicated and it would take some time to prepare them. If it takes a long time to prepare them, it will take some time for the committee to examine them, and in that way it will become a difficult question. So, at this stage I do not propose to say more than to submit these two recommendations, that either the Government may be pleased to convert these people into Government servants, or at least to grant an inquiry of the kind which I have put forward.

With these few words I recommend the Resolution to the acceptance of this Council.

THE HONOURABLE MAHARAJA MANINDRA CHANDRA NANDY :

12-51 P.M.

Mr. President, I have very great pleasure in associating myself with the request conveyed in the Resolution of my Honourable friend, Mr. Khaparde. The piece-system in the printing establishments of the Government has not worked satisfactorily since it was started more than 40 years ago, and I had the unpleasant duty of bringing this matter before this Council three days ago in a series of questions. There seems to be a good deal of difference in the pay, position, pensions, leave and holidays of the piece-employees and the permanent servants in the Printing establishments under the Government. There have been many strikes over the grievances of the piece-employees of late years, and some of these grievances are still being felt as a grave injustice by the thousands of workers under the existing system. So far as I have been able to look into the matter, I think the piece-employees have a very just grievance which ought to be inquired into and set right, and, with that view, I have very great pleasure to support my friend's motion for the appointment of a Committee to go into the whole matter and recommend remedial measures to the Government.

The HONOURABLE SARDAR JOGENDRA SINGH: Sir, ordinarily, I

12-53 P.M.

would be inclined to think that the Resolution such as the Honourable Mr. Khaparde has moved dealing with the adjustment of wages between employer and employees could hardly be considered here. But the Resolution raises a question of principle, the adjustment of prices and wages. Prices have soared up everywhere and wages have not kept pace with them. I honestly believe that wages need an increase from top to bottom. I do not exclude anybody from the rise which is necessary to keep pace with the prices of commodities now.

I am, therefore, of opinion that the representation of these press people should be very carefully considered, and I do think that an improvement in wages is necessary. That is why I am inclined to support this Resolution. I hope the Honourable Member who is going to reply will be in a position to show that he is going to consider this question carefully and favourably so that the piece-workers, who set our speeches in press and print the debates so quickly and well are satisfied, I shall be very greatly gratified.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN: Sir, I strongly support the Resolution of my Honourable friend. I do not want to say anything more because I shall then be traversing the same ground.

The HONOURABLE MR. H. A. F. LINDSAY: Sir, I shall begin by

12-54 P.M.

admitting that Government find great difficulty in organizing piece work in the Government of India presses on a basis satisfactory both to employers and employed. The whole question has been gone into very thoroughly, and a Government Resolution, as the Honourable Mover pointed out, was issued so lately as July last year revising the terms. But that revision of the terms was admittedly on an experimental basis only. Owing to a strike at the presses, it could not be introduced before October last year, and the 12 months to which my Honourable Friend has referred are in grave danger of lapsing. The obligation to revise the system still further, or at any rate to acquire materials for a further revision, still holds good. Now, Sir, the chief difficulty which we have lies in the inevitable comparison between the wages and terms of service of salaried employes and piece-workers. In the replies given to the Honourable Maharajah Sir Manindra Chandra Nandy just the other day full details were explained of the rise in wages which had been given during the last few years. I think that the difficulty at the presses at present is not so much a matter of wages as a matter of terms of service. There is perhaps some jealousy on the part of the piece-workers of the higher prestige of those who are permanent and salaried Government servants at the press. At the same time it is extremely difficult to find any satisfactory system to take the place of piece-workers.

The Honourable Member's Resolution contains two alternatives : either that the piece-system should be abolished, and the employes converted into Government servants, or else that a mixed committee of officials and non-officials be appointed to go into the whole question. I may say at once, Sir, that Government are not prepared, for the reason I have already given, to accept the first alternative, but are fully prepared to accept the second. I am afraid that the statements and particulars promised are not yet ready. They are extremely detailed and complicated and cannot be ready before the end of the year. Therefore, in accepting the

[Mr. H. A. F. Lindsay.]

proposal to appoint a committee, Government suggest that it should not be convened before next January, when the figures will be ready and placed before them. Government also undertake that the committee shall contain a representative of the employees of the Government presses, and that it shall contain one member who is interested in large industrial undertakings where similar problems have to be faced. On this understanding, Sir, Government accept the second part of the Resolution, and on the understanding that it will be left to Government to arrange the constitution of the committee subject to the suggestions already given, I ask the House to vote in favour of the adoption of the Resolution.

THE HONOURABLE MR. G. S. KHAPARDE: Sir, it is unnecessary for me to say anything beyond this that I am willing that this Committee, as proposed by the Honourable Mr. Lindsay, be appointed.

THE HONOURABLE THE PRESIDENT: I understand that the Honourable Member desires the permission of the House to withdraw the first portion of the Resolution.

THE HONOURABLE MR. G. S. KHAPARDE: Yes, Sir, the portion of the Resolution, which recommends 'that either the piece-system at present obtaining in the Government Presses be abolished and the employees be converted into Government servants, or,' was, by permission of the Council, withdrawn.

THE HONOURABLE THE PRESIDENT: It remains for me to put the Resolution as amended. The question is that the following Resolution be adopted, namely:—

'This Council recommends to the Governor General in Council that a mixed committee of officials and non-officials be appointed to consider their grievances and propose remedies.'

The Resolution was adopted.

LAND ACQUISITION (AMENDMENT) BILL.

1-10 P.M. THE HONOURABLE MR. B. N. SARMA: Sir, I beg to move 'that the Amendments made by the Legislative Assembly in the Bill further to amend the Land Acquisition Act, 1894,' be taken into consideration.

Honourable Members will remember that in February last I introduced a Bill into this Council further to amend the Land Acquisition Act, 1894, and that this House was pleased to pass it on the 17th March. The Bill then went up to the Legislative Assembly, was discussed there, and finally passed, with certain Amendments. Two of these Amendments are of a very formal character, but one is of a substantial nature. The first Amendment that the Assembly agreed to was that in clause 2 of the Bill for the word "grounds" the words "statement of the grounds" should be inserted. It is a mere formal technical amendment, and I do not think that the House need be troubled with any explanation about it. The second Amendment that the Legislative Assembly adopted is also of a formal character—an Amendment moved at the instance of the Government. It was found that the Act which was sought to

be affected, namely, the Bombay Act, was an Act of the Imperial Legislature, and that the wording of the clause, as it stood originally, might not be sufficiently comprehensive to include within its category the Act to which I referred, and consequently, instead of the words "Acts of the local legislature" the words "enactment for the time being in force" have been employed. Here also the amendment is a mere formal amendment, and is not an amendment of substance. The third amendment is one to which exception was taken by the Government in the Lower House, both on the grounds of convenience and principle. Honourable Members will remember that I suggested that an appeal to the Privy Council should lie only where there is a substantial question of law involved and not a question of fact.

I think it is desirable that I should remind the House briefly of the provision in question. Previous to 1911-12, appeals lay to the Privy Council against the decisions of the High Court in Land Acquisition Act cases exactly on the same conditions as in other cases. In 1911-12, the Privy Council held that on a proper construction of the Land Acquisition Act no appeals would lie to the Privy Council against any decision of the High Court, and this Bill seeks to give a right of appeal to the Privy Council. Local Governments, High Courts and public bodies were consulted. Opinions were divided and ultimately it was considered desirable that an appeal should lie to the Privy Council only where there is a substantial question of law involved, and Honourable Members of this House were pleased to accept that view. Something could be said for the other view, namely, that inasmuch as for over 17 years appeals lay on substantially the same terms in land acquisition cases as in other cases, the same privilege might be continued, and that was the view taken by the Lower House, or the Legislative Assembly, to be more courteous. The Government urged, and are still of the same opinion, that it would be more convenient to the suitors and the public alike if appeals be limited to questions of law. We had regard especially to the views of Local Governments, but I would suggest to this House that we need not quarrel with the decision of the Lower House on this point for two substantial reasons. First, because a wider power is attempted to be conferred upon the subject by enlarging his right to appeal to the Privy Council whenever he quarrels with the decision of the High Court here, much in the same way as if he be dissatisfied with the decision of the High Court in other matters. From the point of view of convenience, it was that the Government held chiefly that appeals should be confined to questions of law, but I find on an analysis of the number of appeals which were preferred during the period of 17 years that I referred to, from 1894 to 1911-12, that there were only four appeals preferred to the Privy Council under the Land Acquisition Act, in one of which, the Rangoon case, the Privy Council held that they had no jurisdiction and dismissed the appeal. The other three cases were, I believe, from Calcutta. Two were confined to questions of law and one was a mixed question of law and fact, and all the three appeals were dismissed. Consequently, it does not seem to me to make any very great difference whether the power of appeal is conferred or not, if our experience in the past is any criterion of what is likely to occur in the future. Of course if any inconvenience is experienced in the future, it will be open to the Government and the Legislature to change the law, and it is under these circumstances that I venture to suggest to this House that we may agree to the Amendments that have been adopted by the Legislative Assembly. With these words, Sir, I ask that the Amendments be taken into consideration.

[Saiyid Raza Ali.]

The HONOURABLE SAIYID RAZA ALI: Sir, with your permission I will just say a word about these Amendments. Two of them, 1-20 P.M. as has been pointed out, are merely technical and nothing need be said as to them. But the third is rather an important Amendment.

The HONOURABLE THE PRESIDENT: If the Honourable Member wishes to speak on the third Amendment, I would ask him to speak after the motion that the Amendments be taken into consideration has been put to the Chamber.

The HONOURABLE SAIYID RAZA ALI: I think so too, Sir.

The HONOURABLE THE PRESIDENT: The question is that the Amendments made by the Legislative Assembly in the Bill to amend the Land Acquisition Act be taken into consideration.

The motion was adopted.

The HONOURABLE THE PRESIDENT: I propose to put the Amendments separately.

The question is that this Council do concur in the following Amendment; that—

‘In clause 2 of the Bill, line 7, between the words ‘the’ and ‘grounds’ the words ‘statement of the’ be inserted.’

The Amendment was adopted.

The HONOURABLE THE PRESIDENT: The question is that—

‘In section 54 of the Land Acquisition Act, clause 3 of the Bill, this Council do concur in the substitution for the words ‘Act of a local legislature’ of the words ‘enactment for the time-being in force.’

The Amendment was adopted.

The HONOURABLE THE PRESIDENT: The question is that for the words from ‘subject also . . .’ to the words ‘High Court,’ as passed by this Council, the following be substituted, namely:

‘from any decree of the High Court passed on such appeal as aforesaid an appeal shall lie to His Majesty in Council subject to the provisions contained in Section 110 of the Code of Civil Procedure, 1908, and in Order XLV thereof.’

The HONOURABLE SAIYID RAZA ALI: Sir, this Amendment is in fact 1-23 P.M. closely connected with the second Amendment which will be presently before the House. The two are so closely connected that I believe what little I have to say I can say on this Amendment. The Amendment is rather an important one, and I am very glad that the Government have seen their way to accepting the alteration that was made by the Legislative Assembly. I will only say one word about a remark that the Honourable Mr. Sarma let fall in the course of his speech. He pointed out that in the course of 17 years there had been only 4 appeals to His Majesty in Council, and it so happened that all the appeals were dismissed, and therefore it did not matter much if we gave this right of appeal or not. I distinctly remember that observation. Perhaps my Honourable friend did not mean it but it came to that. Now I think it my duty to take exception to that remark,

Now it does not follow that all the appeals that are made to His Majesty in Council will be dismissed. I think that to concede this point on that supposition is a very risky position, and I hope that if the Government are under that idea they will get rid of that notion.

The HONOURABLE MR. B. N. SARMA : Sir, this point requires a word of explanation. I think my Honourable friend has misunderstood me. I said that during the course of 17 years there have been only 4 appeals, and one was on the question of jurisdiction, and that consequently there cannot be any very great inconvenience felt, inasmuch as having regard to the large number of Land Acquisition Act cases and the extremely small proportion of appeals to the Privy Council, it did not matter to the Government, to the land acquiring authorities, as to whether an appeal lay or did not lie. That was what I said. It may be that an appeal to the Privy Council might succeed or it might be dismissed. But the Government have not based any decision on the probability of success or failure though the smallness of the number of appeals and their failure does mean also that the administration of justice in the High Court is so very efficient, that there is absolutely no necessity for an enlargement of the right of appeal, but having regard to the past there is no likelihood of any large number of appeals and consequently it may not matter to the Government whether an appeal is allowed or not in the same manner as before 1911-12.

The Amendment was adopted.

The HONOURABLE THE PRESIDENT : The last Amendment is purely consequential, that is "This House do concur in the Amendment made in the Legislative Assembly that in Clause 3 of the Bill sub-section (2) be deleted."

The Amendment was adopted.

CLOSE OF SESSION.

The HONOURABLE THE PRESIDENT : That closes the business for to-day. As the Council will now stand adjourned till we meet in 1-30 P.M. Delhi, I wish the Honourable Members a happy return to their homes after their arduous labours, and I hope to see them all again in Delhi. I am unable to specify the exact date on which the Meetings will commence in Delhi, but it will probably be about the middle of January.

The Council now stands adjourned to a day to be subsequently notified.

The Council adjourned *sine die*.
