

Thursday, 3rd March, 1921

THE
COUNCIL OF STATE DEBATES
(Official Report)

VOLUME I

2
27.2.62.

FIRST SESSION
OF THE
COUNCIL OF STATE, 1921



DELHI
SUPERINTENDENT GOVERNMENT PRINTING, INDIA
1921

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COUNCIL OF STATE.

Thursday the 3rd March, 1921.

The Council assembled in the Assembly Chamber at Eleven of the Clock, with the Honourable the President in the Chair.

MEMBER SWORN :

The Honourable Saiyid Raza Ali.

SECRETARY TO THE COUNCIL: I have received a message to the Council of State from the Legislative Assembly.

THE HONOURABLE THE PRESIDENT: Let the message be read.

SECRETARY TO THE COUNCIL: The message which has been received from the Legislative Assembly through its Secretary is as follows:—

The message from the Council of State to the Legislative Assembly desiring its concurrence in a Resolution to the effect 'that the Bill further to amend the Code of Criminal Procedure, 1898, and the Court Fees Act, 1870, be referred to a Joint Committee of the Council of State and of the Legislative Assembly, and that the Joint Committee do consist of 12 members' was considered by the Legislative Assembly at its meeting of the 1st March, 1921, and the Resolution was not concurred in by the Assembly.

PROCEDURE BY A REFERENCE TO A JOINT COMMITTEE.

THE HONOURABLE SIR WILLIAM VINCENT: With reference to this message, Sir, may I inquire from you what exactly our position is in regard to this Bill and what further measures it is within the power of Government to take under the rules?

THE HONOURABLE THE PRESIDENT: Procedure by a reference to a Joint Committee is a new one to this Council and arises out of the double Chamber constitution. I think possibly Honourable Members will bear with me for a minute or two while I examine the position.

A reference to a Joint Committee is a device which enables the Chamber, in which a Bill does not originate, to take part by its representatives in a discussion on a Bill at a very early stage of its progress.

In Parliamentary practice procedure by a Joint Committee is most frequently resorted to in cases where the Bill has a peculiarly technical or legal importance, or where, as in the case of a Bill, which is familiar to all Members of this Council, the Government of India Bill, the subject-matter of the Bill is rather outside the ordinary sphere of party politics.

[The President.]

It may be as well to say a word as to the case in which a motion for a Joint Committee has been carried in both Houses and the Bill duly committed, for I have ascertained that there is some misapprehension on this point. When the Joint Committee has completed its deliberations, a copy of the report is laid in both Houses, but if a Bill emerges from the Joint Committee, that Bill is moved on and dealt with in the Chamber in which that Bill originated as if it had been a Bill committed to an ordinary Select Committee. The Bill as passed in the Chamber then goes up or down to the other Chamber, as the case may be, and is passed, amended or rejected in the usual way by that Chamber. That Chamber has the same power of discussing the principles of the Bill and amending or rejecting any and every clause as if the Bill was any other Bill passed by the other Chamber.

It is not unusual for a Chamber to which a Resolution proposing a Joint Committee is referred and which is unwilling to accept the recommendation, to avoid a direct negative and by a dilatory motion to allow the question to lapse.

In the present instance, however, a direct disagreement has been intimated. The message must have been moved on with very little notice in the Assembly and disposed of very promptly, for the Resolution of this Chamber was only passed on the 28th February, that is last Monday. I have been asked a question also as to the procedure to be followed when a message of the kind now under consideration is received. I do not wish to commit myself to a definite ruling on the point, but I would say that it is desirable that a message of that kind should be accompanied by a copy of the Bill referred to in the message, and that, speaking generally, in the absence of urgency, the motion for the consideration of the message should not be put down till Honourable Members have had an opportunity of considering the Bill. I have been further asked as to what is the nature of the speech that should be made on that motion.

That, of course, is a matter primarily for the consideration of the Mover, but, as I have been asked my opinion, I will state it in this form, that, speaking generally, it should be much the speech that would be made on the introduction of the Bill in the originating Chamber. We are now faced with the position that the Assembly have given a direct negative to a recommendation of this Chamber, and the Honourable the Home Member has asked me to state my opinion as to the courses available. We are still new to the rules and, therefore, I propose to do so. It is clear that the course contemplated by rules 36 and 39 of the Indian Legislative Rules is not open, for this is not a case of the amendment of a Bill. On the other hand, this Council has, of course, full seisin of the Bill, and it is open to the Honourable Member in charge, subject to the rules as to notice, to make any other motion in regard to the Bill that he could have made after introduction. I shall have to rule, I think, that he will not be entitled to repeat in this Session the motion for a reference to a Joint Committee, for Standing Order 30 stands in his way. That Standing Order runs as follows:

‘A motion must not raise a question substantially identical with one on which the Council has given a decision in the same Session.’

Even if I came to another conclusion, I think it would have to be so ruled in another place. Rule 40 contemplates conferences by agreement by both

Chambers to discuss a difference of opinion; but even if the prohibition of identical motions in the same Session did not operate as a bar to any practical result during this Session, I can find no Parliamentary precedent for a conference on a matter of procedure of this kind when alternative action in this Council is available.

The sum and substance of my remarks comes to this that, even if the Honourable Member moves and this House were willing in all the circumstances of the case to consider the question of a fresh motion for a reference to a Joint Committee, that motion cannot be made in the Session. I hope that I have explained the matter fully.

The HONOURABLE SIR WILLIAM VINCENT: I am much obliged to you, Sir.

RESOLUTION *Æ* SLAUGHTER OF COWS, ETC.

The HONOURABLE LALA SUKHBIR SINHA: Sir, I beg to move the following Resolution:—

‘This Council recommends to the Governor General in Council:

- (a) the prohibition by legislation of the slaughter of cows in India for food except for sacrifice on Bakr-Id;
- (b) the appointment of an all-India Commission that may inquire and report on the measures which should be taken to improve the breed and increase the number of milch and agricultural cattle in India.’

Sir, from the wording of this Resolution, Honourable Members will see that I have excluded the religious question altogether. I leave it to the good sense of my Muslim brothers as to whether they would like to continue the killing of cows for sacrifice on Bakr-Id or not. I have to express my thanks to the Khilafat Committee and also my gratitude for the efforts that they have made to minimise or to stop the killing of cows on the Bakr-Id festival, and I am glad to say that up to this time the Khilafat Committee has been successful to a great extent.

Sir, in this Resolution what I want to propose is, that the killing of cows for food may be stopped by legislation. I am not going to interfere in any way with the religious feelings of my Muslim brothers, and, therefore, I request them to consider this question on economical grounds and not on religious grounds. Sir, I think the Members of this Council are well aware that this cause is common to all of us. We require milk and butter, whether we are Hindus, Muhammadans or Christians. We require bullocks for agriculture; we require bullocks for drawing water and other purposes, and, therefore, if the breed of cattle is to be improved and the number of cattle to be increased, it will be a good thing and beneficial to all of us.

Sir, India is an agricultural country and about 80 per cent. of the population depend upon agriculture. Bullocks are required for ploughing the land, for giving manure, for drawing water, for cartage and other purposes. We find now that the number of bullocks is not sufficient. The arable area has increased, but the bullock power has decreased. The maximum area which a pair of Indian bullocks can till during a season is five acres. The cultivated area in British India is about 228 million acres and the total number of plough cattle is about 49 millions. Taking 25 per cent. for drawing carts and other purposes and 25 per cent. as old, infirm, sick and young, there remain only

[Lala Sukhbir Sinha.]

about 24 millions of cattle available for cultivating about 228 million acres, that is to say, a pair of bullocks has to till about 19 acres which would require in the ordinary course four pair of cattle. If we look to the Census Report of the United Provinces Government, we find that the number of bullocks per hundred ploughs is 220 now, while five years ago it was 225, but all the Members here who have been connected with tenants and agriculturists will bear me out that 400 bullocks are required for 100 ploughs, at the rate of 4 bullocks for each plough. In this country people use cattle and not horses or machines for the ploughing or for well irrigation.

Sir, Indians are practically vegetarians. The quantity of fresh fish and flesh consumed is extremely small. Therefore milk and its products form their chief sources of nutrition. Milk is the staple food of all children in this country. Most adults take milk, butter and ghi. A good deal of milk is taken with tea, the consumption of which is increasing. Its use in the making of sweets, which are so largely consumed by all classes in India, is also increasing. The great shortage of the milk supply and the consequent rise in its price has helped to undermine the health of the people. In addition to the increase in the death-rate, there has been a growing prevalence of such wasting diseases as tuberculosis and the like among the people. The number of reported tubercular diseases among human beings in 1902 was only 38,435, while by the year 1917 the number had risen to 100,192.

The number of milch cattle is scarcely enough to supply one-eighth of the present population of India with a fair quantity of milk. Taking the average yield of milk of the Indian cow to be 2 pints per head per day for seven months, the milk produced by 50 millions of milch cattle per day for the 254 million people comes to about 60 million pints per day,—that is, each individual gets less than $\frac{1}{4}$ pint, which is equal to 2 chittaks, whereas he needs on the average 2 pints of milk a day.

The abnormally high price of milk and ghi has given rise to adulteration, which beyond any comprehension has proved very detrimental and dangerous to the health of the people, for it has brought in its train numerous new diseases that sweep away a countless number of the inhabitants every year. Impurity of ghi and milk, and all the diseases caused by these, can never be effectively removed by any penal legislation, however drastic it may be. The true remedy must come from an increase in the supply of milk and milk products, which again is entirely dependent upon the preservation and improvement of cattle, which necessarily involve the prohibition of cow slaughter.

The rise in the price of milk and milk products has gone up out of all proportions as compared with the current tendency of an all-round rise in the price of various articles of consumption; for while during the last 60 years the price of corn has gone up from 5 to 7 times, that of milk has risen more than 40 times. Again, the price of most other commodities in England and the United States of America is double, and sometimes even four times, that of the same in India; but milk can be had there at the same price as here and sometimes at an even cheaper rate.

Sir, the infant mortality in India is appalling, being nearly double that of the United Kingdom, Denmark and Japan, about three times that of Norway and Sweden, about five times that of Holland and the United States of America

and nearly nine times that of New Zealand. Of the 260 per thousand of deaths of infants under one year which take place in India, and 67 per thousand of deaths of children between 1 and 5 years of age, most are from preventible causes specially from malnutrition, and it is evident that 'by cheapening the price of milk so as to bring it within the reach of the poorer classes more would be effected', as Colonel Mactaggart, Sanitary Commissioner of the United Provinces, says, 'towards reducing infantile mortality than the presence of any number of trained *Dais* would accomplish.'

The death rate amongst Indians is far higher than that of any civilised country, for while it is 30 per thousand in Japan, 17 in England, Wales and Scotland and Holland, 15 in Denmark, Norway and Sweden, 9·5 in New Zealand, it is more than 38 per thousand in India. Besides the death rate of females between the ages of 15 and 30 is still higher than of males of the corresponding ages, because they cannot get nourishing food during their child-bearing period when they require it the most.

Lord Tenderden very recently in the House of Lords drew attention to the high rate of mortality in India as the result of lack of milk, which, as he said, is due to the large number of cows being slaughtered which should be stopped. But Lord Sydenham said that restrictions in killing cattle would occasion resentment amongst poor people in India. But, Sir, it is not the case. It is my personal experience—and I hope other Honourable Members will bear me out when I say that the poor villagers do not consume beef as their daily food, but take it very seldom. In large cities and towns also very few Muhammadans take beef, and among high class Muhammadans none, I should say, take beef. Therefore, it is a mistake to say that killing cattle will occasion resentment amongst poor people in India. My belief is that, if cow killing is stopped, the poor people will get more milk for drinking purposes and more cattle for agriculture. And they instead of resenting will welcome the prohibition of cow slaughter.

Sir, in this country it will take some time to introduce ploughing and other machines for want of sufficient capital and the poverty of the people and small holdings. Hence the preservation and improvement of our cattle are of primary importance, for while they form the life and soul of agriculture they are deficient in number and quality. Sir, the number of cattle in India is not adequate as is evident from a comparison with the number of cattle in other agricultural countries of the world. Thus, while the number of cattle per hundred of population in India is only 61, it is 74 in Denmark, 79 in the United States of America, 80 in Canada, 120 in Cape Colony, 150 in New Zealand, 259 in the Argentine Republic and 500 in Uruguay.

Sir, the agricultural output per acre in India is also far less than that of numerous other countries of the world, for while it is 33 bushels of wheat per acre in Denmark, 29 in Great Britain, 32 in Switzerland, 14 in the United States, 17 in Canada, 32 in Japan, 29 in Egypt, it is only 11·5 bushels of wheat per acre in India.

The next question is the deterioration of cattle in India. Indian milch cattle used to give in Akbar's time about 20 quarts a day; only 25 years ago country cows used to give about 5 seers of milk per head per day on an average; while they now give only one seer, and the bullocks could do double the work they can do now.

[Lala Sukhbir Sinha.]

All this is mainly due to the want of breeding farms, bulls and grazing lands.

An attempt was made to collect statistics of the slaughter of cattle in the various municipalities in this country. Out of 720 municipalities addressed, only 160 replied. The figures relating to these show that in 1919-20 the number of cattle slaughtered was 671,526. The total number of municipalities is 720, and I think I can safely conclude that in all the municipalities taken together the number of cattle slaughtered for food will not be less than 30 lakhs a year.

The income from octroi for the slaughter of animals in municipalities in British India has also risen very much. In 1902-03, the income was Rs. 4,55,202, but in 1912 it went up to Rs. 6,44,776, and the fees, etc., from slaughter houses has risen from Rs. 28,15,894 in 1902-03 to Rs. 45,35,621 in 1911-12. If we calculate the number of animals killed at the rate of at least 4 annas per head, the total will come to Rs. 1,81,00,000 per year. Sir, I was trying to get the figures of cattle census for all India, and on my request the Honourable Mr. Sarma was pleased to send me a statement showing the census figures of the last census taken for the whole of India. But when I looked into the Agricultural Statistics of India for 1917-18, I found that the figures for corresponding years were misleading and so no accurate conclusion can be arrived at, because in the report the following sentences occur which show how misleading, or at any rate, how rough these figures possibly can be. The Report says :—

‘In Bengal a cattle census was taken for the first time in 1912-13 which gave the numbers of bulls and bullocks, cows, buffaloes and young stock. In Bihar and Orissa a census was taken in 1913-14. The figures for Bihar and Orissa prior to 1913-14, as also those for Bengal for years prior to 1912-13, are based on estimates. Livestock in cities and cantonments are included wherever it is possible to secure their enumeration. In making up the totals for British India for each year the figures last collected in the provinces where the census is not taken annually, are repeated year after year until the next cattle census is taken. It would therefore serve no useful purpose to compare the total figures for one year with those for another year, as the totals thus constituted do not really represent the number of stock in the year against which the figures are shown in the table’

But, however, looking to these figures it is found that the total number of cattle has been reduced by 2 per cent. in the whole of India during the last five years, while the population and arable area have increased. In the United Provinces, bulls and bullocks have been reduced by 3 per cent., cows 2 per cent., buffaloes 2 per cent., young stock 1 per cent. The number of cattle to 100 ploughs now stands at 220 as compared with 225 in 1915, while, according to the required number, there should have been at least 400 bullocks for 100 ploughs.

In the Punjab and the North-West Frontier Province, there is a marked decrease in cattle. In Bengal, there is a large decrease in young stock; in Madras, Bombay and Bihar, there is some increase which is due to the fact that there is not so much indiscriminate slaughter of cattle as there is in the Frontier, Punjab and the United Provinces.

There is another factor from which we can calculate the number of cattle killed in this country. I mean by the figures of the export of hides. In 1881, the quantity in cwts. exported was 5,95,144. It has gone on increasing every year practically, and in 1913-14 the figure had gone up to 11,15,747 cwts.

The total export of tanned hides from British India by sea to foreign countries in 1881 was 62,871 cwts., and that quantity increased in 1914 to 174,028 cwts. So, roughly speaking, the quantity of hides and skins and tanned leather exported from India to foreign countries has gone up cent. per cent. from 1881 to 1914 and in tanned hides it has gone up thrice.

Sir, why I ask the Government to prohibit cow slaughter by legislation is due to several facts. The first is, that a large number of cows is killed for the food of British soldiers. In cantonments generally cows in the prime of life are killed. I think some Honourable Members will bear me out when I say that large herds of prime cows are often seen being taken up to the hill-stations to be slaughtered for soldiers. Stopping the issue of beef to soldiers cannot be done without legislation.

The second reason is, that there is a trade of meat for Burma. It is called the Burma meat trade; and I shall explain later to the Council that it is a new trade which has sprung up within a few years and for which lakhs of cattle are killed in India for the sake of sending beef and blood and everything else to Burma for consumption. In reply to my question the United Provinces Government was pleased to state that in 1912-13 about one lakh and a half of cattle were killed for the Burma meat trade in the United Provinces, and from this you can infer what must be the number of cattle killed for this trade throughout the whole of the country. The total number cannot be less than five or six lakhs. This trade is carried on at certain places and in big towns. I think in the United Provinces alone it is carried on in about thirty places, and I have heard that it is carried on in the Central Provinces, Madras and Bengal also. The United Provinces Legislative Council has very recently passed a Resolution to stop this meat trade, and I hope that similar action will be taken by other Provincial Governments or that a stop to it will be made at once by the Government of India.

Then, Sir, we have legislation for the protection of females of many other minor animals and game birds, but it is a pity that such a useful animal as the cow does not find a place in the existing legislation. This is my third reason. When Government protects the females of other minor animals and birds, I do not see why by legislation the slaughter of cows should not be prohibited. The Council will be glad to know that many Native States have stopped the killing of the cow; I may mention some of them, namely, Baroda, Kashmir and all the Hindu States in Rajputana and Central India. His Highness the Nizam of Hyderabad and His Majesty the Amir of Kabul have also forbidden the slaughter of cows by legislation. Many of the municipalities have stopped the killing of cows and calves in their slaughter houses. The municipalities of Simla, Calcutta, Howrah and Jubbulpore have stopped the killing of calves, and the municipalities of Lucknow, Lahore and Cawnpore have passed Resolutions to stop the killing of prime cows also.

Sir, the question of the preservation of cows is not a new one, but has been discussed several times on numerous public platforms. The National Congress, the Muslim League, the Hindu Sabha and many other important public bodies have passed Resolution after Resolution to accomplish this object. From the following Resolution passed at the Nagpur Congress last year, it appears how anxious the people are for the preservation of cows. The Resolution runs thus :—

'This Congress-gratefully welcomes the Resolutions of the various Muslim bodies recommending discontinuance of the slaughter of cows in India in the festivals removing as it

[Lala Sukhbir Sinha.]

does a cause of great offence to the universal Hindu religious sentiments, and recognises the Resolutions as one of the greatest steps on the part of the Indian Moslems towards complete unity between Hindus and Mussalmans.

This Congress recognises the necessity of the protection of agricultural cattle as an economic necessity, and urges upon the people of India to do their level best to achieve this object, particularly by refusing to sell cattle or hides for export trade.

The All-India Muslim League in December 1919 passed at Amritsar a Resolution in which they appealed to Mussalmans to desist from cow killing. It was affirmed in December 1920 by the Moslem League . . .

The HONOURABLE THE PRESIDENT: Order, order, the Honourable Member must bring his remarks to a close as his time is up.

The HONOURABLE LALA SUKHBIR SINHA: All right, Sir. It will not be out of place to quote here the appeal which Colonel Wedgwood recently made to the English in India to desist from cow killing. He says:—

‘Just as English people on the Continent of Europe naturally and out of good manner, avoid offending the susceptibilities, religious and national, of the people, so I feel convinced, the Europeans in India will, if it is put to them, avoid offending the susceptibilities of Indians in connection with cow killing even though it involves for the moment some sacrifice of their personal comfort . . .

The HONOURABLE THE PRESIDENT: When I asked the Honourable Member to bring his speech to a close, I did not ask him to read as fast as he could, but I asked him to wind up his speech, and I do hope he will comply with my request.

The HONOURABLE LALA SUKHBIR SINHA: All right, Sir. During all this time many public bodies, Hindus and Mussalmans, have been asking the people to put a stop to cow killing at the time of festivals and on certain other occasions. Hakim Ajmal Khan, Mr. Chotani, and Dr. Ansari have all been saying the same thing. The Cow Conference presided over by the Honourable Mr. Justice Woodroffe is trying its level best to put a stop to cow and calf killing. All this shows that there is a general feeling throughout the whole country among Hindus as well as Muhammadans to put a stop to cow killing by all possible means.

As regards the second part of my Resolution . . .

The HONOURABLE THE PRESIDENT: Order, order. I had requested the Honourable Member on several occasions to wind up his speech. He must now resume his seat.

The HONOURABLE COLONEL SIR UMAR HAYAT KHAN: Sir, I am very glad to find that my Honourable Friend has done his very best to put the matter before the Council, but if I may divulge certain things which have happened outside the Council, I may say that he never meant to move this Resolution. What I mean is, a few of us, Hindus and Muhammadans, had a conference, and what he wanted was really to stop the Burma meat trade, not to put a stop to cow killing, because it is against the religion of Muhammadans. That is what I am trying to put before the Council. Being a Muhammadan, Sir, I have to put forward certain things which, I hope, you will permit me to

do. We are in favour up to a certain extent of not killing cows. That is that any man who kills a cow, or cuts a shady tree from the roadside will not be pardoned. Another thing is that cow's milk has got certain excellent properties, whereas meat has not. By that meat people get ill. Another thing which our religion teaches us is 'always be good to your fellow brethren.' For this reason also we want to meet our Hindu brethren half way. But according to our religion the cow is not *haram*, and any legislation which forbids the killing of cows will go against our religion, and I hope that Government, having distinctly stated that they will never interfere with the religious susceptibilities of any class of people, even my countrymen, will never forbid a thing which is allowed to us. On the other hand, I recognise there is the economic question also to be considered, and naturally people will adhere to it. If they find that cow-killing is not right, they will not do it. It is much better in my opinion that, instead of undertaking legislation to prevent the slaughter of cows, we should approach the people and impress upon them the necessity for preserving cows. If the people are properly approached, they will see their own mistake. I think if the matter is ripe, we will all do what we can ourselves to prevent cow slaughter. But, Sir, certain statistics have been put forward. I will not say that I doubt their accuracy, but I have something to say about them. It is said that a pair of bullocks can only till 5 acres or 10 bighas, but it is ignored that there are two seasons in India, one is kharif and the other is rabi. You can till 10 bighas in one season and the other 10 in the other season. There are many other things on which I could speak, but on the whole I sympathise up to a certain extent with the movement. I think, Sir, that if Muhammadans are true to their religion they cannot very well allow legislation to pass which will forbid them from doing a thing which is allowed to them by their religion.

The HONOURABLE NAWAB ABDUL MAJID : Sir, the Honourable Mover has brought forward this Resolution and dealt with it from his own standpoint. He has discussed this Resolution from a vegetarian point of view. He has forgotten at the same time that in India there are other communities like Muhammadans and Christians, who are all meat-eating people. Now the question is this, if this Resolution is passed what will be the result? Meat is their staple food. My friend has said that many Muhammadans are not meat eaters. I join issue with him there, Sir.

So far as the Muhammadans are concerned, whether poor or rich, everyone of them takes meat. If you stop the slaughter of cows, what will be the result? The poorer Muhammadans will be the sufferers. This Council knows and it is well known, that the poorer classes of Muhammadans chiefly depend upon beef because beef is sold cheap, whereas mutton is sold at a high price. If we stop the slaughter of cows, the price of mutton will go up and so place meat out of reach of the poorer classes of Muhammadans. And this will affect not only the poorer classes, but also the richer classes and all those who take meat. My friend says that we suffer a great deal from the slaughter of cattle. But has he considered the consequences if we stop the wholesale slaughter of cattle. Where is the fodder to support the innumerable cows and bullocks that will roam about the villages? Even now there is a cry in the villages that there is not sufficient fodder to support the cattle. My Honourable Friend himself has said, when giving figures of the production of

[Nawab Abdul Majid.]

milk per cow and comparing the time of Akbar with the present time (assuming these figures are correct) what is the reason now that the produce of milk has been reduced ? The reason is chiefly this, that there is not sufficient fodder. The poor agriculturists are not in a position to give them sufficient food. These cattle simply subsist upon straw and grazing which is also very small in villages. So, looking to all these circumstances, I do not think it is right that legislation should be passed compelling the people, who up to this time have enjoyed the right of eating meat, to abstain from doing so.

Sir, there is a religious point also so far as this question of meat is concerned. As has been said by one of the Honourable speakers, according to our Koranic laws, some things are forbidden to us that we should not eat them, whereas there are other things which we are allowed to eat. If you have legislation and if you prohibit us from eating beef, the result will be that you will compel us to go against our religious law. It would have been much better, and it would be much better, if such things could be left to the mutual co-operation of Hindus and Muhammadans and outside the scope of legislation. It will be much better if these things are settled outside by mutual give and take and also by mutual co-operation, and not that you should come in and compel us by legislation not to do such a thing, to which we will never agree. My Honourable friend has named certain Muhammadan gentlemen who have given their views on this question. Sir, these may be their own views. So far as the Muhammadans are concerned, I know it that there are many of us, thousands of us, who will never agree to give up eating beef in this country. Already I am hearing murmurs from the time that this Resolution has been brought in this Council and people are saying that they are not going to give up their rights.

And then, Sir, last of all I would urge my Honourable friend not to press this Resolution to a division. My friend thinks that by this compulsion being exercised over us he is going to create a feeling of amity and friendship between Hindus and Muhammadans. He is clearly wrong there. If you will compel us, if you are going to exercise your power of compulsion over us by reason of your majority over us in this Council, then remember this much, instead of the creation of a feeling of amity and friendship, there will be discord among us. We will never agree to give up our right which we have been exercising for centuries in this country. From the time of the Muhammadan rulers up to the time of British rule in this country, we have been exercising this right of eating beef in this country. Who is any person of any other religion who should come forward, who should compel us and tell us we should not do this ? Therefore, Sir, I appeal to my Honourable friend that he should pause and consider whether it is not advisable, in the interests of this country, in the interests of Hindus and Muhammadans, that he should not press his Resolution to a division. Sir, I oppose this Resolution.

12 P.M. THE HONOURABLE MR. C. N. SEDDON : Sir, I oppose this Resolution. My Honourable friend has stated the Muhammadan point of view, and I have nothing to say about the question of using beef for food or about the religious controversies which will arise. I should like, however, with your permission, to put what I consider to be the true economic case before the Council. The Honourable Mover puts forward his case

on economic grounds entirely. He says that cattle have decreased in numbers, and especially cows. He says that India is an agricultural country and requires more cattle and that the people of India require more and cheaper milk and ghee ; and that the killing of cows has reduced and tends to reduce, the numbers of cows and therefore the supply of milk and milk products. And, if cows are not allowed to be killed, there will be more bullocks and more milk. Sir, there is a quinquennial cattle census taken in India and, excepting for the provinces of Bengal and Orissa, we have the results of that census from 1899-1900 until last year. The figures for all cattle are as follows, roughly :—

1899-1900	.	.	.	.	84,785,000
1904-1905	.	.	.	.	89,982,000
1909-1910	.	.	.	.	94,902,000
1914-1915	.	.	.	.	101,893,000
1919-1920	.	.	.	.	101,019,000

I will not trouble the Council with the detailed figures with regard to cows, but I may say that they also show a steady increase except for the last census taken. And the reason why there is a small decrease both in cows and in all cattle for the last census is, obviously, that in 1918 the monsoon failed over a large tract in India and there was an unprecedented scarcity of fodder. To my knowledge, in my own province of Bombay, the mortality was extremely heavy. There is no reason, however, to suppose that this mortality and this destruction of cattle will not be made good in a very short time. There is, in fact, a steady increase except for the last year ; and the steady increase is due to the growing resources of the people and the slight extension of cultivation. There is nothing whatever to show that there are fewer cattle than are really required. I may say, with regard to my own personal experience, that during the last 17 or 18 years I have been in very close touch with land settlement operations in Bombay, throughout the whole Presidency proper and in the Baroda State ; and I have had to do—either preparing myself or taking a large hand in the preparation of—over 30 re-settlement reports, I have never found in a single instance that there was any evidence to show that the land was not cultivated properly owing to paucity of cattle. I have known one or two occasions where there has been temporary scarcity, as after the great famine of 1900 in Gujarat and Kathiawar ; but this temporary scarcity was soon made good by importation, and it was merely, as I said, a temporary scarcity.

Now with regard to cows and the production of milk, it is a complete fallacy in my opinion to say that we ought to improve it by increasing the number of cows. The amount of milk produced does not really depend on the number of cows, but upon the milk-producing quality of the cows. As the Honourable Mover stated, the Indian cow, as a general rule, is an extremely poor producer of milk. I do not know whether it is right that it only gives one seer—I was going to put it at three seers—but there is no reason in the world why a good milking cow should not give at least three times as much milk.

I would ask Honourable Members of this Council to consider whether it would not be better to have half the number of cows giving three times as much milk. That is the best way to improve the amount of milk produced in this country,—to improve by selective breeding the milking qualities of the cows.

[Mr. C. N. Seddon.]

Sir, there is another aspect of the case. When we are asked to take measures to increase the number of cattle in this country, we should not forget that it is practically impossible. Two years ago there was a severe fodder famine in the Bombay Presidency, and I had to examine the question of preventing cattle mortality by importing fodder. I looked into all the statistics, and I found that what happened in the Deccan districts was this. After the few good years the number of cattle increased. There was then a poor year and a reduction took place of 20, 25, or even 30 per cent. Then a few more good years and the number went up again; a bad year, and it fell again. The meaning of this is simply that the country, after a few good years, carries a greater head of cattle than it can possibly support in a bad year, and the result is that you must have great mortality. If you do not kill them by sending them to the butchers, you must allow them to die by slow starvation. You cannot keep them alive by importing fodder, because it will cost you Rs. 100 to maintain an animal which in the end will only be worth Rs. 20—which is not a business proposition. Then you cannot keep them alive by providing larger areas of grazing land because, in the first place, it is difficult to find the land, and in the second place, if you do find it, it produces no fodder in a bad year; so that while you may have a few more cattle for a cycle of good years, when a bad year comes the mortality is heavier. Again, you cannot send off animals to the forest areas because they generally die, and it is not worth doing as a business proposition, except for the more valuable animals. The position is, therefore, that you cannot have many more cattle in the country. You do not want more cattle, but what you do want to do is to improve the quality of milking animals. That is the true economic proposition. And, if you abolish cattle killing, what it would do would be to deteriorate the quality of milking cattle. We only keep up to our present quality by killing the inferior animals. And whatever my Honourable friend may say to the effect that prime cows are killed and so on, it is quite clear that, as a general rule, it is the inferior animals that are killed.

What can be done to improve the quality of cattle, which is the real thing? Well, the Government are doing something. In Bombay, we have a few cattle farms. There is an excellent one at Charodi in Gujarat, started by Lord Northcote, after the great famine of 1900, a most excellent farm doing a great deal of good, and there are some others. Then I understand that Government have got some scheme for a dairy expert; I do not know how far that has gone forward. But work of that kind should continue to be done by Government, and it will have a great effect. Then, again, District Boards can do a little by providing stud bulls of good breed, and by encouraging villagers to make use of their services. Then there are prominent Indian gentlemen who take an interest in cattle and who wish the welfare of their country. They could do a great deal to encourage this selective breeding, if they would only try. They could establish societies for particular breeds of cattle, for their maintenance and for their improvement. They could organise shows; and they could provide, either themselves or by the help of their well-to-do friends, substantial prizes for successful exhibitors. They could also, I think, open a stock book for pedigree cattle. There are a lot of things which prominent gentlemen could do which would be extremely useful in educating people to understand the value of selective breeding.

Now, Sir, I have stated what I think is the economic position with regard to the killing of cattle. It appears to me that in fact the killing of cows is actually a beneficial process, and not, as my Honourable friend seems to think, a bad thing. And there are great practical difficulties in preventing cows from being killed, or in any prohibition by legislation. How could you in fact do it? You might do it perhaps in municipalities, but how for the whole country? Do you really think that you could succeed in preventing everybody from killing cows? You could only do that by a great deal of tyranny, and by filling our Courts with cases against people charged truly, or very often *falsely*, with killing a cow. Then, Sir, supposing you do not let a man kill a cow? What is he to do with it? What justice is there in asking him to maintain and keep an animal which is useless? Supposing it is barren, supposing it is not worth its keep, what is he to do with it? He cannot sell it to anybody because no one will take a thing which is of no value. It cannot be killed, and it can only be turned out. It would either die of slow starvation or live on the cultivated crops. The destruction of crops by stray cattle is already a very serious nuisance in many parts of the country, and we had in Bombay to make a special amendment of the Cattle-trespass Act to meet it. If we go and add to the cattle of people who let their cattle out in this way—numbers of semi-wild and ownerless animals—the nuisance will become perfectly intolerable. The cultivators will have no remedy. They cannot kill an animal for it will be forbidden. They cannot catch it because it is more or less wild, and if they did catch it, they could do nothing with it. They cannot take it to the pound because no one would take it out and our pounds would become over-crowded, and a kind of *pinjrapol*. The whole idea of stopping the killing of cows is really impracticable, quite apart from the objection which my friends the Muhammadans from their own point of view would have to it.

Now, Sir, I have mentioned these economic points because, I think, we cannot decide this matter entirely upon religious feeling without understanding where it will land us. And I would ask the Members of this Council, before they agree to this Resolution which prohibits cow-killing, fully to consider the true economic position of the question and the really serious practical difficulties which such prohibition will entail.

The HONOURABLE SARDAR JOGENDRA SINGH: Sir, the economic importance of the cow is certainly beyond doubt, in spite of what has fallen from the lips of the Honourable Mr. Seddon. I suppose he was speaking from his own experience in the Bombay Presidency, certainly not from experience in the United Provinces and the Punjab, where you can easily pick out a man who lives on milk diet by his splendid physique. It needs no very careful scrutiny to realise that milk is the most nutritious diet of the villagers in the Punjab and the United Provinces, and I think Bombay and Bengal cannot be excluded. Nawab Abdul Majid said that the Muhammadan villagers in the United Provinces were meat-eaters and they could get only beef cheaply. I am sure he will not assert this because . . .

The HONOURABLE NAWAB ABDUL MAJID: One thing, Sir, still they are meat-eaters.

The HONOURABLE SARDAR JOGENDRA SINGH: I do not deny that. They are meat-eaters in the sense that once a year a man eats meat. On the other hand, I am not prepared to support this Resolution for the very great reason that my Honourable friend Sir Zulfikar Ali Khan is about to move a Resolution proposing to safeguard the religious susceptibilities of His Majesty's subjects in other parts of the Empire, and we in India

[Sardar Jogendra Singh.]

cannot afford to injure those susceptibilities in India. The prohibition of the slaughter of cows should be by mutual agreement and I would ask the Honourable Member, Lala Sukhbir Sinha, to withdraw this part of the Resolution and press only for an inquiry for raising stocks and increasing the number of cows.

The Honourable Mr. Seddon remarked that the stocks were not decreasing. I am not sure whether they are not decreasing in some Provinces. I know the Punjab Government is deeply concerned about the decreasing stocks in the Punjab and they are specially considering how they can provide grazing grounds to keep the necessary stocks in the country. There is no doubt, as Mr. Seddon remarked, that you require good milking cows, and they need grazing grounds. What we need is good milk cows in place of poor milk cows; for that purpose too the second part of the Honourable Lala Sukhbir Sinha's Resolution would be most useful. What is really necessary is, that we should provide good grazing grounds and good stocks of cattle, and specially raise cattle where the military cantonments are for the use of the soldiers. If we can do this, I think we will greatly help in solving the milk problem of India which is a vital problem because it is the food problem. There can be no question that the food of the people is not being properly looked after. Milk is the food of the vegetarians and most of the people in the villages are vegetarians and milk and ghee are becoming scarce. Even a man who keeps cows finds milk so paying by selling it that he does not make use of it at all. The Punjab people say that if you look back twenty years there were more men strongly built and stalwart than to-day. The reason, they say, is simply this, that milk is not available and ghee is exported. The question of the export of cattle from India is another important question. Mr. Seddon said, if the cows are useless, what can you do with them? I do not see why we should not look after them, as we indeed do in India, before we go to the last resort of having to send them off to the slaughter house. I do not think the feeling in India on the subject will allow us to slay an animal, after getting work out of it for 20 years.

In conclusion, I will again ask the Honourable Mover not to allow the discussion to go on because it can serve very little purpose, but to press for the second part of his Resolution for a committee to be appointed to consider the whole question of raising cattle in India and improving the breed.

The HONOURABLE MR. B. N. SARMA: Sir, the discussion which has gone on so far has placed both aspects of the question before the Council fairly clearly and has simplified my task. There is a good deal of feeling, especially on the Hindu side, in the country that somehow the Government should interfere and protect the cow and respect their religious sentiment. A large body of people, who are not actuated strictly by religious sentiment, seem to be under the impression that the economic situation of the country demands such a step. There is, on the other hand, a very large volume of well-informed opinion that any step taken in the direction in which the Honourable Mover of this proposition asks us to move, would, far from benefiting the country, be disastrous to its true economic interests. This Resolution has led, as has been pointed out by some of the Muhammadan Honourable Members, to a feeling of great uneasiness among our Muhammadan countrymen and telegrams have been sent to Government, protesting against any interference by legislation in

the manner proposed. I shall allude to this aspect of the question later, but shall endeavour to convince the Mover—if anything further than what has been already said be necessary—that there is no need to be an alarmist—so far as the economic situation is concerned, in point of numbers. He himself has promised to respect the Mussalman sentiment and, taking him at his own word, not much can be done by the Government, even if it were otherwise possible. The first position, taking the economic aspect of the question into consideration, that has been put to us, is that there are far too few cows relatively to the needs of the people and relatively to the population in other countries, that the number has been diminishing, that the same may be said of bulls, bullocks and male buffaloes used for agricultural purposes, and that consequently something will have to be done in order to prevent the denudation of the stocks. I think, Sir, that is an inaccurate picture that has been presented to us. The Honourable Mover himself told us that it would be somewhat unsafe to rely upon the figures quoted by him as they appear *prima facie* in some of the books relating to statistics without the necessary qualifications referred to therein. But, if he would analyse carefully those figures in so far as they relate to all the Provinces where such figures are available and take the all-India aspect of the question, as we have to do now, he will realise that the number of cows and cow buffaloes, far from decreasing in number relatively to the population, has during the last decade actually increased. The number of cows and cow buffaloes was computed to be 47·7 millions in 1910-11 and increased to 50·4 millions in 1919-20. After the disastrous famine of 1918 it was computed to be 50·4 millions, that is an increase of 5·6 per cent. And the population, according to a rough census that I have taken from the figures available, could not have increased much faster, is not much more than 4 to 5 per cent. Therefore, the growth of cows and cow buffaloes has outstripped the growth of the population during this decade and there is no reason for alarm. And, if only the cow behaves well, I think we are in an ideal position. There is a cow per every five of the population or one for every household. And I think, therefore, we have no reason to be dissatisfied from that standpoint, if only we can manage to make good economical use of the cows that we have. Then, I shall take the number of bulls and bullocks and male buffaloes. There is no use in generalising here again, because Honourable Members will realise that the duty per pair of bulls or bullocks in Madras is different from what it is in Bombay, and it is different in Bombay from what it is in the Punjab or the United Provinces. It depends upon so many factors. But, if you take the all-India factor and take the figures which my Honourable friend himself has quoted, you will find that there is no cause for alarm even here. In 1910-11, it was 51·5 millions; in 1919-20 it was 54·5 millions, or an increase of 5·5 per cent. as against an increase in area of only 3·8 per cent. So here also I do not think we can say that the area has not increased in a relatively larger ratio. There has been an increase in the cultivated area; therefore the statement that new land could not be brought under cultivation or that existing land has gone out of cultivation on account of insufficiency of stock does not apply when we take an all-India view of the matter. There has been a noticeable increase in the number of ploughs and carts also throughout India, and this is an aspect of the question also which the Honourable Member may take into consideration. I do not mean to say, when I depict this rosy picture that there is no cause for an inquiry into the condition of particular districts or parts of provinces. I know that in parts of the Punjab,

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parts of Agra and possibly parts of Bombay, there has been a noticeable decrease. But that is due, as the Honourable Mr. Seddon put it, to various economic causes, and it is for the Provinces in whose hands Agriculture has been placed completely as a 'transferred' subject to see what can be done in that respect. The Honourable Mr. Jogendra Singh has told us that the question of exports has also to be looked into as being a vital one. It does not really arise on this Resolution, and I shall not deal with it in detail. I will only make one observation, and that is, we went into this in the Legislative Assembly yesterday and we found that there was absolutely no cause for alarm here either or for any adverse comment. We found that about 14,000 bovine cattle on an average went out of India from her ports during the last five years—the number has been smaller than during the preceding quinquennium reckoning from a year backwards—and that this was 0·001, roughly, of the total cattle population of the country. And most of these cattle, again, went from the Madras Presidency to Ceylon and the Straits Settlements where there is a large resident Indian population; and the average number exported to the foreign countries proper was only on the average 711—surely not a very large number. But the Government taking the circumstances of particular areas into consideration has prohibited, or has resolved to prohibit, the export of the Ongole breed from the Madras Presidency, and if any other Province should make out a good case for a similar prohibition on the ground of the undue depletion of stocks in that particular area, the Government of India would only be too glad to do what can be done towards checking the export.

Now, Sir, coming to the question of milk supply, I do not think I can add much to what has been said by the Honourable Mr. Seddon. The point here is one of quality and not of numbers. If, as has been pointed out by the Honourable Nawab Abdul Majid, there has been a diminution in the quantity of the milk a cow gives, it is because the cow is not being fed as well as it was being fed in pre-historic days, if I may so put it. But there do not seem to be any solid grounds for any such inference being drawn suggesting the deterioration of the cow. These averages are meant for the whole of India, and they would be fallacious if we apply them to all tracts alike. In Upper India we find that the yield is much larger than elsewhere. Government fully realise that the problem is an important problem because an increase of one seer of milk per head of cattle means really according to present prices an increase of wealth to the extent of about 300 crores. The milk supply at the rate of one seer per cow and two seers per buffalo cow has been computed to be worth 140 crores. We find that in Pusa we are able to have breed cows which would give at least five to six times, if not larger, supply of milk, and so the problem would be solved, if only the people are resolved to adopt measures which the Government have already indicated. The question therefore is one of improved breeds and not one of increased numbers.

The point has been made that infantile mortality is very high and increasing, and that it is due mainly to the insufficiency of milk supply. There may be some truth about this in particular areas especially amongst the poorer classes in towns where the price has gone up enormously. But speaking for the whole of the country that statement is absolutely incorrect. We find that after 1908 the infantile mortality has been on the decline, or at any rate was very nearly uniform, until 1918 when, owing to influenza, mortality rose amongst all classes of the population. Therefore, it is wrong to say that the infantile

mortality has been on the increase on account of insufficiency of the supply of milk. There are various other factors, such as child marriage, etc., which are accountable for it, and it is well that we should look into these aspects of the question and not suggest that the deficiency of milk supply throughout India has been the cause.

Then, again, the insufficiency of the ghee supply was cited as an indication that there has been a deterioration in the milk supply. What do we find? We find that the exports during the last eight years have fairly kept ground. Therefore, the ghee supply could not have diminished in India relatively to the needs of the population if India has been able to export to foreign countries quite the same quantity as it was able to export some years ago. It might be said that people are unable to buy ghee and consequently it is allowed to be exported. That again is an economic factor, not due to insufficiency of supply, but to inability to buy the supplies that are available.

Sir, if we really analyse the position, there is ample ground and justification for congratulating ourselves when we compare ourselves with other countries on the strength of our cattle position in point of numbers. There is no use of quoting to us the statistics of countries which are young, which have a small population with vast grazing grounds, where the occupation of the people is to rear stocks for export. If we take well-settled countries with an old established population into comparison, we have reason to congratulate ourselves so far as the numbers go. But we have no reason to be satisfied—we have grave reason to be dissatisfied—with the poor quality of our cattle. I will go into this matter a little in detail, for the simple reason that there is such gross ignorance on the subject outside that wild ideas are going about that something might have been done by the Government, which a blind Government does not do. Well, take the 50 million cows. The growth amongst them would be about 25 million calves per year. Well, then, even taking a minimum of immediate increased growth of only 5 per cent.; what do we find? The country would be absolutely unable to support it. I have shown already that really the number has not decreased. I have shown also that the number of acres under cultivation and the number of draught bullocks have not decreased. That is the number which the country wants really and which the country can support. All the rest must perish or must be exported unless additional food can be found, and I leave it to the Council to judge whether the economic aspect of the question is vitally bound up with the slaughter problem.

Then it has been charged against the Government that they do not supply sufficient grazing grounds, that restrictions are placed—inhuman restrictions—which naturally militate against the growth of the cattle population. I may say, Sir, there again, taking an all-India point of view, the figures do not support such a charge. The cultivable waste was 115 million acres sometime ago, it is on a proper computation 133 millions now. We have taken the various areas in Assam and Burma into consideration. Excluding them the figures are 74 and 75 millions. Taking the current fallows, and excluding Burma and Assam, again, we have no reason to be dissatisfied. The figures are 39·5 and 44·5. If you take the areas under fodder cultivation, there also there has been an increase. But we must realise that the growth of population would necessarily bring under cultivation vast areas which were used in populous villages as grazing grounds and there is no means of checking that, even if it

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be wise to do so, without the people's confirmation. The pressure of the population upon the foodstuffs of the country is also a factor which means less food for cattle. With these limitations the people have to grapple, and the only way seems to be to be satisfied with smaller numbers and better quality.

Sir, I have only one or two words with reference to the remarks made about the Army and the Burma meat trade. With reference to the Army I wish that no reference had been made thereto. The position advanced is really one which does not admit of much serious consideration. There are only about 70,000 British troops here and you want about 7,000 tons of beef for them. Assuming that that is so, what would be the number that will be slaughtered? Somewhere about 40,000 cattle—I am only putting it roughly because there are no statistics kept. Taking that a cow gives you 400 lbs. of beef, it will be about 40,000. 40,000 cattle as against an annual increase, if only you can feed them, of 25 millions! Or take it even at a smaller figure, what would be the proportion? So, from the economic point of view, is there any justification for saying that the Army is setting a bad example by depriving the people of their cattle wealth by insisting upon beef eating? I am told on very good authority that the Army, if only the Government of India could see their way to pay, would only be too glad to get a better quality of beef than is available in the Indian markets. That the Government of India cannot afford to pay for. But, apart from that, we have it from the Military authorities that prime cows, as such, are not generally slaughtered, that the price paid for animals is so very small, that no really useful cattle can possibly be slaughtered there, that it is only useless animals that are generally slaughtered, I will not say without any exception, and there is no need therefore for any importance to be attached to this factor.

Then comes the question as to the Burma meat trade. Here again, we have no figures. We have no data to go upon to show that there is any large denudation of stocks on account of this Burma meat trade. Well, say that Muhammadan butchers slaughter a number of cattle. You cannot prevent them from doing so. They say it is consumed by the people themselves. Then you must proceed to institute rigorous inquiries as to whether it is for foreign supply or for home consumption. Then, again, I would ask you, when Burma supplies you with rice, feeds you when you are starving, as to whether it is right on the part of India, if Burma wants a little meat, that you should say 'No.' Unless you are able to induce the meat-eating population in India to adopt *ahimsa*, to take to vegetarianism,—a position which I think need not be contemplated as a possibility at any rate, until those who believe in that doctrine are more aggressive in their peaceful propaganda and preach the Buddhist doctrine to the whole world—until that millennium arrives, we need not think of this legislation. But if we cannot legislate to prevent the Muhammadans and other beef-eating people from eating what they think is necessary for them, can we reasonably urge that a restriction be placed upon a part of the British Indian Empire, upon the convenience of a people who are supplying us in times of scarcity with the necessary food, which, if only they had their own way during the last two years, they could have sold to the outside world at a considerable profit? Inter-provincial and Burma trade stand on the same footing.

Sir, apart from these considerations, the Government do not want to say that they would not institute any inquiries whatsoever to see whether

anything further cannot be done towards improving the breeds of cattle, and checking the indiscriminate slaughter of prime cows or of useful calves. It is a large subject and I shall not take up the Council's time by dwelling upon it at any length. A satisfactory solution is dependent upon various economic factors, and it rests with the people of large cities, like Calcutta, Bombay and Madras, with the wealthy Hindus, Marwaris and others, who feel keenly as to whether they would afford facilities for dry cows being economically fed, thereby preventing the *gowalla* from sending them to the slaughter house. That is an undertaking which the Government cannot accept, but this much may be promised that the Government will institute inquiries as to whether any steps can be taken towards preventing indiscriminate slaughter of useful prime cows and calves by any municipal regulations, or otherwise, which must largely depend, again, upon the initiative of the Provinces themselves. The Government of India will exercise and can exercise very little control in a matter of that description. The final control must be in their hands no doubt, but still I think I should not say that nothing need be done, or that nothing can be done towards meeting the grave feeling of dissatisfaction prevailing in the country.

From the larger Indian nationhood point of view, I do strongly deprecate that any Resolutions of this character should be brought up either here or before the Legislative Councils. I would ask my Hindu friends to remember that, though they hold the cow sacred, though many of them are vegetarians, and all are non-beef eaters, the world at large has not been converted to that view. If they feel strongly, what they have to do is to convert the rest of the world to that view before they can ask the Government to move in the direction desired. We are in a democratic age. It is absolutely impossible for any Government to say to the people, 'This you shall eat, this you shall not'. If that is the position, and we have more than 70 million beef-eaters in this country, can we ever solve the problem of nationhood so long as the Hindu insists, by legislation, upon enforcing his view upon an unwilling country?

The very talk, the very agitation of the subject is likely to prevent any correct fusion and solidification of the Indian population. As has been ably put by the Hindu and Muhammadan speakers, it may be that the latter will come round and meet the Hindu view largely by moral persuasion outside the Council Chamber. But no good purpose can ever be served by bringing up questions of this character before the Legislative Assembly or asking the Government seriously to contemplate any steps whatever of this description. I know that the Muhammadan population, when we were discussing the question of reforms, was seriously apprehensive as to what their position would be inasmuch as they are bound to be in a minority and the only way in which their Hindu countrymen can inspire confidence in them and prevent the Government from getting into trouble, is by making it clear to their Muhammadan countrymen that no subject to which they may legitimately take exception would ever even be brought forward for serious discussion in an Assembly of this character. Sir, I have little more to say. Just a word about this committee question

THE HONOURABLE THE PRESIDENT : Does the Honourable Mr. Sarma wish to proceed with his speech?

The HONOURABLE MR. B. N. SARMA : I shall speak again if the Mover replies.

The HONOURABLE MR. P. C. SETHNA : I beg to move that the question be now put.

The motion was adopted.

The HONOURABLE LALA SUKHBIR SINHA : May I ask, Sir . . .

The HONOURABLE THE PRESIDENT : The Honourable Member will resume his seat. Once a closure is carried, his right of reply and everything else on the paper goes. The question is in two parts. The question is that the portion of the Resolution set out below be accepted :

'This Council recommends to the Governor General in Council the prohibition by legislation of the slaughter of cows in India for food except for sacrifice on Bakr-Id.'

The motion was negatived.

The HONOURABLE THE PRESIDENT : The question is that the second part of the Resolution set out below be accepted :

'This Council recommends to the Governor General in Council the appointment of an all-India Commission that may inquire and report on the measures which should be taken to improve the breed and increase the number of milch and agricultural cattle in India.'

The motion was negatived.

The HONOURABLE THE PRESIDENT : Does the Honourable Member press for a division ?

The HONOURABLE LALA SUKHBIR SINHA : I want a division. May I ask Sir, what will happen to the amendment ?

The HONOURABLE THE PRESIDENT : Order, order. The Honourable Member may speak when the division is over if he has any point of order to raise.

The Council then divided as follows

AYES—15.

Annamalai Chettiyar, Rao Bahadur
Ayyangar, Mr. K. V. R.
Jha, Dr. G. N.
Jogendra Singh, Sardar.
Kale, Mr. W. G.
Khaparde, Mr. G. S.
Lalubhai Samaldas Mr.
Nandy, Maharaja Sir M. C.

Ramabhadra Naidu, Diwan Pāha-
dur V.
Ram Saran Das, Rai Bahadur Lala.
Raza Ali, Saiyed.
Roy, Raja P. N.
Sukhbir Sinha, Lala.
Umar Hayat Khan, Col. Sir.
Zulfiqar Ali Khan, Sir.

NOES—27.

Abdul Majid, Nawab Muhammad.
Ahmedthamby Maricair, Khan
Bahadur.
Amin-ul-Islam, Khan Bahadur.
Barron, Mr. C. A.
Chatterjee, Mr. A. C.
Cook, Mr. E. M.
Dadabhoi, Sir M. B.
Edwards, Major-General W. R.
Elliott, Col. A. C.
Froom, Mr. A. H.
Hammond, Mr. E. L. L.
Harnam Singh, Raja Sir.
Holberton, Mr. E. J.
Jaffer, Khan Bahadur E. H.

Lloyd, Mr. E. S.
Murray, Sir A. R.
Richey, Mr. J. A.
Sarma, Rao Bahadur B. N.
Sastri, Mr. Srinivasa.
Seddon, Mr. C. N.
Sethna, Mr. P. C.
Shah, Mr. M. M.
Smith, Mr. H. Monerrief.
Vincent, Sir William.
Wacha, Sir D.
Wood, Sir John.
Zahir-ud-din Khan, Khan Bahadur
Saiyid.

The motion was negatived.

The HONOURABLE THE PRESIDENT: Does the Honourable Member desire to raise a point of order?

The HONOURABLE LALA SUKHBIR SINHA: I wanted to say that I had a right of reply, but why did I not get that right?

The HONOURABLE THE PRESIDENT: Order, order. It is desirable that Honourable Members should know the procedure that follows on the closure. When the closure is moved, if the House accepts the motion, the main question is then put. If there is an amendment which has already been moved, the amendment must also be put. If there is an amendment which has not been moved, it falls and the right of reply and the right of Government to reply on the reply also fall. If the Council wish to continue the discussion when the question is put 'that the question be now put', they should vote against it. I hope Honourable Members will remember that procedure.

RESOLUTION *RE* RELIGIOUS SUSCEPTIBILITIES OF HIS MAJESTY'S SUBJECTS.

The HONOURABLE SIR ZULFIQAR ALI KHAN: Sir, the Resolution which stands against my name runs as follows:

'This Council recommends to the Governor General in Council that he will be pleased to address the Secretary of State with the object of securing that full consideration is given to public opinion in this country before any matter is decided in which the religious susceptibilities of any class of His Majesty's subjects in India are concerned.'

Sir, during the debate which ensued on the motion of the Honourable Mr. Bhurgri some days ago, the question which underlies my motion was discussed to a certain extent. The question naturally arises now as to whether it is wise for me to initiate another debate to-day on the same point. I know that there is a weariness of feeling in this Council that, when this question has already been discussed, why inflict another debate again to-day. My plea against this is this, that the question which I am going to discuss is of enthralling interest, not only to India, but to the whole world and that, as at this psychological moment a very important Conference is being held in London, it is possible that a united effort on the part of this Council, which represents the whole of India, may bring about a desirable result conducive to the world's peace.

Sir, India is a very great country and in the loyalty of India I see not only an assurance of the Empire's safety and future, but also a guarantee of the world's peace. Relying on this conviction I think the Honourable Members here will not grudge me the opportunity if I again initiate this debate. Sir, the present deplorable situation in India is due to the belief, on the part of Indians, that their religious susceptibilities are treated with cold contempt by the Government. Before I develop my theme, I desire to acknowledge frankly and publicly the efforts made by the Government of India on behalf of the sentiments which are foremost in the thoughts of the people in this country. The Government of India have revealed a spirit worthy of the sense of their great responsibility. Their attitude in this matter is beyond praise. It would be the height of ingratitude on my part if I did not acknowledge this benevolent attitude of which the Government have given repeated proof. One could not expect anything else from the sympathy latent in the minds of such people as the Viceroy of India, the Honourable the Home Member

[Sir Zulfiqar Ali Khan.]

and the Honourable Mr. Bray. But, Sir, the gravity of the situation is such that we may yet make another effort. Although so many other efforts have already been made, we may make yet another effort to capture the attention of the people at Home who are now deciding the destiny of Empires. His Excellency the Viceroy's latest pronouncement leaves no doubt about the great effort that the Government of India has made, and I need not expand on this, but may content myself with the expression of the heart-felt gratitude of the Indians in this matter. The other thing which gives assurance of the Government of India's sympathy is the deputation which has been sent to London for the purpose of putting this question before the Conference which is being held there. The personnel of that deputation has been very carefully selected, and I think it commands the confidence of even the extremist section of the people of India. I have no doubt that in this the Government of India have earned the respect and confidence of the people.

Sir, those who have studied the history of India may find in it how at the time of the advent of the British Government in this country religious intolerance and bigotry prevailed in this country. In those early days people flocked round the British officers because they thought that they received from them impartial justice and scrupulous respect for their religious sentiments. Even private disputes of domestic nature were referred to English people for arbitration, and reports of their unflinching devotion to the sentiments of humanity and regard for justice spread all over this country. I am not exaggerating when I say that the Indian worshipped the English officers for their ideas of justice and liberty. Even on the most recent occasion, when the Durbar was held in 1911, some of us who were present here may have witnessed a most extraordinary sight of Indians rushing to the seat where the King-Emperor sat and kissing the ground on which rested the feet of His Majesty. I do not think that any more touching exhibition could be given of the feeling of loyalty and devotion to the Rulers. It was the Empire builders in those early days who reigned over the hearts of the people. Their house was the place where justice and liberty prevailed. It was, so to speak, the very sanctuary of peace and confidence. One thing which comes out in high relief is this, that British predominance in India was based on moral predominance. The British officers in India turned the minds of the people towards higher and nobler aspirations. They only seemed competent to awaken the benumbed beast to higher and nobler aspirations. The result of all this was that the dominion of Asia was acquired by these Empire builders and they earned the boundless devotion of the people of India. India was conquered by the Indians themselves for the British. From China to the English Channel the bones of Indian soldiers moulder testifying to the devotion of the Indians to the British cause. Sir, when the great War came, unprecedented enthusiasm during this War of Nations was shown by the Indian people without exception. Money, men and material were ungrudgingly given, and Indian troops were some of the first to appear on the scene in France. They not only saved France, but they saved European civilisation from destruction. Europe, Asia and Africa witnessed the deeds of heroism performed by the Indian troops. The British Empire emerged triumphant, more glorious than before. The world saw what India possessed in the wealth and martial spirit of our people, all devoted to the service of the Empire. The people of India went so far as to fight against their own co-religionists in the defence of the British Empire. Both Indians and British in joy and sorrow stood shoulder to shoulder as

citizens of a great Empire. Sir, in the consciousness of pride in their sacrifice and loyalty, the people of India made certain demands on the score of religious susceptibilities. The indulgence solicited was refused. A terrible revulsion of feeling happened, and at this juncture bitterness entered the soul of the people. As all of us are aware, in the East religion provides the most potent motive for all sorts of movements. This unhappy refusal certainly destroyed the trusting faith of early days, and it aroused throughout India a rancour which greatly affected the reputation of Government for respect for religious sentiment. What do we see? We see *hartals* all over the country. There is a wave of angry feeling travelling from one part of India to the other. On top of this the non-co-operation movement is initiated. This is a most gigantic resolve, unparalleled in the history of Asia. The grim mood of the people is such that the severest penalties lose their terror. The Hijrat movement is initiated, which shows that the people are not satisfied with the liberty which they enjoy in India as regards their religious sentiments. It was a pitiable sight to see thousands of people leaving their homes, leaving their dearest ones and their lands behind and going out of India for the sake of religious liberty. Sir, any far-seeing statesman may have discovered in that the symptoms of the times, and it afforded food for reflection. If the Amir had not refused asylum to those people in Afghanistan, I feel that numerous more people may have left this country and gone over to the other side of the frontier. We see another thing, Sir, that people seek glory in prisons; students leave their colleges; people renounce the luxury of their homes for the sake of serving their religion. Well, this is the state of the country which I have briefly outlined. The great Queen Victoria's Proclamation contains an assurance in which she says 'in their contentment our security'. Does this state of affairs, Sir, I ask, exhibit a state of security or contentment? I fear that no man with eyes to see will say that it is a state of contentment. This country has now been in a state of crisis for so many years, and I submit that only magnanimous and generous treatment of the sentiments underlying my motion will save this country from a great calamity. As a great well-wisher of the British Empire, I say that I believe the Home authorities will take such steps as to appease these angry feelings. Now, Sir, if relief is afforded what advantages will accrue from that remedy? I beg to assure the Council that the peril of war in the East will be averted; increase in the military expenditure will become unnecessary; the need for imposition of fresh taxation, which in view of the oppressive rise in prices would augment discontent, will be obviated; and incalculable blood and treasure will be saved. The Indian frontier menace will disappear and internal unrest will cease. These are advantages which, I hope, no Government will lightly throw away. The world invariably judges men of action by their latest deeds. Let the latest deed of the British Government be such as would bring back to the world peace, justice and reconciliation. With these few words, Sir, I beg to move my Resolution.

The Council adjourned for Lunch.

The Council re-assembled after Lunch, with the Honourable the President in the Chair.

THE HONOURABLE SIR WILLIAM VINCENT: Sir, it is unnecessary for me again to express the sympathy of Government with the Honourable Mover, because a very few days have elapsed since I explained in some detail the policy and attitude of Government to this Council on the question which

[Sir William Vincent.]

is the subject of debate to-day, and I am very anxious not to inflict a repetition upon the Council of what I said then; indeed it would be very unfair to the Council if I attempted to do so. The report of the debate has just been published, and any one who wishes to see what Government's views are can ascertain them from it. Further, I may say if the previous motion had been a Resolution instead of a motion to adjourn the House, the present debate would have been entirely out of order, and I believe myself that if the Honourable Member himself had been present and been permitted to deliver the speech which he had prepared, we might have been saved a second debate on the same subject. The only addition I can make to the information given in my previous speech is as follows. On that occasion I said that if the Mussalman members of the two Chambers of the Legislature would formulate their views on this question in a considered document, I would see that they were cabled Home. Since then I have received from the Muhammadan members of the two Chambers a document, the substance of which I cabled Home without delay to the Secretary of State, and I have no doubt that it has been placed before His Majesty's Government. I believe also that certain Muhammadan leaders in Calcutta made a representation to His Excellency the Viceroy on this subject and that he also cabled that Home. We have also received a telegram from the Secretary of State saying that, although he cannot guarantee this—as is quite reasonable—he has reason to hope that the deputation of Muhammadans which left India on the 19th February will arrive in time to enable them to be present before the question is finally decided by the Allied Conference. Turning to the specific motion before the Council, I submit that, having regard to what I said on the last occasion about the anxiety of the Secretary of State and his unceasing efforts on behalf of Indian Moslems to secure adequate representation of their views, it would be a work of supererogation almost, indeed an insult, to press upon him again the necessity of representing these facts to His Majesty's Government. In fact, this Council and the Government of India and every one else is fully aware that he has spared no effort in that matter already. In these circumstances, Sir, the matter having been fully discussed, and as I have already described to the Council the subsequent measures that have been taken by Government which, I hope, Honourable Members will admit, are in full consonance with the undertakings given in the last debate, I trust that some Honourable Member may think fit to move for a closure of this debate, because we are really wasting our time.

THE HONOURABLE THE PRESIDENT: Before we proceed further, I may inform the Council that I have received an amendment from the Honourable Saiyed Raza Ali which he wishes to move. It is directed to bringing out more precisely the object which underlies the wording of the Honourable Mover's Resolution. I think I ought to congratulate the Mover on his great skill in avoiding what might have been a breach of the rules, but if the Honourable Mover wishes to move it, I will allow him to do so, subject to Government having no objection.

THE HONOURABLE SIR WILLIAM VINCENT: May I state, Sir, that I have got a copy of the amendment, and Government raise no objection to its being moved on the ground of inadequate notice.

THE HONOURABLE SAIYED RAZA ALI: Having regard to the brief speech which has just been delivered by the Honourable Sir William Vincent,

I will take care to express myself in as few words before this Council as I can. The amendment of which I gave notice

The HONOURABLE THE PRESIDENT: Of which the Honourable Member did not give notice. .

The HONOURABLE SAIYED RAZA ALI: Before 11 o'clock

The HONOURABLE THE PRESIDENT: The Honourable Member did not give notice. If he wishes to move it with my permission he can do so.

The HONOURABLE SAIYED RAZA ALI: Exactly, but I gave notice to the Secretary before 11 o'clock.

The HONOURABLE THE PRESIDENT: The Honourable Member did not give notice. Notice is given in the manner prescribed by the rules, and an amendment handed in to the Secretary at the table is not an amendment with notice.

The HONOURABLE SAIYED RAZA ALI: I am fully aware, Sir, of what is contained in paragraph

The HONOURABLE THE PRESIDENT: Will the Honourable Member proceed with his statement. He did not give notice of his amendment.

The HONOURABLE SAIYED RAZA ALI: I will accept it, Sir, time being precious, I beg to move that the last line in the Resolution of the Honourable Sir Zulfikar Ali Khan be deleted and the following words be substituted in its stead. The words which I wish to be deleted are, 'before any matter is decided in which the religious susceptibilities of any class of His Majesty's subjects in India are concerned' and to be substituted by the words, 'by His Majesty's Government on the Khilafat question'.

The Resolution as amended would run thus:—

'This Council recommends to the Governor General in Council that he will be pleased to address the Secretary of State with the object of securing that full consideration is given to public opinion in this country by His Majesty's Government on the Khilafat question.'

I may at once say, Sir, that having regard to the scope of the Resolution of the Honourable Mover, perhaps it would be better if the words that I have proposed to be tacked on at the end of the Resolution are accepted. They would put the Indian point of view, and especially the view point of the Mussalmans in a better and more satisfactory manner perhaps than, if my Honourable friend will excuse my saying so, the words of his Resolution. The Honourable Mover has in a careful speech placed several matters before this Council, and I do not propose to go over the same ground once more. But there are just a few points that I think it is my duty to place before this Council. In fact, Sir, I am sure I voice the feelings of my co-religionists when I say that we are very thankful to all those who have helped us in this movement. I believe I should begin by thanking our fellow-countrymen, namely, our Hindu friends, who have stood by us all along. Nor can I forget the sympathy extended to us by Europeans and Anglo-Indians, whether they are permanent residents or they are birds of passage, so to say, to our cause. Again, I think I shall be guilty of rank ingratitude if I fail to mention the efforts made by His Excellency Lord Chelmsford and the Government of India.

I have very carefully gone through the speech delivered by the Honourable Sir William Vincent on the motion of Mr. Bhurgri. Now that speech

[Saiyed Raza Ali.]

lays down the attitude of this Government, and in so far as it goes I think we should express our sense of thankfulness to the Government. But my complaint on this question—let me put it clearly, Sir, before this House—is not against the attitude that has been adopted by the Government of India; our quarrel is unfortunately with the Home Government. We have been deeply conscious of the efforts that have been made by the Government of India, but the net result hitherto has been very small. A long list of the efforts that have been made by the Government of India was read out to the Council on the 21st February by Sir William Vincent. Now I accept that statement in its entirety. But, Sir, are we not entitled to ask what has been the outcome of the total efforts that have been made by the Indian Government? I must say that the net result has been, if not below zero, almost equal to zero. That, I must say, is not a state of affairs on which either the Indian people or the Indian Mussalmans are entitled to congratulate themselves. Making efforts to put the Moslem point of view before the Home Government is one thing, and influencing the Home Government to adopt that view-point in so far as it is not inconsistent with other interests, is an entirely different matter. Our grievance, unfortunately, has been that you have up till now completely failed to influence the policy of the Home Government. The initial mistake, if I may say so, that was made, either by the Government of India or the Home Government—I do not know which, since the Government have taken very good care to keep the entire matter shrouded in mystery and not taken the public into their confidence—has been the non-inclusion of a Mussalman representative at the Conferences that were held in London in the years 1917 and 1918. I mean, Sir, no disrespect whatsoever to the illustrious representatives that represented India when I say that, having regard to the momentous issues and having regard to the religious character of the questions that came up before those Conferences, it was the clear and the plain duty of the Government of India and the Home Government to have at least one Muhammadan representative. That duty was not discharged satisfactorily by the Government of India, and I must say at once that that was the initial error that was responsible for subsequent discontent among the Mussalman community. They felt, and I believe they were not wrong in feeling like that, that if some injustice was not going to be done at these Conferences, there was no reason against the inclusion of an Indian Muhammadan. I know, Sir, that there is a spirit of amity and friendship abroad between the races in this country, and I shall be extremely sorry to strike any discordant note and will take very good care to formulate my speech in words which will not be unpalatable to any Honourable Member in this Council or to anybody outside. But this much I must say, that the Government—perhaps I mean more the Home Government than the Indian Government—have treated us in a manner which was bound to lead to discontent and unrest. If you sow wind, you must not be surprised if you reap the whirlwind, and that is what we find to-day. Now the plain question is what to do, what should we do in this matter? The Khilafat question, as you are well aware, is a purely religious question. I do not mean that it has got no other aspects, but it is mainly a religious question; and if very deep feelings have been exercised on this question, that is only natural. I am glad to notice that since his speech was delivered by the Honourable the Home Member, the Indian Government has taken care to send two Sunni representatives. I am aware that the Honourable Sir William Vincent the other day told us that the question being a

Muhammadan question, it was not necessary to distinguish between the Sunnis and Shiahs. Now that is a statement at which I was surprised, coming as it did from a very responsible Member of the Government of India. If you just for a moment consider the position of the Irish, and if you were to take a case in which a Round Table Conference were to take place between Sinn Feiners and the followers of Sir Edward Carson, would it at all be reasonable to ignore totally the Irish clergy? I submit that the analogy is perfectly the same and holds good in the case of India. However, that is a matter which I should pass over since two Sunni representatives have been included. I myself, being a Shiah, though in entire sympathy with the Sunni feeling on this subject, feel that I have got a greater right to press the claims of my Sunni brethren on this question. I am not at all ashamed of confessing before you, Sir,—and I am glad that Sir William Vincent is present — that I feel considerable hesitation though I will try to perform that duty to the best of my poor ability, in representing the real genuine religious Sunni sentiment on this question. The question now is, what are we to do? Without any desire to prolong this debate, I submit, Sir, that the Government have it yet in their power to do a lot in this matter. There have been two wounds under which we Indians have been smarting. I am glad to notice that efforts are being made to heal one of those wounds. I mean the Punjab. Whether those efforts are adequate or not

The HONOURABLE THE PRESIDENT: Order, order, we are not talking about the Punjab. Will the Honourable Member confine himself to the subject of the amendment.

The HONOURABLE SAIYID RAZA ALI: The other question is that before the House to-day. Now I was just going to acknowledge what has been done on the other question, but since you think, Sir, that I should not refer to that

The HONOURABLE THE PRESIDENT: I have already told the Honourable Member he should not refer to that.

The HONOURABLE SAIYID RAZA ALI: Therefore I say that here the Government have got a very good opportunity of pacifying 70 millions of Indian Mussalmans. What should be done, of course, is the main question. I am not in a position to lay before this House any cut-and-dried scheme. The Muslim view-point has been put before the Government by the Khilafat Committee and by the members of the Indian Legislature, as also by the members of several Provincial Councils, and I do not think I can usefully take up the time of the Council in going over the same ground again. But one thing, Sir, I do feel and which I should like to say. It is all very well for Great Britain to say that it cannot base its entire policy on the wishes of the Indian Mussalmans. But, Sir, is it not due to the Indian Mussalmans and to the Indian public in general that the same regard should be paid by Great Britain and the Home Government to their wishes on this question as would have been paid to the unanimous demand, on a similar question or any other question, if that demand were to be presented by the Canadians, Australians or South Africans? I do not think that I am putting my grievance very high; I think that this is the least which we are entitled to expect from the Government. On any question relating to the war, if the Australians, the Canadians or the South Africans put forward a unanimous demand, I do not think the British Government could afford to ignore that demand. Now we, on this question, in India

[Saiyed Raza Ali.]

are unanimous, and I submit that if any real regard is going to be paid to our wishes, at least British policy should be moulded to the same extent in this matter as if the demand had been presented by a self-governing Colony. Cannot we claim the same consideration? I am sure that the Home Government would have not been in a position to treat us in the manner in which it has, if we had complete self-government or *swaraj*—and I can use that word since it has the sanction of His Royal Highness the Duke of Connaught—and there is absolutely no sinister meaning in it. Therefore, I beg to move the amendment which I have just read out to the Council. We have heard quite a lot about what the Government are doing and we know exactly what the Government have done, but I do say that what they have done is not very much. To me, this is the time for action. There is a Conference going to meet in London to which representatives have been sent. The keystone of all professions is action. We have nothing to do with high sounding words or the professions of sympathy which have been made. This is the time for action and the attitude of the Home Government on this question will be judged by the result of the deliberations of the Conference which is meeting in London.

With these few words I commend my amendment to the favourable consideration of my Honourable Colleagues in this Council.

The HONOURABLE THE PRESIDENT: The question before the Council is that the Resolution, as amended, and which runs as follows, be accepted:

‘This Council recommends to the Governor General in Council that he will be pleased to address the Secretary of State with the object of securing that full consideration is given to public opinion in this country by *His Majesty's Government on the Khilafat question.*’

The HONOURABLE MR. DENYS BRAY: Sir, I am considerably embarrassed. On the one hand I have every sympathy—as every member of the Indian Government has sympathy—with the cause which Indian Moslems have at heart. On the other, I am extremely doubtful of the wisdom of the tactics pursued by the Honourable Mover of the Motion and the Honourable Saiyed Raza Ali to-day.

The Honourable the Mover's speech was one which would have made a very admirable prelude to a debate had he initiated one when the opportunity to do so first offered. Again, it would have made a most valuable contribution to the debate on the Honourable Mr. Bhurgri's motion. It lost nothing in weight because of its studied sobriety. On the contrary in world politics it is not the most strident or shrillest voice that carries farthest. But, Sir, we have had our debate—a debate headed, I notice, in our printed proceedings by the title Khilafat movement. I think myself that it would be most unfortunate if we gave His Majesty's Government to whom a copy of the proceedings of February 21st is going by this mail any excuse for thinking that that debate of ours, weighty, full, sincere and unanimous as it was, does not represent the full and final views of this House.

And, Sir, I think we should be jealous of the reputation of this Council. It should not be bruited abroad that this Council has so much time on its hands, so little business for its idle hands to do, that it is prepared to discuss and re-discuss and discuss again a matter on which it has passed its opinion in so weighty a manner as it did on the Honourable Mr. Bhurgri's motion.

The HONOURABLE SIR ZULFIQAR ALI KHAN: Sir, I have very little to add to my speech and I have very little criticism to make. The only

adverse note struck was by the Honourable the Home Member who unfortunately expressed his criticism of the Resolution which I have moved, in unfavourable terms. I was aware of the necessity when I moved my Resolution, but I explained in my speech at the beginning that the necessity was of such a nature that I felt I was justified in moving this Resolution. I also explained that this was the psychological moment when the expression of unity in this Council could go out to the members of the Conference which is meeting in London to discuss this question. I do not think that any objection can be raised on that score. With these few words, Sir, I hope that the Government will accept this Resolution.

THE HONOURABLE SIR WILLIAM VINCENT: Sir, I am not quite sure what the Honourable Member wishes me to do. I am quite willing to send a copy of these proceedings to His Majesty's Government by the earliest mail and to send an abstract by telegram, but I do not think it will materially add to what we have already done. If, however, that meets with the wishes of the Honourable Member I shall be very glad to do so, in which case I think he might withdraw his Resolution. It is as I have explained a work of supererogation to ask the Secretary of State to secure that full consideration is given to the public opinion of this country. I think it is an unnecessary proposal and, as I said before, if I promise to forward these proceedings to the Secretary of State, I think the Honourable Member might withdraw his Resolution.

THE HONOURABLE SIR ZULFIQAR ALI KHAN: In those circumstances think there is no alternative for me but to withdraw my motion.

THE HONOURABLE THE PRESIDENT: Before the Resolution is withdrawn we must get the amendment out of the way. The Mover must either withdraw his amendment or put it to the vote.

THE HONOURABLE SIR ZULFIQAR ALI KHAN: I rise to say that I accept the amendment.

THE HONOURABLE THE PRESIDENT: The question is not whether you withdraw your Resolution, but whether the Honourable Sayid Raza Ali withdraws his amendment. We must first of all dispose of that. Does the Honourable Sayid Raza withdraw his amendment?

THE HONOURABLE SAIYID RAZA ALI: May I rise to a point of purely personal explanation? If the Mover of the Resolution is prepared to accept my amendment, does not my amendment stand or fall with the substantive proposition?

THE HONOURABLE THE PRESIDENT: Your amendment stands first and it must be disposed of first. Where an amendment has been proposed to a question the original motion cannot be withdrawn until the amendment has been first disposed of. You have already heard the Mover say he is willing to withdraw his Resolution. Are you willing to withdraw the amendment?

THE HONOURABLE SAIYID RAZA ALI: I for my part would leave it entirely to Sir Zulfiqar Ali Khan.

THE HONOURABLE THE PRESIDENT: That is not possible. You have been told that the Mover is willing to withdraw his Resolution and you must say whether you withdraw your amendment or not, or I must put it to the Council. If the rule was otherwise if you and Sir Zulfiqar Ali Khan were not in agreement as you are on this occasion, he could prevent you from getting your amendment before the Council by withdrawing his Resolution which would be

[The President.]

manifestly unfair. Will you say whether you withdraw your amendment or not?

The HONOURABLE SAIYID RAZA ALI: In view of the statement made by the Honourable the Home Member I ask the Council's leave to withdraw the *amendment.

The amendment was by leave of the Council withdrawn.

The HONOURABLE THE PRESIDENT: The question is that the Resolution reproduced below be withdrawn:

' This Council recommends to the Governor General in Council that, he will be pleased to address the Secretary of State with the object of securing that full consideration is given to public opinion in this country before any matter is decided in which the religious susceptibilities of any class of His Majesty's subjects in India are concerned.'

The motion was adopted.

RESOLUTION *RE* REMOVAL OF EXCISE AND CUSTOMS DUTY.

The HONOURABLE MR. SETHNA: Sir, I beg to move the Resolution which stands in my name and which runs as follows:—

' This Council recommends to the Governor General in Council that the excise and customs duty of six annas per gallon on motor spirit which is being levied since March 1917 be now removed.'

In March 1917 on behalf of the Government the Honourable Sir George Barnes brought forward a Bill before the Imperial Council, the object of which was to levy a duty both excise and customs on every gallon of motor spirit consumed in the country. In introducing the Bill the Honourable Mover explained, and explained in very emphatic terms, that there was no desire on the part of Government thereby to raise revenue, but that the sole object was to introduce the measure as a war necessity—a war necessity in the sense that because petrol was arriving in smaller quantities there was not enough for military requirements, and it was necessary for Government to control the supply available for the military and consequently for purposes of the war. The Honourable Mover further explained that he had a precedent to go upon in regard to what he proposed to do in the fact that the Home Government were also levying a duty of 6 pence per gallon on motor spirit imported in the United Kingdom. He added further that in the United Kingdom in addition to the duty of 6 pence per gallon they also rationed the supply of every individual consumer of motor spirit. He explained however that, so far as India was concerned, he would be content with just a levy of 6 annas per gallon, and would not ask for rationing the supply of consumers for the good reason that it would involve a very large administrative machinery for collection, and that further, if there was rationing in India, it would bring in its train both evasion and friction. After this explanation and the assurance that it was purely a war measure the Honourable Mover requested the House to support the Bill ungrudgingly. The Council gave a ready response and the Bill passed its three stages on the very day on which it was presented. There was hardly any discussion on the subject: the only other speaker who followed the Honourable Sir George Barnes was the

Honourable Mr. Bhupendranath Basu, and his speech was more in the nature of a question. He pointed out that, prior to the war, the price of a tin of two gallons of petrol was Rs. 1-12, but since the war it had risen to Rs. 2-12 and he inquired if the duty now proposed would raise the price per tin of two gallons to Rs. 3-8, to which of course the Honourable Member replied in the affirmative.

Now, Sir, Honourable Members in this Council are aware that it was hardly ever the practice of the Imperial Council to allow any Bill, and particularly any Bill which had anything to do with increased taxation, to pass unchallenged. But this Council will also admit that it was the practice of the same Imperial Council during the strenuous years of the war to extend every possible help to Government in passing, and in passing unanimously, any measure which was conducive to the successful termination of the war. This accounts, Sir, for the Bill having been passed without any change. If there was anything in the speech of the Honourable Mover or in the wording of the Bill which might have given any indication that after the war was over this duty would be continued, in any shape or form, I for one am confident that that Council would not have allowed the Bill to be passed without proper reservations. No reservations were made and the Bill was allowed to pass because of the emphatic assurance of the Honourable Sir George Barnes that it was absolutely a war necessity.

The war has been over for two years. Government have neither repealed the duty nor have they given any indication as to when, if at all, they propose so to do. The only inference the public can draw from this attitude of Government, is that the revenue yielded is so fat and tempting that the Government are now chary and very unwilling to give up a source of revenue which has come to them as a windfall. But Government have received no more than what they expected. The Honourable Sir George Barnes explained that in 1915 there was consumed in this country $4\frac{1}{2}$ million gallons of petrol and he expected that in 1917, namely in the year in which the Bill was moved, the consumption would be 7 million gallons, of which at the rate of 6 annas, the duty would amount to $26\frac{1}{2}$ lakhs of rupees. Now, Sir, the consumption of course has naturally gone up as might be expected in a progressive country like India, and I am obliged to the Finance Department for the figures they have furnished me with. According to the same, the excise duty on petrol in the year 1917-18 was $23\frac{1}{2}$ lakhs, in 1918 $34\frac{1}{2}$ lakhs, and in 1920 $41\frac{1}{2}$ lakhs. I leave out of count the duty derived from customs because it is a negligible quantity inasmuch as the bulk of our petrol supply comes from Burma on which excise is charged.

I quite realise that I shall be taken to task, and perhaps taken to task severely, for my audacity in bringing forward my Resolution even two days after the Honourable Mr. Hailey has presented his Budget estimates for the year 1921-22 showing a deficit of $18\frac{1}{2}$ crores of rupees. I admit that Government needs all the revenue it can possibly get. But my point is that here is a duty which was charged at a time when it was needed for a particular purpose. Government knew that they had to withdraw it. Government might have withdrawn it before our Budget estimates showed a deficit a year ago, and yet Government did nothing of the kind. The public had a right to expect that this duty would have been withdrawn immediately after the cessation of hostilities, and the more so as this duty has been recognised to be very irksome. Sir, that is not my description of this duty. It was the Honourable

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Member himself who in his opening speech so labelled it, and I hope therefore the Government will recognise the necessity of removing it.

Motor cars and motor lorries are fast substituting horse and bullock traction all over the country. It is fortunate that it is so. But in the larger cities, in addition to helping the people to carry on their work more expeditiously, they contribute in a measure to improve the sanitation of those cities by the fact that a larger number of motor cars and motor lorries brings about a diminution in the horses and cattle stubble, and consequently the roads are kept cleaner. We are living, Sir, in an age of competition, when one has to go through as much work as possible in as short a time as possible, and for this reason the motor car is no longer a matter of luxury, but a matter of necessity to a business man. A business man does, on an average about 25 to 30 miles a day and he consumes about 2 gallons of petrol on which the duty is 12 annas, and the duty per mensem amounts to as much as Rs. 20 to Rs. 25 to Government, which at a time when the cost of living has gone up so high, is indeed a burden and a hardship to motor car owners, particularly so because it is a direct tax. It is not the individual alone who is affected. Take the case of smaller industries, those industries which require for their use motor spirit. In his very able Budget speech the Honourable Mr. Hailey only two days ago observed that the trade boom has passed away with uncanny rapidity, and it has left behind it a trough of depression of which it is possible we have not yet seen the worst. This applies equally to large as well as small industries, and I think it is the bounden duty of the Government to promote and further the success of these small industries. The continuance of this duty will, in my opinion, cripple the smaller industries to a very great extent. Government are providing ways and means to meet a deficit of as much as 18½ crores. It is certain that Government, if they so will it, can also arrange for the levying of a further 40 to 50 lakhs from other sources than a duty on petrol. If they do this, they will thereby redeem a solemn pledge and not break faith with the public, but the public will be rid of a duty which is all the more irksome because it is a direct tax.

The HONOURABLE MR. E. M. COOK : Sir, if I rise so early in this debate it is because, I think, that I may be able materially to shorten the discussion. I think that in moving this Resolution my Honourable friend must have the sympathy of the Council, not indeed on the merits of the Resolution, which are extremely slender, but because of the circumstances in which he has brought forward his motion. If it had come up on the day for which he obtained a place for it in the ballot on the first occasion, *i.e.*, before the presentation of the Budget, he would have had an easier task. For, in that case, he would, with his considerable forensic skill, have been able to make out a fairly plausible—I do not say at all convincing—case for the acceptance of his Resolution. As it is, he is confronted with a position of considerable difficulty, in the shape of a very large gap between the expenditure and the revenue of this country, which has by some means or other to be filled up. He has therefore, it seems to me, Sir, been thrown back on an attempt to expose the methods by which an unscrupulous Government—he did not use the word ‘unscrupulous’, he is much too polite—the methods adopted by an unscrupulous Government to find money at the expense of the payers of this particular tax. In short, not to put too fine a point on it, and to put the matter somewhat bluntly, the proposition that he has put before the Council is this :—Once an

item of revenue has disappeared down the voracious maw of the Finance Department, then, it does not matter what promises were made—it is perfectly hopeless to endeavour to get the monster to regurgitate it. Sir, I think I can give a very simple answer to this accusation. My Honourable friend said that this taxation was imposed for certain specific administrative reasons arising out of the war. I quite agree. He then went on to point out that those administrative reasons have now disappeared. I entirely agree. My answer is that, if the reasons for which the tax was imposed in 1917 have disappeared, so also has the tax. The tax which is now being levied is not the same tax that was imposed in 1917. The fact which my Honourable friend has overlooked in his researches into the matter is that, when those administrative reasons disappeared, the Government considered, and the Legislative Council also considered, whether the tax should then expire, or whether it should be reimposed, not as a war measure, but as a definitely revenue-producing measure. The result of that deliberation was the Act of 1919, which my Honourable friend has not mentioned. I think I need only read from the Statement of Objects and Reasons. 'The tax, though it originated in administrative necessities, has become a useful source of revenue, and the Government of India consider that it cannot conveniently be rescinded at a time when it is necessary to impose additional taxation. Signed J. S. Meston, 5th February 1919'. I find by reference to the Legislative Council Proceedings that this came up on two occasions for debate. Not a word was said against it; not a voice was raised against the reimposition of this tax as a revenue-producing measure. I submit that it is rather too late now to come up, two years afterwards, and say that this ought not to have been done, or to ask this Council to pass a vote of censure upon the doings of the Old Imperial Legislative Council. I must decline, therefore, Sir, and I hope this Council will also decline, to assist in the exhumation of the body of this war measure, which died and was buried with all fitting solemnity two years ago here in this very place.

I think, however, we might be a little generous to my Honourable friend, in view of the courage with which he has brought forward his Resolution. Let us endeavour to stretch our imaginations. Let us suppose that, instead of being empty, our coffers were full, that there was a surplus, and therefore a case for remitting taxation. Would this Council then agree that the users of motor spirit should have the first claim upon any remission of taxation? I have heard of other taxes which are paid by other classes of the community, not so well-off and not so easily able to bear taxation. I have heard of the export tax on tea, regarding which there is considerable feeling, I believe. I have also heard of the export tax on hides, which is now alleged to be ringing the death knell of that industry. I have also heard of a large number of other taxes. Therefore, I think, if it is a question of remitting taxation to the extent of something like half a crore a year, this Council would be extremely well-advised to consider what other objects it could devote that half a crore to. But, as I have said, that is all completely academic, and I submit, Sir, that my Honourable friend has not made out a case, either that there has been a breach of our promises, or for a remission of taxation in the way that he suggests.

THE HONOURABLE MR. W. G. KALE. —I rise, Sir, to oppose the Resolution. After the remarks which have fallen from the Honourable Mr. Cook, it is

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really superfluous on my part to add any arguments of my own to show the unreasonableness of the proposal of my Honourable friend Mr. Sethna.

His first argument was that this tax was a war necessity and that it was imposed as a war measure. But we know that many war necessities have the awkward knack of sticking on even in peaceful times. There are many taxes which were imposed in critical times, but have had to be continued on the ground that they were absolutely necessary. Take the case of the salt tax. The salt tax was enhanced as an extraordinary measure, but it has not been found possible for Government to remit or to reduce that tax. In reducing or remitting a tax altogether, one important matter has to be taken into consideration, and it is this. What is the kind and nature of the tax which it is sought to remit? Here is a tax upon petrol, and my Honourable friend has drawn a very piteous picture of the motor-car owner who has to pay such a large additional amount as Rs 25 a month on account of the increased cost of petrol. In the new Budget which has been placed before us, various new taxes have been imposed upon all classes of the community, upon the middle classes, upon the lower classes, and upon the humble classes; and all of them have to suffer more or less from an extra burden of taxation. And here is a proposal for relieving the motor-car owners from the alleged onerous burden of the tax which falls upon them.

Another remark of my Honourable friend was that some other source of taxation may be found to take the place of the petrol duty. The Honourable Finance Member has exhausted almost all sources of taxation, and he has distributed his taxes in such a way that not a class of the community has escaped scot-free. Under these circumstances, it would be very difficult to find out an altogether new source of taxation at all, and my Honourable friend has not pointed out what that source should be. I am afraid that the proposals of the Honourable Finance Member will have to be scrutinised, and we may have to ask him to give up some of his proposals in order to give relief to the humbler classes of the community. We cannot, therefore, afford to lose this existing source of revenue. I am not at all impressed by the argument of the violation of a pledge. I do not think myself that there was a pledge given. It was a tax which was necessitated by extraordinary circumstances. Are not the extraordinary circumstances continuing to-day? We are told that the war has ended. Has the war ended from the point of view of economic and social conditions which have supervened after the close of the hostilities? So far as the consequences of the war are concerned, we may say that the war is going on even to-day, and consequently, the war measures have had to be continued. There are a number of war measures—extraordinary measures that were taken in war times—which have been, therefore, continued. I do not, therefore, think that this Council should recommend to the Government that this source of revenue should be abandoned, especially on account of the fact that the burden of new taxation will fall upon the lower classes of the community, and this is not the time when the motor-car owners, the richer people in the country, should be relieved of the so-called burden with which they are oppressed. With these few words I oppose the Resolution.

THE HONOURABLE LALA SUKHBIR SINHA: I move that the question be now put.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that the Resolution, which runs as follows:—

‘This Council recommends to the Governor General in Council that the excise and customs duty of six annas per gallon on motor spirit which is being levied since March 1917 be now removed.’

be accepted.

The motion was negatived.

RESOLUTION *RÆ* AMENDMENT OF CERTAIN ENACTMENTS IN REGARD TO USE OF FIREARMS.

The HONOURABLE MR. SRINIVASA SASTRI: Sir, I move that—

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‘This Council recommends to the Governor General in Council that the Code of Criminal Procedure and, if necessary, other enactments, be so amended as to secure the following points in the suppression of riots and unlawful assemblies:—

- (i) No fire-arms should be used except on the written authority of a Magistrate of the highest class that may be available on the spot;
- (ii) In cases of grave emergency when no Magistrate is available in the neighbourhood, the chief Police or Military officer present on the spot may, if he considers that the riot or unlawful assembly cannot be suppressed otherwise, employ fire-arms; but the onus of proving the emergency and the impossibility of securing the presence of a Magistrate within the proper time shall lie on the officer so acting;
- (iii) Before resorting to fire-arms, the Magistrate or other civil or military officer responsible shall read or cause to be read a proclamation, both in English and in the local vernacular, similar to that contained in the English Riot Act;
- (iv) Fire-arms shall not be used for one hour after such proclamation has been read unless, in the meantime, the assembly or crowd actually causes serious damage to person or property;
- (v) Before the crowd is actually fired upon, the fullest warning shall be given;
- (vi) The Magistrate or other civil or military officer responsible shall take all reasonable precautions to see that no more injury is inflicted on the crowd or assembly than is absolutely necessary;
- (vii) The sanction of the Governor General in Council should not be a condition precedent to the institution of a criminal prosecution against officers or other persons who have acted illegally in the suppression of riots;
- (viii) Every such prosecution shall be instituted in and triable by the Sessions Court having territorial jurisdiction, with the previous leave of such Court or the High Court of the province.’

Sir, in this Resolution I separate the use of fire-arms from other means that the authorities commonly employ to put down riots or unlawful assemblies. It seems to me that fire-arms being a deadly weapon, their use should be expressly sanctioned by the legislature and regulated carefully by its provisions. In England, a long series of judicial decisions and a Statute known as the Riot Act have placed this matter on an entirely legal basis, so that the law is definite and clear. In India, on the other hand, a few meagre sections of the Criminal Procedure Code embody all the provisions governing this matter. It is curious that in those provisions there is no mention at all of fire-arms. The words used in that connection are merely ‘force’ and ‘military force.’ I do not mean at all to imply that military force or perhaps even the expression ‘force’ may not include the use of fire-arms. That is not my point. My complaint is this—that the use of such a weapon as a fire-arm in the suppression of a riot should not be expressly mentioned in a Statute that purports to govern the matter and regulate in detail all its provisions. It is to supply that defect that I have brought forward this

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Resolution. I have taken the opportunity to supply what seem to me to be a few great gaps in the law of India, gaps the result of which we have seen too prominently every now and then in the action of the authorities when they are confronted with occurrences of this nature. Now I will try to show you that, although my Resolution reads formidable on paper to those that are not familiar with the law on this subject, and although it includes a great variety of provisions, it really is nothing more than the reproduction of either the existing practice in India or the existing practice in England. Every single point that I make here is taken either from the Indian practice to-day or from the English law. 'No fire-arms should be used except on the written authority of a Magistrate of the highest class that may be available on the spot.' This is the provision in our own Code. Now whether the written authority of a Magistrate is always procurable may be open to question, but I contend that in English law or rather the practice of it, the written authority is an important requirement. I will refer to that matter a little later.

No. ii. I require here the presence of a Magistrate or if a Magistrate be not available, the Chief Police or Military officer may take the necessary action. That also is a provision contained in our own Code. Only I make it clear in the latter half that the onus of proving the emergency and the impossibility of procuring the presence of a Magistrate shall lie on the officer so acting. Now this is merely a recognition of the fact that the suppression of a riot or unlawful assembly is primarily the duty of the civil authority of the locality. If therefore at any time the civil authority has got to be superseded and its functions assumed by another authority, the authority so assuming the functions must be carefully protected. It is in order to protect them that we say that they must secure the presence of a Magistrate, but if they cannot, they must satisfy themselves that when the matter is made the subject of a judicial proceeding or of a public inquiry, they should be able to show that they acted in an emergency which made the presence of a Magistrate impossible.

No. (iii). The Magistrate or other civil authority should read or cause to be read a proclamation similar to that contained in the English Riot Act. Now, here at once, before I make the remarks appropriate to this head, I wish to state that the language of this particular sub-division of my Resolution leaves something out. I have not said anything as to what should happen in case the situation should not allow of the proclamation being read, in case before the authority proposing to act arrives on the spot, the riot or unlawful assembly should have been already committing excesses or should have got completely out of hand. I think, therefore, that a correction requires to be made, and I regret that I left the language in an imperfect state. It would be remedied if I said, for example, 'The Magistrate or other civil or military officer responsible shall, unless the situation has got out of hand in the meantime, read a proclamation, etc.' I am not using exactly legal language, but I am only trying to make the substance of my amendment clear. Now, the reading of the Riot Act is a provision taken out of the English law, which does not find mention in our books. Nevertheless, its object is simply to protect the authorities acting. Now, when life has to be taken and afterwards an inquiry or judicial proceeding takes place, it should not be possible for people who were excited at the time to come and say 'I do not know whether I did this or not.' The requirement that a certain proclamation should be made is so clear and striking, that no officer performing

that operation would afterwards be in a position to plead that he forgot whether he did it or not. It is a land-mark in the course of the proceedings, and it is quite desirable that the Magistrate should, before he takes the extreme step, be compelled, if possible, and if the situation allows it, to take that step. It is not my ingenious view of the matter. That is the view taken by great authorities. Lord Haldane, giving evidence before a Committee that went into the use of the military on such occasions, expressly said that this was a protection. The Riot Act in 99 cases out of 100 is read. 'It is for the protection of the Magistrate and the military. It forms an additional protection.'

Then too, the reading of the Riot Act and the provision that follows, namely, that an hour should be allowed to elapse before fire-arms are actually used, is also for the purpose of giving time for the riotous assembly to disperse. As a matter of fact, those who have been mixed up with such crowds will easily appreciate the difficulty of extricating ones' self from such a place. A man may be perfectly willing to run away from the spot, but he would find it extremely difficult to do so unless he was very strong and very determined and had a number of comrades to help him in the escape. It is really for the separation of the guilty part of the assembly from the innocent part of the assembly that this time of one hour is generally given in the English law. I might say that that is not my view, but the view taken by high authorities. I would just read again the evidence of Viscount Haldane :

'I have known of no case of a riot in which it has not been known that the Riot Act was being read, as the Magistrate is seen with something in his hand and though they could not hear it if he read it ever so loudly they can see it read and the lawful part of them disperses ; it is the riotous part that remains.'

I will read a passage from another writer who says the same thing. He rejoices in the happy name of Wise. He says :

'The timely warning given by the reading of the Riot Act brings many to a sense of their danger and, as far as possible, ensures the speedy vindication of the law, or at least the separation of the innocent from the guilty.'

Now, it may be said, to allow an hour to lapse might be a very dangerous thing when the authorities are faced with a determined mob. It is perfectly true. Nobody says that this hour should in any and every case be allowed to lapse. I have provided, unless in the meantime the mob gets out of hand and perpetrates felonious crimes, in which case, even before the hour is over, the authorities are free to resort to the use of fire-arms and to adopt extreme measures.

Then the next thing that we come to is No. v :

'Before the crowd is actually fired upon, the fullest warning should be given.'

Now that is a provision already contained in our Police Manual. It is nothing new, that the fullest warning should be given. Now the meaning of this warning has been somewhat misunderstood. People used to think some years ago that this warning consisted in the Police at first discharging a few blank cartridges. That, however, is an idea that has now been absolutely exploded, and I will just read the reason which Viscount Haldane alleges as underlying this abandonment of the practice of using blank cartridges at first.

He was asked 'Do you think it desirable to use blank cartridges first of all, after the Riot Act is read?' 'It is most undesirable, because the mob get it into their minds that you have nothing but blank cartridges and they come out and get killed.' The military authorities say 'We are here and if we

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use our fire-arms it is to kill. That is why we demur to being called on except in the last and most perilous necessity. If the mob get the impression we are there with only blank cartridges they will come along and get killed, and the result will be bloodshed galore.' This provision, that no blank cartridges should be used, has been adopted recently in all our police and drill manuals. So that on that point the practice here has been brought into line with the English practice.

No. vi.

'The Magistrate or other Civil or Military Officer responsible shall take all reasonable precautions to see that no more injury is inflicted on the crowd or assembly than is absolutely necessary.'

That is contained in our Code already. It is also in our Police Manual, and it is in entire conformity with the English practice.

Clause (vii) says that 'the sanction of the Governor General in Council should not be a condition precedent to the institution of criminal proceedings against officers or other persons who have acted illegally in the suppression of riots.' This, too, is in conformity with the English practice. In England, it is considered axiomatic that, where a severe step of this kind has had to be taken by the authorities, the individuals aggrieved or the public should have it in their power to bring the proceedings under the scrutiny of a judicial tribunal; a Judge and Jury determine the matter and the individual subject who feels himself aggrieved has his remedy. I do not think the idea would be tolerated for a minute in England that these proceedings should not be made the subject of scrutiny in a Court of law. In fact, if I may read for one moment a great authority on the Law of the Constitution, Dicey, we see this :—

'Officers, Magistrates, soldiers, policemen, ordinary citizens, all occupy in law the same position. They are each and all of them bound to withstand and put down breaches of the peace, such as riots and other disturbances. They are, each and all of them, authorised to employ so much force, even to the taking of life, as may be necessary for that purpose, and they are, none of them, entitled to use more.'

Here follows the important part—

'They are, each and all of them, liable to be called to account before a jury for the use of excessive, that is, of unnecessary force.'

Now, from the evidence from which I have been reading so often, from all text-books on the subject of English law, from the common law text-book written by that great authority, Odgers, passages could be cited which, however, I will not do on this occasion, to show that the judicial tribunals are always open to receive complaints against the use of excessive or unnecessary force. It is only in India that it has been considered necessary practically to shut out all such inquiry from law Courts. I use the word 'practically', because our Code says that such proceedings may be instituted with the previous sanction of the Governor General in Council. I do not know why. We know that in all Provinces there have occurred riots and unlawful assemblies fairly frequently; riots and unlawful assemblies have had to be put down and lives have been lost. Nevertheless, we have not got one reported case on the subject in our body of reports. In other words, either the people have not applied for the sanction of the Governor General in Council and sought remedy in the Courts, or where such application was made it has not been granted. I do not know which the fact is; but one thing we know; we must not draw hastily any inference from this fact. You must not suppose that because there have been

no published reports on this subject, the public in India have always been quite satisfied that on every occasion that the authorities have employed fire-arms, they employed them rightly and they employed them just to the extent required and no more. On the contrary, most of us know that immediately such a thing happens, lots of complaints appear in the papers and loud demands appear for a public inquiry; and I do not think I am exaggerating facts at all when I say that in nearly all these cases, within my experience, there has been left a soreness of feeling in the minds of the public that the law has not been vindicated. At any rate their minds are left in a state of great dissatisfaction. Now, I venture to think that it is absolutely necessary that we should place the Indian law on this matter on just the same footing as the English law, and that we should allow people who feel themselves aggrieved to go to Courts of law without let or hindrance. Sir James FitzJames Stephen, that great authority on Indian law as on all law, has given a reason why in India this very great restriction is placed on the institution of judicial proceedings as a result of the suppression of riots or assemblies by force.

The two great reasons he gives are these, that if that was permitted, a great number of law suits, both civil and criminal, would be launched against the officers acting, and it would be impossible to deal with them. The second reason alleged is, that this particular evil will grow worse and worse as the Indian lawyer grows in strength and in efficiency. Now, I can understand executive officers sympathising with arguments of that kind. I can understand officers called upon to exercise these severe powers naturally shrink from being called upon subsequently to account for the way in which they have been used. But I would ask fair-minded people to consider whether it is perfectly right that such extraordinary power as the taking of life should be given to the executive in any country without their being called upon subsequently to explain the circumstances in which they used that great power. It seems to me that the claim of the executive in this country to set up as their own judges is absolutely without justification. They cannot say 'if we have used fire-arms we will ourselves later on make an inquiry and then publish the information to the world that we have found everything satisfactory'. If you entrusted mere money to an officer and asked him to spend it, you all require that somebody else should come and audit it, not that officer himself or his executive superior. The other day we were told by the Honourable the Finance Minister that we are going to have an Auditor General who is going to examine the way in which all monies are spent by officers of the Government, and being himself independent of the Government of India should report only to the Secretary of State. Now, if that is the ordinary principle to be observed in matters where money is concerned, ought not the same principle to be applied where you have human lives to regard? People come and take away human lives. They may have done so with every justification, but the public have got the right to insist that that matter should be inquired into. It is for the protection of the executive themselves that they must not say 'we are so self-righteous that if we are satisfied that everything was right, everybody else shall be satisfied as well'. I think that is a position which the executive ought not any longer to take. Now the essence of a good law, I have heard jurists explain, is not the mere enactment of substantive provisions, but the embodiment of suitable remedies at law. It is not enough to vest a right in a man. You must further provide that he has the power and the unrestricted opportunity of exercising that right. It is not enough to impose an odious duty on the executive. You must further empower the law

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Courts to see that the executive have used their power properly and with due regard to public safety. It is the presence of remedies rather than the presence of substantive provisions that constitute the merit of any law, and I am afraid the provisions of the Criminal Procedure Code on this subject, judged by this test, fail lamentably. There are no remedies: Now the two ways in which ordinarily this matter is satisfactorily settled are either by a judicial proceeding such as is so frequently reported in English Law Reports, or by means of a public inquiry. Now, I have already explained to the Council how the first remedy is practically shut against us. The requirement that the Governor General in Council should previously sanction such a prosecution has effectually shut that remedy against us. What is the other remedy? A public inquiry, which will satisfy the people concerned that everything has been done with due care and caution. Now what happens in India? It is remarkable, I cannot conceive of people being shot down in England without the Ministers responsible being ready at a moment's notice, to grant an inquiry should any one say he was not satisfied and he wanted an inquiry.

In India, most extraordinary to think, you find that the public have to kick about and agitate and cry aloud and raise a hue and cry before the Government will appoint a public investigation. I think that is not as it should be. The authorities responsible should be ready, especially as they have shut out judicial Courts from access, always to grant a public inquiry: 'here we are, we have done our duty, you come and examine matters.' On the other hand, if after very great trouble we secure an inquiry, I have known a Government appoint the head of the district himself to conduct the inquiry! The head of the district whose conduct and whose mishandling of the situation has brought about the whole affair, he himself, in one case, sat to inquire. In another case that I remember, the finding was that the fire-arm or the rifle went off by accident. Now this accidental firing is a thing with which we are fairly familiar in India. It is not only in the suppression of a riotous assembly. Even in judicial trials, when people have been shot down, we have often known a rifle to go off by accident. Now I do not wish to be very hard, but I think the military authorities would be well advised, if things go on like this hereafter, to require all manufacturers of rifles and all other fire-arms to label every item that they sell 'warranted not to go off at its own will.' Now, we do not want the fire-arms in the possession of the police or the military any longer to go off of themselves. Then, in another case that I know of (it is quite recent) the Government promised an inquiry, but for some reason, they laid themselves open to grave suspicion by subsequently refusing it; the suspicion being that in the course of their own departmental inquiry, they came upon facts which they did not like the public to know and which a public inquiry would certainly have exposed. Now, things of that kind are intolerable in a well-developed system of jurisprudence. I venture to ask one question. This Honourable House may remember time after time when the Executive came to us with requests for power, when the Press Act, for example, was passed, when the Rowlatt Act was passed, and we called in question the provisions, the invariable answer from the Executive was,—'Why do you object to this? Are you ever going to offend against these salutary provisions? It is when a wicked person transgresses these necessary provisions that we are going to collar him by means of this law. Why do you object? You are a respectable man; why need the innocent be afraid of a measure of this kind?'

Now, Sir, in political controversies it is an exceeding joy to be able to hoist people with their own petard. If I ask that judicial remedies should be made available, open and unrestricted after acts of this kind, why should the innocent officers care at all? Should they come forward?

The HONOURABLE THE PRESIDENT: I would remind the Honourable Member that his time is already up and he has yet to develop head No (viii). I would ask him to do so as shortly as possible.

The HONOURABLE MR. SRINIVASA SASTRI: I will only say one word on No. (viii) before I sit down. I am very thankful to the Honourable the President for allowing me to continue after my time is up.

In No. (viii) I provide something like a half-way house between the unrestricted allowance of judicial proceedings which prevails in England and the very restricted manner in which that thing operates in India. Judicial proceedings shall be tried, I provide, only in Courts of high standing, in Sessions Courts, and even in their case they should not be instituted as of course, but with previous leave obtained, because I understand that it would be a check on frivolous prosecutions.

I move the Resolution which stands in my name.

The HONOURABLE SIR WILLIAM VINCENT: Sir, the Government are always anxious to meet leaders of this Council, as far as possible, and I think that in the course of this Session they have given every indication of this desire. I regret to say that I am unable to do so fully on the present occasion, and I hope Members of this Council will believe me when I say that this is only because I feel that some of these proposals are both impracticable and unsound. As I hope to be able to convince the Council, I feel that these proposals would impose what in fact are unreasonable limitations upon the power of executive officers if the Council seeks to have law and order maintained in this country. I feel also that in fact they involve departures both from the Indian law - and again here I would make certain that no misunderstanding arises - and in some respects from the law obtaining in England. I do not say this in regard to all the proposals, but merely in regard to some as I shall endeavour to make clear to this Council. I will now follow the example of the Hon'ble Mover and take the recommendations *seriatim*. The first proposal is 'that no fire-arms should be used save on the written authority of a Magistrate.' I want to be quite clear in regard to this, that this is neither the law in England nor the law in India and anyone who reads sections - I think they are 127 and 128 of the Code - will be satisfied on this latter point. I will cite now from an authority, who really explains what the English law is on this point. Mr. Mayne says: 'Experience has shown that a riotous assembly is the first step in the contest between violence and law, and that, if it is not checked at once, all law is swept away, and every species of crime is certain to follow. So imperative is the necessity of immediately checking such riotous assemblies, that the law not only imposes this duty upon every authority entrusted with the preservation of the peace, and upon every private person who is summoned by him to assist, but also invests every military man, and even every private person with the same power to be exercised under the same restrictions'.

There is no doubt therefore as to the law either in England or this country. Now, let us examine the practical side of the case in India. Let each Member picture to himself a senior officer of police, we will say a Deputy Inspector General or a Senior Superintendent, with a force of armed police at a place,

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say, if you like, a place like Nankana, where there was a riot the other day. There is also somewhere on the spot a Naib Tahsildar or an Honorary Magistrate of the third class. Now, is the Superintendent of Police or military officer to be dependent entirely on the written order of that Magistrate before he can take steps to prevent what may be very serious loss of life or damage to property? Is that a fair obligation or requirement to cast on any executive officer of the Crown? I do not think that anyone will answer that in the affirmative. An Honorary Magistrate or a Naib Tahsildar, possibly timid, possibly ignorant of the law, possibly unwilling to take the responsibility of ordering the use of force, a mob looting and murdering or about to commit such crimes, an urgent necessity to disperse it, and yet a senior police officer, with a force available to do so, knowing that they are going to commit murder or worse, is not allowed to act because he has not got the written order of the Magistrate who is available on the spot. That I say is a wrong theory. A Magistrate can give an officer no greater authority than the right he has under the Code, and the common law, namely, the right to disperse a mob if it is necessary in his opinion to do so for the purpose of preventing dangerous crime. A certain latitude must be given to him. He must be allowed to exercise his discretion as to when and when not he is to use this force. I may say that I know—I speak subject to correction—I know of no country—of no civilised country—where such a direction is required.

Now I want to take up the second item in the Resolution. This proposal is this.—‘That in cases of grave emergency when no Magistrate is available in the neighbourhood, the chief police or military officer present on the spot may, if he considers that the riot or unlawful assembly cannot be suppressed otherwise, employ fire-arms; but the onus of proving the emergency and the impossibility of securing the presence of a Magistrate within the proper time shall lie on the officer so acting.’

Now the first part of the proposal does differ very little from the principles acted on by Government and in that sense, so far as it represents the law on the point, I have no objection to accepting it. The law says “When the public security is manifestly endangered by any such assembly, and when no Magistrate can be communicated with, any commissioned officer of His Majesty’s army may disperse such assembly by military force, but if, while he is acting under this section, it becomes practicable for him to communicate with a Magistrate he shall do so and shall thenceforward obey the instructions of the Magistrate, as to whether he shall or shall not continue such action.’ In obeying a requisition from such a Magistrate ‘every such officer of His Majesty’s army shall obey such requisition in such manner as he thinks fit, but in so doing he shall use as little force, and do as little injury to person and property as may be consistent with dispersing the assembly and arresting and detaining such persons.’

Those are the limitations that are now imposed upon officers in dispersing these assemblies. They are exactly those which I tried to explain the other day in my speech on the Punjab affair, in the Legislative Assembly, where I said that the very definite limitations imposed on the use of force in every civilised country obtain in India as much as anywhere else. Therefore, the principle of the first part of this item may certainly be accepted, but as to the second part, namely, ‘that the onus of proving the emergency

and the impossibility of securing the presence of a Magistrate within the proper time shall lie with this officer,' I say that it is not in accordance with ordinary principles of justice that you should impose an impossible liability on a police-officer or a soldier.

A soldier engaged in suppressing civil disorder is doing, as we have been frequently told, a very disagreeable job, a job which he does not want to do, and which he dislikes being called on to do at all. And if, contrary to ordinary law, he is to be presumed to have acted wrongfully and improperly until he can prove the contrary, then I fear myself that you will have very few soldiers, and indeed very few police-officers, willing to undertake that duty which is essential in the interests of the country and the public peace that they should do so. I think myself that the law at present is perfectly fair and adequate.* Turning to section 132 of the Code of Criminal Procedure, we find that an officer is protected against prosecution only when he is acting in good faith; for a definition of 'good faith,' you have to go back to the Penal Code which says 'that a person is acting in good faith if he acts with due care and attention.' That is the law; so that the only occasion when an officer is not liable to be prosecuted is when he has acted with due care and attention.

Then again, look at the words 'the chief police or military officer present on the spot.' Let me take the case of a riot down at the Delhi station. It actually happened a couple of years ago. Delhi station is an enormous place. Suppose there is a senior police-officer at one end and a riot is going on at the other end where there is another police-officer, about a quarter of a mile away, with murder and arson going on under his eyes. What is the police-officer to do? Is he to wait until he receives orders from the senior officer at the other end, to watch men and women being killed, or trains attacked, and do nothing? The chief military officer is quarter of a mile away. He is somewhere on the spot—God knows where he is.—A junior officer cannot get into touch with him. Is all this to go on and yet is he to remain powerless to prevent it? Is not the provision of the Criminal Procedure Code more suitable. I mean the section which provides that if he cannot communicate with the Magistrate, he can act on his own initiative, but shall communicate with the Magistrate as soon as he can do so? What is going to happen to the ordinary right of defence of property and person? Every person has the right to defend not only his own person and property, but the person and property of anybody else from violent attack. Is it not the duty of the police-officer to prevent murder and rioting? Is he to remain inactive when he sees men and women murdered, and not exercise that power to defend the person and property which the law allows to every person? I say that to accept this limitation upon the power of a police or military officer would be unreasonable. As to the English law I shall cite the wording of Tindal, C. J., on this point. This is from an address to the Grand Jury after the Bristol Riots of 1832. 'By the common law every private person may lawfully endeavour, by his own authority, and without any warrant or sanction of the Magistrate, to suppress a riot by every means in his power. He may disperse or assist in dispersing those who are assembled. He may stay those who are engaged in it from executing their purpose; he may stop and prevent others whom he shall see coming up from joining the rest; and not only has he the authority, but it is his bounden duty as a good subject of the King, to perform this to the utmost of his ability. If the riot be general and dangerous, he may arm himself against the evil-doers to keep the peace.' The position therefore is that a police-officer or a military officer has no less

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privileges than the ordinary citizen, and this privilege it is proposed to remedy. For that reason also I maintain that this suggestion of the Honourable Member is really opposed both to English and Indian law.

I now turn to the third and fourth recommendations. I must be brief in my speech, owing to the time-limit. Here it is proposed that before resorting to fire-arms, the Magistrate or other civil or military officer should read a proclamation similar to that contained in the English Riot Act, and he is not to fire until an hour after the warning has been given. Now, this requirement, I believe, is based on an absolute misconception of the English law on the subject. It is certainly not in accordance with our law, nor is it according to the best authorities that I have been able to study in accordance with the principles of the English law.

After a grave riot in England there was one of those public inquiries to which Mr. Sastri rightly attaches such importance. It was after the Featherstone riots, and the Commission consisted of Lord Bowen, Sir Albert Rolit and Lord Haldane, I suppose men of sufficient eminence to carry weight anywhere. The facts were that an officer in charge of troops fired after what is called the reading of the Riot Act, but before the hour had elapsed. That is the point that I want to make quite clear. The hour had not elapsed. On this point this is what the learned judges say :

‘The taking of life can only be justified by the necessity for protecting persons or property against various forms of violent crimes, or by the necessity of dispersing a riotous crowd which is dangerous unless dispersed, or in the case of persons whose conduct has become felonious through disobedience to the provisions of the Riot Act, and who resist the attempt to disperse or apprehend them. The riotous crowd at Ackton Hall Colliery was one whose danger consisted in its manifest design, violently to set fire and do serious damage to the colliery property and in pursuit of that object to assault those upon the colliery premises. It was a crowd accordingly which threatened serious outrage amounting to felony, to property and persons, and it became the duty of all peaceable subjects to assist in preventing this. The necessary prevention of such outrage on person and property justifies the guardians of the peace in the employment against a riotous crowd of even deadly weapons.’

They go on to say, ‘One salutary practice is that a Magistrate should accompany the troops. The presence of a Magistrate on such occasions, although not a legal obligation, is a matter of the highest importance. But, although the Magistrate’s presence is of the highest value and moment, his absence does not alter the duty of the soldier, nor ought it to paralyse his conduct, but only to render him doubly careful as to the proper steps to be taken. The order of the Magistrate has at law no legal effect. Its presence does not justify the firing if the Magistrate was wrong. Its absence does not excuse the officer for declining to fire when the necessity exists. With the above doctrines of English law, the Riot Act does not interfere. Its effect is only to make the failure of a crowd to disperse for a whole hour after the proclamation had been read, a felony, and on this ground to afford a statutory justification for dispersing a felonious assemblage even at the risk of taking life. In the case of Ackton Hall Colliery, an hour had not elapsed after what is popularly called the reading of the Riot Act, before the military fired. No justification of their firing can therefore be rested on the provisions of the Riot Act itself, but the fact, that an hour had not expired since its reading did not incapacitate—(I want to make this clear)—the troops from acting when outrages had to be prevented. All their common law duty as citizen and

'soldiers remained in full force.' That is, if they were going to prevent crime and felony, they were entitled to do so. This indicates clearly that the reading of the Riot Act or a proclamation does not affect the right of any man or the executive officers of Government to disperse a crowd. It is a common law right and the reading of a proclamation merely makes the members of the crowd guilty of felony and gives an additional statutory right to disperse such a mob.

I want the Council here also to consider the practical effect of this proposal in India. Let us suppose that a police-officer or a military officer is in charge of 50 troops or police and a mob, say, of a Kisan Sabha, is going to attack a taluq-dar's residence—fastness, was the word used in a debate in the old Council,—in Oudh. The police-officer sees the mob on its way, and knows exactly what it is going to do. He ascertains from their cries and shouts, and their leader's exhortations and the arms they carry, that they are going to commit acts of violence. Is he necessarily to address them, 'Here, wait while I read the Riot Act proclamation to you.' I do not suppose that any man would ever hear or understand it in this country if it was read whatever the effect may be at home. At that time is it possible for him to stop the crowd and read the proclamation and then give them an hour's grace to do what they like? By that time they will have scattered themselves round the zemindar's house, they will be looting, burning and murdering to their heart's content. Is the police-officer to wait until that is possible? Is it a reasonable proposition that he should not act 'unless, in the meantime, the assembly or crowd actually causes serious damage to person or property', supposing that he knows what they were going to do? that he is well aware that he can stop this and by the loss of two or three lives, save the loss of 150 lives later. At Katarpur there was an actual instance where if the man in charge had fired at an earlier stage the lives of many innocent Muhammadans would have been saved. And the Judge who tried that case came to that conclusion. Any one who has seen a mob in this country or anywhere else, wild with passion, prone to any kind of mischief, ready for violence and in some countries even for homicide on the slightest provocation, inflamed by wild agitators and absolutely unamenable to reason, must be surely aware that the proposals before the Council are impossible of acceptance. Once the mob is out of hand, and is allowed to resort to acts of damage and violence, it is impossible for the police to act effectively. There is in these cases a moment at which it is possible to disperse a mob with very little loss of life, but if the authorities are to wait until the mob has gained force and courage, it will then often be too late for the available police force to attempt to disperse the mob or to protect those whose life and property are in danger. That is the position which this Resolution will lead to.

As regards the fifth proposal in the Resolution I think that has always been acted upon and, as far as possible, warning is given. In many cases, however, it is impossible to give a warning. In the case of a mob of 10,000 people, and that is the kind of mob in the case of which fire is resorted to, it is impossible to give a warning that will be heard by any save very few in the mob, but so far as possible warning is always given, and I have no objection to accepting this part of the Resolution.

As regards the sixth proposal also I am glad to be able to meet the Honourable Member. This condition is already in the law, as it stands at present, and every Magistrate or other civil and military officer responsible shall take all

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reasonable precautions to see that no injury is caused in excess of what is absolutely necessary.

Turning to the seventh proposal I quite admit that under the English law any one can prosecute a police-officer or a Magistrate or a military officer for any act done illegally without restriction. But it is essential in the interests of our officers to have some restrictions in this country, some half-way house as the Honourable Member calls it, and I would suggest that the reasonable restriction is to require the sanction of the Governor General in Council to a prosecution. I know no case in which an application made to the Governor General in Council has been refused. There is no justification for any fear of improper refusal. At any rate under the new *regime* with these two Chambers of the Legislature ready to press the matter before Government at any time, there need be no fear that justice will not be done. If the idea of going to the Courts for sanction is affirmed I say it is contrary to the principles embodied in the Code. That principle is that the Courts only give the sanction in cases when the offence has been committed in or in connection with the Court. That I believe to be the principle of the law at present, but on the merits I do not think a Court would be the proper authority to give sanction in these cases, because first of all they would give the sanction and then try the persons. I would, therefore, myself retain the present sanction of the Governor General in Council, subject always to the pressure which this Legislature and every local Council can and would bring to bear on it if justice is not being done. If no limitations are imposed there is a great danger, of course, of constant prosecutions of every officer whether he has done rightly or not. Indeed, I may say frankly that there are certain Extremist agitators who would put up a case against an officer every time whether they had acted right by or not. As it is our officers are daily subjected to the gravest abuse. I saw in the 'Independent' the other day an article which will show what our officers have to suffer: This is the extract I refer to. It is an attack on the Commissioner of Police in Madras, absolutely unjustified so far as I know:

'But it becomes perfectly comprehensible if we realise that the Commissioner of Police had come out with the Assistant Commissioners and the Inspectors not to guard the lorries or to prevent a breach of the peace, but to shoot and kill and teach the labourers a lesson. It becomes comprehensible if we realise that the Commissioner was seeking for a moral effect. Prussianism was rampant.'

That is the sort of thing that our officers are already exposed to, and if they are to do their duty fearlessly and resolutely, they ought at least to be protected from frivolous and mischievous prosecution. I may say that in France executive officers are protected from action in ordinary Courts. The question of punishing them is entirely one for the administrative Courts.

Here, in India, I would suggest to this Council that there ought to be some limit if you are to prevent frivolous and vexatious prosecutions, or if you are to prevent officers from being frightened from doing their duty by the fear of such prosecutions. As to the authority to sanction such prosecutions, I suggest that the proper authority is the Executive Government which will be more and more under the influence of the Legislature; and let the judicial authorities do their duty when they try the men, and then and then only.

In conclusion, there is one general question which I should like to deal with, a point of great importance. We are faced now in this country with the

frequent prospect of disorder here and there. I myself think that we shall be very fortunate if we escape in the next few months without serious outbreaks of sporadic disorder in different places such as you have had quite recently in parts of the United Provinces, in parts of the Punjab and in Bihar too. This Council is anxious to deprive the Executive Government of any power to intern people or to restrain them from speaking by executive order. If we use our present powers in any case we are told we are guilty of great oppression. When even a prosecution is launched against any man for the most flagrant breach of the law, the outcry is raised repression is rampant. If an officer acts with ordinary vigour and initiative in quelling a riot or in suppressing disorder, what is the result? Why articles such as the article which I read from the 'Independent.'! This Council consists largely of men of substance and of vested interests. Do they want to make it impossible for our officers to do their duty and maintain law and order? Our officers have already lost a certain amount of initiative, and I can assure this Council that this is in some cases becoming quite a serious matter. They do not know what to do; whatever line they take they are liable to censure, liable to prosecution, liable to attack, and I want to know whether the Council desires to increase their difficulties. Whether at a time of great difficulty it wishes to impose upon them a new burden, impose upon them, if I may say so, a task more difficult than that imposed upon the Israelites in the land of Egypt of making bricks without straw, that of maintaining law and order and at the same time deprive them of all facilities for doing so.

The HONOURABLE MR. E. L. L. HAMMOND: Sir I welcome the opportunity of intervening early in the debate because, if the House will allow me, I should like to put forward, as shortly as possible, the view of that much-abused person, the district officer. I myself, I believe, am the only Member of this House who, when the Session ends, will return to a district where riots may occur at any time. There have already been the mutterings before the storm. Only recently we had out the military police to guard the headworks of a big colliery. Therefore, when I heard from the Honourable Member that this Resolution was intended for the protection of the officers, naturally I felt pleased. Having heard him enlarge on it, my feeling now is 'God save me from my friends!' I can assure the Honourable Member that, so far from giving the District Magistrate any protection, it would make his position absolutely impossible, and I propose to show that by reference to a few concrete cases that have recently occurred. First, however, let me point out one omission. The Honourable Member's Resolution is full of exceptions, relative to grievous hurt, damage to property and the like, but no place is found in these exceptions for self-defence. Now I should like to make it perfectly clear to him that if I see the look of murder in a man's eyes I shall, in the parlance of the ring, try and 'get home first', and if I have a pistol I shoot, nor do I wait for any proclamation or any warning or anything else, and I believe I have that inherent right of self-defence. Apart from that, I would like to point out to the Honourable Member exactly what is the legal effect of his proposal, as laid down by the highest Court, the Privy Council, in what is known as the Mymensingh case in 1907. Mr. Clark was the District Magistrate of Mymensingh. He had to search a zamindar's house for fire-arms. A civil suit was brought against him and he pleaded among other things the Arms Act, section 25 of which says that before making the search the Magistrate 'must record his reasons in writing.' Mr. Clark was in a hurry and he did not record his reasons, and this is what

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Their Lordships of the Calcutta High Court said :

'The present case falls within the class of cases . . . when a Statute creates a special right ; but certain formalities have to be complied with '—formalities of the kind that the Honourable Member suggests—

'A strict observance of the formalities is essential to the exercise of the right. As the defendant in the case now before us did not comply with the required formality by recording the grounds for his belief before he proceeded to make the search this . . .

And the Privy Council said :

'Their Lordships are disposed to agree with the majority of the Court of Appeal that Mr. Clark, not having complied with the preliminary conditions prescribed by the Arms Act, cannot defend his own action under Statute.'

I may add that Their Lordships found he had a perfect right to do so under the Criminal Procedure Code, and that a grave miscarriage of justice had occurred in the Calcutta High Court.

Now take one instance of a riot I picked up in a paper the other day. Let me read this short paragraph:

'During the afternoon Mr. A. R. Wallace, I.C.S., City Magistrate'—this was at Lucknow—'went to the station accompanied by the Superintendent of Police . . .

The strikers were trying to come out. Mr. Wallace had the men arrested for throwing stones at the Punjab Mail. Immediately afterwards he was struck by a brick which knocked out three of his teeth.'

Does the Honourable Member consider that 'serious damage' under the Act which he proposes, and would Mr. Wallace, after having had those teeth knocked out, be justified in ordering the use of fire-arms? Is the Magistrate under these circumstances to be condemned to run the gamut of the Police Court? Can't you hear them cross-examining him in the police court? 'Now, Sir, you are on your oath. Where did the brick come from? You said the rioters were coming from the West. If you were looking for the rioters in the West, how did you get the brick from the East?' and so on in the same strain.

The Honourable Mover referred to a gun going off by accident. I do not know whether he had any particular case in his mind, but I rather fancy he was referring to the Rae Bareilly riot in which a policeman did make that excuse; but actually it was found that he fired in self-defence. Curiously enough when I was looking for the Rae Bareilly account I found another account of another disturbance, a small paragraph from which I shall read to the House. It is headed 'Rowdy Scenes in Bombay. A Moderate roughly Handled'. It refers to an election and runs as follows:

'Undaunted by jeering and hissing, which was persisted in all the time, the lecturer managed to speak though his voice was time and again drowned. When the meeting was over the lecturer's friends had to rescue him from personal violence at the hands of the angry and shouting crowd.'

The subject of the lecture, I gather, was 'The present situation'. I shall presently tell you the situation in which the lecturer found himself. 'A large body of infuriated students surrounded the car of Mr. Srinivasa Sastri . . .

THE HONOURABLE THE PRESIDENT: Order, order. I trust the Honourable Member in his interesting exploration of these cases will, as far as possible, confine himself to cases which have no personal application.

THE HONOURABLE MR. E. L. L. HAMMOND : I shall follow the ruling of the Chair. I shall take the case of the ordinary political lecturer who suffers as Mr. Lloyd George did in Birmingham before the war; who has to escape as best as he can. Why I was going to select this particular case was because the lecturer gave an instance of moderation, and I was presenting the Honourable Member with an argument for his use. Here we might say, is a man driving a motor car through difficult traffic, saying 'owing to the fact that I kept my foot on the brake and not on the accelerator, I brought it home without a scratch upon its body'. I suggest that it is not putting the brake on always that is good; indeed having the brake always on is something of a danger; it is the fact that there are people there who insist on the observance of the rule of the road; and if you remove the police—and it is the police whom in point of fact we must go back to eventually for the preservation of law and order—if you do enact as the Honourable Member suggests, if you will place on them the onus of more responsibility, you will also give them a loop-hole for evasion.

After what has fallen from the Honourable the Home Member, there is not a great deal more for me to say; and more particularly I am unwilling to refer to any recent events. The sad chapter of tragic events in the Punjab has been closed; but there is a lesson to be learnt; and if I have learned the lesson aright, the first is that the District Magistrate cannot divest himself of responsibility. It must rest upon him first and foremost and all the time. Secondly, he is to use the minimum amount of force; and the corollary to that is, that he may have to be cruel to be kind—he may have to use force at a very early stage of the proceedings, and if he fails to use the force that is necessary, he fails in his duty; thirdly, he has at once to take such remedial measures as he can.

Lastly, as regards the Court which is to try the District Magistrate; a trial, I fancy, the Honourable Mover regards as inevitable; the District Magistrate according to him must run the gamut of the police-court. Sir, I think any Magistrate would far rather come before a committee of this Council or a joint committee of the two Assemblies than before a law court. And why? Because in the confusion of a riot, in civil tumult, you cannot expect to get proper evidence at all. It is impossible. Take the case of the fire at the Motor Show the other day here. I have heard four persons, all of them giving different versions, and all of them men who were anxious to tell the truth. In the case of a riot, you get interested evidence. It is inevitable, and the very people who may be against the Magistracy are very often the friends of those who are to be upon their trial. It is inevitable that their evidence must be prejudiced. The Council here and the Legislative Assembly which form part, a very important part, of Government can be trusted to look at the thing from a broad point of view. Your Court is bound strictly by the evidence, and in a case like this even the highest Court in the land may, we have seen, be guilty of a grave miscarriage of justice.

That, Sir, is what I ask the House, to protect and trust their officers, to encourage them in the discharge of their duties. Do not make an odious task still more difficult. Do not open the door to irresolution and hesitation where immediate action is often necessary. Do not give the timid man an excuse for his own timidity.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : Sir, I desire to say one or two words in reference to the Resolution which is before the House, particularly as the defects of military officers are pointed out. The actual legal points have been very fully dealt with by the Honourable Sir William Vincent, and, not being a lawyer myself, I do not propose to go into the details of those. I noticed, however, that the proposer in bringing forward this Resolution expressed his desire, realising the difficulties in which officers sometimes find themselves when they are called out to support the civil power. He expressed his wish to protect them and to help them in the difficult position in which they are sometimes placed. I am sure we all wish to do that. But I cannot quite see how the proposals that he has set forth are going to make the position of officers placed in difficult circumstances more easy than it would otherwise be. The task of supporting civil power, when the military are called out to do so, is one which is most repugnant to all military officers. They are placed in positions for which they are not trained. They are asked to undertake the responsibilities, to bring their lethal weapons to bear upon very often unarmed crowds ; they have to judge as best they can whether the moment has come to use those lethal weapons or not. The last two paragraphs of the Resolution, Nos. (vii) and (viii), are certainly not calculated in any way to help the officers. My own feeling is that, though the existing regulations are perhaps not as satisfactory or complete as they might be, they are the outcome of many years of very careful investigation and much discussion not only in this country, but in others as well, and I feel that, when we are sitting here and discussing matters of this kind, it is not by any means easy to put oneself in the position of an officer who has to judge at a moment's notice what is best to be done at a time when opposition is considerable and when brickbats are perhaps flying about. The existing regulations are the best that we can devise. We are always, as the Council knows, most careful to insist that, as far as possible, the minimum amount of force shall be employed. I grant you that it is difficult to regulate exactly what that minimum must be, and that is another of the difficulties to which these officers are subject. But I will just read a paragraph from our Regulations which is published for the guidance of officers placed in this position :—

‘ When the Officer Commanding the troops is required by a Magistrate under section 130 or determines that it is necessary under section 131 to disperse an assembly by force, he will, before taking action, adopt the most efficient measures possible to explain to the people that the firing on the people will be effective. If it be found necessary to fire, he will personally order such minimum number of files as he considers the circumstances of the case demands. Care must be taken not to fire on persons separated from the crowd nor over the heads of the latter. Firing must be carried out steadily and stopped the moment that it becomes unnecessary.’

We are, in addition to this, publishing for our officers an amplification to guide them as best we can in the circumstances in which they may at any moment find themselves placed. We realise, and nobody realises more than I do, and I think the House will also realise, the difficult positions in which military officers are liable to be placed, and I am strongly of opinion that we should be wrong in changing the regulations and the law as they stand at present, though of course there are certain parts of the Resolution such as paragraphs (v) and (vi) which we might accept. I take strong exception to paragraphs (vii) and (viii) in the Resolution, for these will, I am quite sure, make the task of our soldiers and police-officers more difficult than at present.

THE HONOURABLE MR. MARICAIR : Sir, I beg to support the Resolution. I think it is high time that something was done by the authorities

to rectify the Act. I can quote many instances in which the authorities have not been acting properly. During my tenure of office as Member of the Legislative Council of Madras, I brought to the notice of Government on various occasions dozens of instances of this nature. The riots that took place between Hindus and Muhammadans in connection with the beating of tom-toms and the playing of music, and in connection with the Mohurram and Dussera festivals. I can quote one important instance when fire was opened wrongly on the authority of the Collector of the District of Nellore. During the festival of Mohurram it often happens that riots take place. The Collector previous to the one last year, I forget his name

THE HONOURABLE THE PRESIDENT: Perhaps it is as well that the Honourable Member has forgotten the name. Would he also take the advice I gave the Honourable Mr. Hammond and refrain, as far as possible, from personal references?

THE HONOURABLE MR. MARICAIR: The Collector in question opened fire whereby there was great loss of life both to Hindus and Muhammadans. I quite understand and realise that the authorities must have certain powers with a view to putting a stop to a great riot, and that there are ways of doing this by means of threats, or by opening false alarm of fire, and so on. The police now-a-days are so free and easy that they open fire and kill people as a sportsman kills birds. As the Honourable Members of this Council are well aware, the lives of people are so sacred, that to take care of life is more valuable than putting a stop to any riot. On my motion, Sir, the Government of Madras appointed the Honourable Mr. Couchman to look into the question and report to the Government on the particular case at Nellore, and after he had studied the question, I asked the Government to place the report on the table. They refused to do so, from which it would clearly appear that the Local Governments always support the action of the authorities, whether they have committed wrong or not, and it is therefore absolutely necessary, in view of incidents that have frequently taken place in various places, that there should be some safeguard with a view to protecting the valuable lives of men. It is therefore necessary, as prayed in the Resolution moved by the Honourable Mr. Sastri, that steps should be taken with a view to amending the Code of Criminal Procedure. With these few remarks, I support the Resolution.

THE HONOURABLE SIR MANECKJI DADABHOY: Sir, it is seldom that I have the misfortune to disagree with my friend the Honourable 5 P.M. Mr. Sastri in this Council. I value his worldly knowledge and his great erudition. But, I am afraid on this occasion, his Resolution is one to which I find it impossible to give my support. I should have very willingly supported the Resolution had it not been for the fact that the alterations and changes which he advocates are subversive of the very principles of law to which we have been accustomed to, and in many ways I may say repugnant to the elementary canons of legislation.

The Honourable Sir William Vincent has simplified my task by the lucid exposition of the law on the subject, and the Honourable Mr. Hammond has stated his case from the point of view of the district officers and the difficulties against which they have to contend, and the protection which they require. His Excellency the Commander-in-Chief has likewise pointed out the regulations embodied in the general manual and considerations which are ordinarily to be borne in mind by military officers in such

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emergencies. I shall now deal with that aspect of the case which throws the burden of proof, as stated by my friend Mr. Sastri, on the accused person. It is an elementary principle of law that every man is presumed to be innocent until the contrary is proved. In all cases, in all trials, whether they be under the category of misdemeanour, felony or any other category, it is for the Crown to prove up to the hilt the accused's guilt. The law favours the position of the accused and watches it with such scrupulousness that nothing is allowed to be presumed against him. Now, in this Resolution, Mr. Sastri seriously asks that the onus of proving the said emergency and the impossibility of securing the presence of a Magistrate within the proper time should lie on the officers who are so acting. I would ask the Council to just consider for a moment the position of a police-officer or a military officer in such a great emergency. He has to act on the spot. There is no time for him to think over the matter ; any indecision on his part might lead to disastrous results ; any wavering on his part might lead to the loss of numberless innocent lives. He has to make up his mind instantaneously as to how to act. And if his action is challenged or he is prosecuted, he has to appear in a Court of law to show that the emergency was of so great a character that there was no other alternative but to use force. Now I submit, Sir, that this is a position which is wholly indefensible and which is repugnant, if I may say so, to the ordinary principles of law, justice and equity. Is not such a position hard and unenviable ? In the case of an ordinary murderer, an ordinary thief, you require prosecution to prove every thing against him. Here a man does his duty and in nine cases out of ten he does so at the risk of his life. When he is in Court he is asked to defend himself and is deprived of the ordinary protection of law. I submit, Sir, what officer of police, what servant of Government would be willing to act in these circumstances ?

I submit, therefore, the Council will see the impossibility of accepting an amendment of this nature. As regards the first amendment the Honourable the Home Member has fully explained the situation. My friend insists on a written authority. That question has been fully dealt with by the Honourable the Home Member. I would only ask you to bear in mind that, ordinarily an officer has to act on the spur of the moment, at times he is drawn into a riot, and has often to run up to the spot promptly to quell it, do you seriously expect that he should have the paraphernalia of ink, pen and paper in his pocket to obtain a written order from a Magistrate ? My friend has laid great stress on the time-limit and has urged that fire-arms shall not be used for one hour after such proclamation has been read, unless in the meanwhile the assembly or crowd actually causes serious damage to person or property. Now, as regards this, it is true that the Riot Act does provide a time-limit, but you may take it from me that this provision of the law is more honoured in the breach than the observance. It is impossible in a grave emergency, in critical times, to wait for the full statutory limit without disastrous effects and without grave loss of life and property. As regards the other amendment, clause No. (vi), my friend has urged that 'the Magistrate or other civil or military officer responsible shall take all reasonable precautions to see that no more injury is inflicted on the crowd or assembly than is absolutely necessary'. The Honourable Sir William Vincent has said that he is prepared to accept this suggestion, but I see that in the present law that provision is already embodied. It is only different in phraseology. It

reads thus : ' Every such officer shall obey such requisition in such manner as he thinks fit, but in doing so he shall use as little force, and do as little injury to person and property, as may be consistent with dispersing the assembly and arresting and detaining such persons '. This is merely different phraseology. The spirit of the provision now required exists on our Statute-book at present. Then, as regards clauses (vi) and (vii) of the Resolution, my Honourable friend contends that the sanction which is required of the Governor General in Council should not be a condition precedent. Now, probably the Council is not aware that the sanction of the Governor General has been done away with by an Act of last year. The sanction not of the Governor General but of the Local Government is now required. And I say that this is a suitable provision. When the sanction of the Local Government is required, in the generality of cases, as every one knows, the Local Government acts on the advice of the Legal Remembrancer, and in very important cases even consults the High Court. You could not get a safer arbiter than the legal officer of Government. But the question now is that my Honourable friend wishes altogether to dispense with this provision. I would ask the Council what protection police-officers and men doing their duty would have if this provision is to be dispensed with.

In the latter part of clause (vii) of the Resolution Mr. Sastri urges that sanction be dispensed with in case of persons who have ' acted illegally in the suppression of riots '. If you dispense with this provision the result will be that anybody can file a complaint against a police-officer. The Court will have to take cognisance at the instance of any person. Are you to leave to A, B, C, D or E to decide whether a particular police-officer should be prosecuted or not? My submission is, that it would not at all be proper in practice to adopt a course like that. Some responsible person must decide whether the initiative of a prosecution should be taken or not. Now ordinarily, in all cases of offences, as Sir William Vincent has pointed out, such as forgery, perjury and so forth, which are committed within the jurisdiction of the Court, you require the sanction of the Court before whom the offence is committed. To take away such a sanction is a very serious matter. Prosecutions against Government servants, and police-officers cannot be launched with any degree of levity. Such cases must be seriously considered before anything is done. Now, the question is, whether there is proper protection in law or not for prosecutions for acts done under Chapter IX of the Code of Criminal Procedure. I say that a man who does his duty honestly, fearlessly and properly has nothing to fear. Section 132 provides that ' no prosecution against any person for any act purporting to be done under Chapter IX shall be instituted in any Criminal Court except with the sanction of the Local Government; and (a) no Magistrate or police-officer acting under this Chapter in good faith; (b) no officer acting under section 131 in good faith; (c) no person doing any act in good faith, etc., etc., shall be deemed to have thereby committed an offence '. So, the essence of this section is, as Sir William Vincent has pointed out, good faith, which has been defined in the Penal Code in a negative way thus : ' nothing is said to be done in good faith which is done without due care and caution '. So, I submit that there must be some responsible person to decide, in the first instance, whether an offence has been committed by that officer, and whether he has acted in good faith or not. My argument is that this is a valuable protection, and I think every police-officer who does his duty and acts in good faith needs some sort of protection such as this.

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I have a word to say about clause (viii) of the Resolution, which says : 'Every such prosecution shall be instituted in and triable by the Sessions Court having territorial jurisdiction, with the previous leave of such Court or the High Court of the province'. Here of course the Honourable Mover admits in a way that previous approval is necessary. I submit that some of the provisions which the Honourable Mover now asks to be incorporated in the present law already exist, while others are so fundamentally opposed to the principles of general law that they could not possibly be accepted. My Honourable friend at the commencement of his speech made certain observations that the law on the subject in India was not in a complete form, and quoted the authority of Sir James Fitzjames Stephen in discussing another part of his case. My friend probably is not aware that this very Chapter IX was drafted by Sir James Fitzjames Stephen on the principles laid down in the charge of Tindal, C.J., to the grand jury in the great Bristol Riot trial of 1832. Those very principles have been fully embodied in this Chapter IX of the Criminal Procedure Code.

Sir, I will not detain the Council any longer. One word more and I have done. Honourable Members are aware that only the other day we passed a Resolution in this Council recommending to the Government of India to appoint a Committee to decide which of the repressive laws should be removed from our Statute-book. Very probably that Committee will soon be appointed, and I have not the slightest doubt that the Committee will recommend the repeal of some laws. Therefore, a grave obligation, a grave responsibility rests on all of us at this juncture. If you weaken the ordinary machinery of law, if you are going to remove all the special Acts, you will bring the machinery of the criminal law into such a state of absolute helplessness that you will not be able to cope even with ordinary crime. We have to see at least

The HONOURABLE SAIYID RAZA ALI : May I ask, Sir, whether there is no time-limit ?

The HONOURABLE THE PRESIDENT : The Honourable Member being new is probably not aware that the time-limit is 15 minutes in the case of speakers other than the Mover and the Member in charge unless the President allows it to be exceeded.

The HONOURABLE SIR MANECKJI DADABHOY : We must, therefore, see that our ordinary machinery is not emasculated, I will put it in that sense. We are bound to see that the police have got powers to deal with a critical situation efficiently and promptly. Public liberty, public safety, public protection depend on the timely suppression of crime. We are all interested. . . .

The HONOURABLE THE PRESIDENT : I gave the Honourable Member an opportunity of concluding his speech because he said he was going to wind up. As a matter of fact, he has exceeded the time-limit.

The HONOURABLE MR. G. S. KHAPARDE : Sir, I rise to support this Resolution. It appears to me that the main object of the Honourable Mover has been somewhat missed in the discussion that has taken place. He clearly began by saying that the words used in the law are 'dispersing unlawful assemblies, etc., by force'. He wants to distinguish between the methods employed. There is a method of throwing hot water. There is a method of turning the

hose on the crowd to turn them out, and using police batons. The Honourable Mover wants to distinguish between these ordinary mild measures and the use of fire-arms. So far as these mild measures are concerned, he does not want to interfere with the present law. Therefore he made it quite clear, I think, in the beginning that this word 'force' should be so defined as to make out two sets of circumstances, circumstances under which methods not involving loss of life are employed, and methods in which loss of life is involved. Where fire-arms are employed there should be more rigorous conditions, and where simpler methods, such as turning the hose or throwing sand, etc., are employed the law should be left as it is. That distinction, it appears to me, has not been kept in view by the Honourable gentlemen when they criticised this proposition.

There is another thing that I wish to notice and bring out as clearly as possible. My Honourable friend on the right said that he was going to point out the principles and rules against which this proposition goes, and the only principle that I heard him point out was that the burden of proof was wrongly laid. That is the only principle that he spoke of so far as I could gather

THE HONOURABLE SIR MANECKJI DADABHOY: I am sorry that my learned friend did not follow me.

THE HONOURABLE MR. G. S. KHAPARDE: I believe I followed my learned friend as much as I could. Now, I beg to join issue with my Honourable friend on the point. Whoever wants to protect himself by coming under an exception has got to lay the foundation by showing that the circumstances constituting the exception do exist. That is the rule, and according to that, supposing I want to claim the benefit of an exception, I have got to make out that the circumstances under which the exception, comes into operation exist. Here also the Honourable Mover has only done that much, and nothing more. When he says that a military officer or any other person may employ force, he is always thinking of the use of fire-arms, and the officer will have to make out that the circumstances which precluded him from obtaining the order of a Magistrate existed. That is ordinary common law, and I do not see where the burden has been wrongly laid.

That brings me to another point which was made a ground against the acceptance of the Resolution. It is this—Is a high officer,—he may be the Deputy Inspector General of Police, or the General Officer of the Army, — to wait and see whether a naib tahsildar or an Honorary Magistrate gives an order, and until that order is given, is he to act or not to act? I submit that comparison is not very clear, is not good either. It is not the third class Magistrate; it is not the naib tahsildar that is the important person. The important person is the Magistrate. The Magistrate is the person who is used to weighing evidence, who understands things as they go, who is there and perhaps has got a cool and judicial frame of mind, and therefore the officer using force has got to wait and see that the Magistrate also agrees with him and then use force. It is not enough in a case of this kind to depend upon the judgment of one person entirely. Human nature is the same all over, and the highest officers and highest military officers are human beings after all and they may get angry. They may get excited. They may act as much in a panic as the mob. Therefore, it is necessary that there should be a third person using his cool brain to advise, and I think that

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the first provision, that is the necessity for a written authority from a Magistrate, is very wisely provided. It is only provided for those cases where guns have to be used. In other cases, I believe, the Honourable Mover would agree that a written order need not be waited for. Similarly, if a Magistrate is not available there, then a military officer or the police-officer concerned has got to use his own discretion and to prevent that military officer or that police-officer from acting in a panic, because he is angry, perhaps because he has been hit with a brickbat or a stone, it is necessary that the burden should be laid upon him of showing that there was no time for obtaining the order of the Magistrate. We know these circumstances. When I am hit, I very much feel inclined to hit back. That I know very well, but I also should know that I would have to make out in a Court of law afterwards that I had my lawful excuse for hitting back at once. Otherwise I should be liable to punishment. That fear should act on the police-officer or the military officer concerned. It has been said that if we make it like this, then nobody will take the responsibility for carrying out their duty and so on. I am not so afraid. We know that we have got the sections relating to private defence in the Penal Code. I have myself defended a large number of cases and successfully defended, showing that the right of private defence existed and that it was properly exercised. The same thing will occur in the case of the Magistrate or the police-officer or the military officer concerned and after all the matter will not be judged by one person. I believe it will go before a jury and there will be 11 common sense people sitting who will have to decide. One need not feel anxious or nervous about this power being given to the Magistrate. Similarly, about that one hour. I think in that case where that one hour is prescribed there are the words 'unless in the meantime the assembly or crowd actually causes serious damage to person or property' an immediate action is necessary. The Honourable Mover also pointed out that he had through inadvertence omitted to put in that clause saying 'unless immediate action has become necessary'. So that modification is there impliedly and it will be accepted by the Honourable Mover.

Then, there is an argument which I am sorry I cannot accept and that argument is that now it is the Local Governments who have got the power to sanction prosecutions, so that it is not necessary to take away that power and give it to the Courts. I humbly submit that in questions of this kind there are various factors that come into play, and it is very difficult even for a Local Government to give the judicial consideration that becomes necessary in matters of this kind. I have great respect for executive officers, but oftentimes they think that their district will acquire a bad name, that their province will be marked down as bad, and so on, and there are circumstances which induce them sometimes not to let these things go further. I put it most mildly. In the best interests of the province itself they consider that it is not necessary to give prominence to small unfortunate incidents that may have happened. Well, these cases may be small and may be unfortunate, as I quite agree, but we have to look at them from this point of view, that justice has to be done even though the Heavens fall. Then, what did the Honourable Mover say; he only said that the case should be submitted to the High Court and that, if the High Court agreed, it should be tried, it may be tried by the Sessions Court. An application would be made in Chamber,

enough evidence in the shape of reports would be presented to the judge of the High Court, and he would be in a position to say whether that case should be gone on with or not. So there is nothing very terrible in this, as it is sought to be made out in clauses (vii) and (viii).

I humbly submit that this Resolution is very good; it is exceedingly prudent just now, for various reasons, and one of those reasons is that our Criminal Procedure Code is under revision. We know that it will come up for discussion. It will be very useful if the Committee which revises the Criminal Procedure Code has an opportunity of knowing what we think about the matter. This section, I suppose, will come up and to give them a lead in that matter is very useful. Another reason why this portion of the law is coming a great deal into prominence just now is because of that unfortunate Punjab affair and because there is a danger of affairs of that kind taking place elsewhere. It is necessary, therefore, that officers who have got to carry out the law must clearly know what they are doing. It is also necessary that the people should understand that, if the Riot Act is read, it means that force is going to be immediately used. My Honourable friend (Sir M. Dadabhoy) thinks that that question of law in England is more honoured in the breach than in the observance. I humbly doubt that . . .

The HONOURABLE SIR MANECKJI DADABHOY : I spoke about the hour limit.

The HONOURABLE MR. G. S. KHAPARDE : It may be so, but it is in force in England. When we say that so and so read the Riot Act the meaning is that he was very angry and that he intended using force. That one hour limit has been very unfortunately misunderstood. All that the Honourable Mover meant was that if there was time for it you should give them one hour's limit. If there was no time and the acting officer thought that immediate action was necessary, that proviso leaves him full scope to take action. It does not say that fire shall never be opened except after an hour relapses from the time of the reading of the Riot Act. The provision merely says if there is time for it and if the officer thinks it proper to allow it, he should allow one hour's time; if there is no time for it he acts on his own responsibility. There is no difficulty in understanding it. So I say there is no justification for saying that the Riot Act is observed in the breach. It is not so and I join issue with my friend the Honourable Sir Maneckji Dadabhoy . . .

The HONOURABLE SIR MANECKJI DADABHOY : Again I join issue with the Honourable Member. I never said that.

The HONOURABLE MR. G. S. KHAPARDE : In these circumstances, Sir, I heartily support this Resolution and I wish that the Honourable Council will kindly pass it.

The HONOURABLE MR. SRINIVASA SASTRI : Sir, I am rather saddened that the Government seem to have made up their minds to resist this attempt of mine to give them an opportunity of showing that their executive officers in the exercise of the severest powers that they have will be allowed to come under the domain of law. It is extraordinary that this resistance should be offered to an attempt to place the Indian law on a level with that system of jurisprudence which it is pride of the British race to have evolved, after a struggle of

[Mr. Srinivasa Sastri.]

centuries, after sacrifices made of an unparalleled character on the part of the people, after heroic defences conducted by the Bar and manful deliverances from the Judges--it is extraordinary that an attempt should be made to resist this desire of mine to place the Indian law on a footing with that magnificent system of English law under which it is our privilege to have come. His Excellency the Commander-in-Chief, whose intervention in this debate I welcome for various reasons, told us that there were regulations already in existence and more regulations being framed. Sir, I knew of these regulations. I knew there was no dearth of regulations. Our police manuals are quite full of them; our drill manuals are quite full of them. I have no objection to them at all. But they are not law and an aggrieved subject cannot make them the ground of an action at law. If the provisions were in a legal Code they could be made the ground of action.

Besides, an appeal was made to our sympathy—an appeal, strangely enough, on the part of the officer who shoots, not on behalf of the victims who suffer. But let that pass. I am not without sympathy with the officers concerned. Their duties are extraordinarily difficult; but those duties are difficult, not here only, but in England as well. Lord Haldane described the condition of one of these officers as that of ‘a man compelled to walk on the edge of two precipices’—not one precipice, but two precipices; but he adds law is a sensible institution after all; in 99 cases out of 100 the thing works out somehow well. People do not apply the rigour of the law, but they take into account all the attendant circumstances of the case, and where a concrete consideration is given, however a theoretical study might raise difficulties, they somehow or other square out well in the end.

Now, let me read to you one extract from the Manual of Military Law which cannot be unfamiliar to the officers of Government. This point, that the officers called upon to exercise military force in the suppression of riots are placed in an extraordinarily difficult situation, has been allowed. The point was raised by no less a person than Sir Charles Napier. The answer is given in the judgment of Mr. Justice Littledale in the case *Rex v. Pinney*. ‘Now a person’—I wish the Council to listen to this :

‘Now a person, whether a Magistrate or a police-officer, who has the duty of suppressing a riot, is placed in a very difficult situation, for if by his action he causes death he is liable to be indicted for manslaughter or murder, and if he does not act he is liable to an indictment or information for neglect. He is therefore bound to hit the precise line of his duty, and how difficult it is to hit that precise line will be a matter for your consideration. But that difficult as it may be, he is bound to do. Whether a man has sought a public situation, as is often the case with Mayors and Magistrates, or whether as a peace officer, he has been compelled to take the office that he holds, the same rule applies and if persons were not compelled to act according to law there would be an end of society.’

And then this Manual proceeds to say :

‘At the same time the law has made liberal allowances for the difficulties of persons so circumstanced and persons whose intention is honest and upright and who act with firmness to the best of their judgment need seldom fear the results of inquiry into their conduct.’

Now, that is the law that I seek to embody. I ask, is it fair to wish to have it all in favour of the officer who takes life, no doubt

under a sense of duty? The Honourable Sir William Vincent made much capital out of the fact that I asked for an hour before shooting should begin. I made it clear, I thought at that time, even if I did not incorporate it here as I have, I made it clear that there may be cases where even during that hour a mob should get out of control and it may be necessary for the officers to start firing, that I did not object to it at all. In fact that is the English law; and as I seek to reproduce only the English law he need not have objected to it; and as I say the Honourable the Home Member made some capital out of the circumstance that I had failed to provide for it.

Now, there is one little circumstance which I might point out. The Honourable the Home Member and several others who spoke thought that I was demanding an extravagant requirement when I said that the permission of the Magistrate should be in writing. This is from Odgers' Common Law. 'It is primarily the duty of the Magistrate, if one be present, to decide whether the time has arrived to use deadly weapons; if he decides that it has, it is for him to instruct the officer to take action, and he generally does so in writing.' I did not say it was the English law; I only said at that time that it was the English practice. I quite remember, because I knew it definitely. Now let me read another thing which may be interesting. There is a King's Regulation which I have not been able to verify, to which Mr. Odgers refers; that is King's Regulation No. 963. Apparently this requirement of a written order is there, but I have not been able to verify it. The Police Code in England, however, has this provision. 'If after the Riot Act has been read and an hour has been allowed the mob to disperse it is found necessary to adopt more forcible measures, to prevent further damage to property or danger to life, either by firing on the people or charging them either with drawn swords, fixed bayonets or drawn truncheons, the written order of the principal Magistrate present should be invariably first obtained, either by an entry in the pocket book of the officer in command of the police or troops, or the signature of a pencil memorandum to this effect:—

'I authorise you to charge the mob with drawn swords or truncheons (or fixed bayonets) or to fire on the mob.'

The very form of the written order is given. It was not then an extravagant thing that I was asking for, it was not an unimaginable thing.

Then about that important matter, the Honourable the Home Member said that if the Governor General's sanction was required, it would be given in proper cases. The Honourable Sir Maneckji Dadabhoy told us that the Governor General's sanction is no longer required, but the sanction of the Local Government would be enough. I do not know what is the present state of the law, but whatever it is, let us consider a little. A grave occurrence is the subject of a communication to the Governor in Council or the Governor General in Council. His police-officers, probably the military, his Magistrates, are accused of having used unnecessary force. His sanction is sought for a prosecution. We know how these things go in such cases. The Governor in Council has hitherto tried every means even of avoiding a public inquiry. Is he likely to afford the sanction for a criminal prosecution? Is that the way things go in England? When one officer errs and you wish to bring him to book, do you go and ask the permission of his immediate superior? Or do you go and sue him in a Court of law? It is something that Indian law cannot be proud of? It belongs, if I may say so, to a barbarous age. It ought to go out of the Statute-book. It requires the sanction of the Governor General in Council or

[Mr. Srinivasa Sastri.]

the Local Government to prosecute an officer for what would be murder or manslaughter is to ask, I think, for the impossible. The executive hang together, high and low. It is the commonest thing. When an officer is accused, the whole of his department with all its moral force comes down whether in a Court of law or in the public or anywhere to prove that the officer is in the right and the complainant is in the wrong. To make a prosecution conditional on that superior giving his previous sanction to it, is effectually to close the jurisdiction of the Court. Now I object to all legislation which shuts Courts out of their natural and proper jurisdiction. There is too many a law in the Indian Statute-book of this character vesting the executive themselves with powers which ought properly to belong to a well constituted and independent judiciary. I beseech Government not to stand by this requirement of the Governor General's or the Local Government's previous sanction. That is really, as His Excellency the Commander-in-Chief pointed out, my principal complaint, the head and front of the offence of that Chapter in the Criminal Procedure Code. That sanction has never been given, and I am sure it will only very very rarely be given. If you let it stand, it means you want for the executive in this country far greater powers than the executive in England possess. There they do not want altogether to be shielded from all prosecution. They are quite prepared to go and stand their trial. As I said before, not only every officer but every individual citizen stands in a difficult position. If I am called upon by a Magistrate to help him in suppressing a riot and I do not assist him, I stand liable in law. If I assist him to do things which he ought not to have done, I stand liable also. This difficulty does not exist peculiarly in the case of the officer for whom so many piteous appeals are made, but it exists in everybody's case. The officer has abundant facilities to protect himself from frivolous or vexatious prosecutions. The whole of his Government is behind him, the best legal talent will be engaged for him. Is he to be pitied or the private citizen who has been shot down or who has been maimed? Really I am amazed that people should seriously sustain a provision which throws him entirely out of the protection of Courts which are constituted for the protection of the poor and the needy just as well as for the protection of high placed officers. It appears to me, Sir, that the Government will be well advised to produce an impression by accepting my Resolution, or at least by accepting my Resolution in substance, if not literally, and establishing the hope that future legislation will go on healthy and wholesome lines; at least I hope that this particular provision, which gives the executive in this country illegitimate protection, protection to which they are not entitled in any enlightened system of jurisprudence, that this provision will disappear.

THE HONOURABLE SIR WILLIAM VINCENT: Sir, I understood that the argument of the Honourable Mr. Sastri in his reply was that he is simply seeking to put the law here on the same basis as the English law. That was what I understood him to say. If I can show to this Council that this is not the effect of the Resolution that he is not proceeding on the basis of the English law, and that some of the proposals which he makes are supported, as I believe, by the law of no civilized country in the world, then they will see that these arguments are of no avail.

I will take the very first item, 'No firearms should be used except on the written authority of a Magistrate' The Honourable Member was in some difficulty there. He first said, as I understood him, that this

was according to the English law, but later he said 'I did not say it was English law; it is only English practice.'

If Members will read the Resolution they will see that the Honourable Mover then asks that the Code of Criminal Procedure should be amended so as to insert this provision in the law, that is a provision which is not any part of the English law at present, nor, to the best of my knowledge, ever has been. I believe that there used to be some such rule in the old Military Regulations but that it has now been excised. In any case it was not part of the law but an executive instruction inserted by executive officers for their own protection.

Now let us turn to the second item I cite the following words.—'. . . but the onus of proving the emergency and the impossibility of securing the presence of a Magistrate within the proper time shall lie on the officer so acting.'

Where is there any provision of that kind in the English law? It is not to be found. It is a mistake to say that such a provision exists in the English law.

Now let us take the third item. 'Before resorting to firearms, the Magistrate or other civil or military officer responsible shall read or cause to be read a proclamation, both in English and in the local vernacular, similar to that contained in the English Riot Act.'

There is no such provision in the English law. The Riot Act does give a statutory protection to the people who fire, but power to fire on a mob in certain circumstances is given by the common law irrespective of the reading of the Riot Act altogether, and that is laid down in Dicey's work from which I now read:—

'Now the error into which an uninstructed reader is likely to fall, and into which Magistrates and officers have from time to time (and notably during the Gordon riots of 1780) in fact fallen, is to suppose that the effect of the Riot Act is negative as well as positive, and that, therefore, the military cannot be employed without the fulfilment of the conditions imposed by the Statute. This notion is now known to be erroneous; the occasion on which force can be employed, and the kind and degree of force which it is lawful to use in order to put down a riot, is determined by nothing else than the necessity of the case.'

That is it is a mistake to suppose military force cannot be employed, if necessary, without the reading of the Riot Act

The HONOURABLE MR. SRINIVASA SASTRI: I expressly said that that particular part of my Resolution was defective and I made the correction before, I began.

The HONOURABLE THE PRESIDENT: The rule as regards personal explanations is that a Member may make them as an interjection to a speech only when the speaker gives way. The Honourable the Home Member did not give way.

The HONOURABLE SIR WILLIAM VINCENT: I am quite willing to accept the explanation. The only point I wish to make is that this Resolution as moved by the Honourable Member is not in accordance with British law as suggested by him.

Item (iv) of the Resolution reads as follows:—

'Firearms shall not be used for one hour after such proclamation has been read unless, in the meantime, the assembly or crowd *actually causes serious damage* to person or property.'

[Sir William Vincent.]

That, again, I may say, is not consistent with English law. The incident of the Ackton Hall Colliery riots shows that firing is justified to prevent a mob from committing outrage.

In the circumstances, I submit that it is an unfair appeal to the sympathy of this Council to say that the Mover is really only trying to bring the law of this land into accordance with the law of England, for in fact the Honourable Member seeks to go very much further and to incorporate in the Indian law provisions which are no part of the law of Great Britain. That is the position. Where, however, the recommendations are in accordance with the English law, for instance, in the case of the recommendation in the 7th item, I said so quite frankly.

The Honourable Mr. Khaparde took up a different position. He said 'The Home Member has misunderstood the recommendation; it is restricted to the use of firearms.' What I want to know is, how and why is the Council going to distinguish between the use of fire arms and a bayonet charge, or a charge with lances or the use of swords? What is this amazing proposition that some exceptional measures are necessary for the use of firearms only? Bayonets in the hands of a body of trained soldiers are far more likely to kill than buckshots from a musket fired even at a short distance. Do not let us have any attempt therefore to make special provisions for the use of firearms. The same principle must apply to the use of any force and the same limitations and troops and police must be allowed to use the most effective weapon, whatever it happens to be; sometimes the flat of a sword, sometimes the butt of a rifle, sometimes the bayonet, and sometimes firearms. On this last point, about prosecutions, I must frankly admit that the Honourable Member is in a stronger position in regard to the English law. But what I tried to put to this Council was that in this country officers would be subject to extraordinary danger in the way of legal proceedings and that this would be unreasonable, and we would have innumerable prosecutions if no restrictions are imposed. For example, if you had a Hindu inspector firing on a Muhammadan mob, or if you had a Muhammadan inspector dispersing a Hindu mob, what would be the result? Whether he had acted rightly or wrongly, he would be always prosecuted the next day. The fact being that this sectarian feeling runs so high in this country and the result would be to frighten officers from doing their duty. To say that this is the law in England is really not a sound argument because conditions in this country are very different, and this is a factor that cannot be neglected. When this country has advanced to the same sense of civic responsibility as England it might be possible to change the law. We are advancing and I do hope that we shall continue to advance, but in the meantime I suggest it is not right to expose your officers to unreasonable danger. I gave the reasons why, in my opinion, the sanction in such cases should not be given by the Court because this would involve double trials and delays. Nor do I think the Court would be in a position to ascertain what the real facts of such a matter are. If the Government acts unfairly in this matter pressure can be brought to bear upon it by the Legislature, and that affords all the protection to the public the Honourable Member really requires. In most European countries outside England the trial of an officer in cases of this kind before ordinary Courts is unknown. The whole work is done by the administrative Courts both in France, Belgium and elsewhere. The general point I want

again to make is that the Council should not do anything to destroy the power of initiation and confidence of our officers that they will be protected in doing their duty. The country is in a very disturbed state. Extremist agitators seize upon every grievance, real or imaginary, to promote disorder here and there, sometimes over agrarian questions, sometimes over labour question and sometimes over religious questions. The officers of Government have, therefore, daily to face those dangers and to maintain order. Is this Council going to restrict their powers more and more? The Government cannot intern a man without being at once attacked as highhanded; they will not prevent him from speaking sedition without being subjected to abuse in the press and now it is proposed to impose impracticable and unsound restrictions on the power of the officers to suppress disorder. I hope the Council will not accept the proposals.

THE HONOURABLE THE PRESIDENT: I think it will be better to put the Resolution in its separate parts. I will now put the first part :

‘ This Council recommends to the Governor General in Council that the Code of Criminal Procedure and, if necessary, other enactments, be so amended as to secure the following point in the suppression of riots and unlawful assemblies :—

- (i) No firearms should be used except on the written authority of a Magistrate of the highest class that may be available on the spot.’

The motion was negatived.

I will now put the second part :

- ‘ (ii) In cases of grave emergency when no Magistrate is available in the neighbourhood, the chief police or military officer present on the spot may, if he considers that the riot or unlawful assembly cannot be suppressed otherwise, employ firearms ; but the onus of proving the emergency and the impossibility of securing the presence of a Magistrate within the proper time shall lie on the officer so acting.’

The motion was negatived.

THE HONOURABLE SIR WILLIAM VINCENT: May I suggest that the next two parts be put to the vote together ?

THE HONOURABLE THE PRESIDENT: I think it would be better to put them separately.

The question is that ‘ this Council recommends to the Governor General in Council that the Code of Criminal Procedure and, if necessary, other enactments be so amended as to secure the following points in the suppression of riots and unlawful assemblies :— Before resorting to firearms, the Magistrate or other civil or military officer responsible shall read or cause to be read a proclamation, both in English and in the local vernacular, similar to that contained in the English Riot Act.’

I think the ‘ Ayes ’ have it.

THE HONOURABLE SIR WILLIAM VINCENT: I ask for a division.

THE HONOURABLE THE PRESIDENT: The Council will now divide.

The Council divided as follows:—

AYES—15.

Aiyangar, Mr. K. V. R.
Harnam Singh, Raja Sir.
Jaffer, Khan Bahadur E. H.
Jogendra Singh, Sardar.
Kale, Mr. Waman Govind.
Khaparde, Mr. G. S.
Po Bye, Maung.
Raza Ali, Sayid.

Ram Saran Dass, Rai Bahadur Lala.
Roy, Pramada Nath, Raja.
Samaldas, Mr. Lalubhai.
Sethna, Mr. P. C.
Srinivasa Sastri, Mr. V. S.
Sukhbir Sinha, Lala.
Zulfiqar Ali Khan, Sir.

NOES—26.

Amin-ul-Islam, Khan Bahadur.
Barnes, Sir George.
Barron, Mr. C. A.
Bray, Mr. Denys.
Chatterjee, Mr. A. C.
Cook, Mr. E. M.
Commander-in-Chief, His Excellency the.
Dadabhoi, Sir M. B.
Edwards, Major-General W. R.
Froom, Mr. A. H.
Hammond, Mr. E. L. L.
Holberton, Mr. E. J.
Jha, Dr. Ganga Nath.
Lloyd, Mr. E. S.

Murray, Sir A. R.
Ramabhadra Naidu, Dewan Bahadur V.
Richey, Mr. J. A.
Sarma, Rao Bahadur B. N.
Seddon, Mr. C. N.
Shafi, Mr. M. M.
Smith, Mr. H. Moncrieff.
Umar Hayat Khan, Colonel Sir.
Vincent, Sir William.
Wacha, Sir D.
Wood, Sir J.
Zahir-ud-din Khan, Khan Bahadur Saiyid.

The motion was negatived.

The HONOURABLE THE PRESIDENT : The question is that part (iv) of the Resolution, *viz.* :—

‘Firearms shall not be used for one hour after such proclamation has been read unless in the meantime, the assembly or crowd actually causes serious damage to person or property’

be accepted.

The motion was negatived.

The HONOURABLE THE PRESIDENT : The question is that part (v) of the Resolution, *viz.* :—

‘Before the crowd is actually fired upon, the fullest warning shall be given’

be accepted.

The motion was adopted.

The HONOURABLE THE PRESIDENT : The question is that part (vi) of the Resolution, *viz.* :—

‘The Magistrate or other civil or military officer responsible shall take all reasonable precautions to see that no more injury is inflicted on the crowd or assembly than is absolutely necessary’

be accepted.

The motion was adopted.

The HONOURABLE THE PRESIDENT : The question is that part (vi) of the Resolution, *viz.* :—

‘ The sanction of the Governor General in Council should not be a condition precedent to the institution of a criminal prosecution against officers or other persons who have acted illegally in the suppression of riots ’

be accepted.

The motion was negatived.

The HONOURABLE MR. SRINIVASA SASTRI : I ask for a division.

The HONOURABLE THE PRESIDENT : The Council will now divide.

The Council divided as follows :—

AYES—12.

Aiyangar, Mr. K. V. R.
Jaffer, Khan Bahadur E. H.
Jogendra Singh, Sardar.
Kale, Mr. Waman Govind.
Khaparde, Mr. G. S.
Samaldas, Mr. Lalubhai.

Raza Ali, Saiyid.
Roy, Pramada Nath, Raja.
Sethna, Mr. Phiroze C.
Srinivasa Sastri, Mr. V. S.
Sukhbir Sinha, Lala.
Zulfiqar Ali Khan, Sir.

NOES—28.

Amin-ul-Islam, Khan Bahadur.
Barnes, Sir George.
Barron, Mr. C. A.
Chatterjee, Mr. A. C.
Cook, Mr. E. M.
Commander-in-Chief, His Excellency the.
Dadabhoy, Sir M. B.
Denys Bray, Mr.
Edwards, Major-General W. R.
Froom, Mr. A. H.
Hammond, Mr. E. L. L.
Holberton, Mr. E. J.
Jha, Dr. Ganga Nath.
Lloyd, Mr. E. S.
Po Bye, Maung.

Murray, Sir A. R.
Ramabhadra Nayudu, Diwan Bahadur B.
Ram Saran Das, Rai Bahadur Lala.
Richey, Mr. J. A.
Sarma, Rao Bahadur B. N.
Seddon, Mr. C. N.
Shafi, Mr. M. M.
Smith, Mr. H. Moncrieff.
Umar Hayat Khan, Colonel Sir.
Vincent, Sir William.
Wacha, Sir D.
Wood, Sir John.
Zahir-ud-din Khan, Khan Bahadur Saiyid.

The motion was negatived.

The HONOURABLE SIR WILLIAM VINCENT : On a point of order, Sir. May I draw your attention to the fact that there was a stranger inside the precincts of the Chamber when the last division was taken ?

The HONOURABLE THE PRESIDENT : It is difficult to take a point of order during the division, but as this refers to the taking of the division, I shall ask the officers of the Council to produce the stranger before me if he is here.

The HONOURABLE SIR WILLIAM VINCENT : He is a member of the Legislative Assembly. I am not sure whether he is here now.

The HONOURABLE THE PRESIDENT: When a division is taking place, it is extremely improper for a stranger to be in the Division Lobbies or the passages adjoining thereto, and if there are any strangers here when the division bell rings, they should at once withdraw.

The HONOURABLE THE PRESIDENT: The question is that Part (viii) of the Resolution, *viz.* :—

‘Every such prosecution shall be instituted in and triable by the Sessions Courts having territorial jurisdiction with the previous leave of such Courts or the High Court of the province’

be accepted.

The motion was negatived.

The HONOURABLE THE PRESIDENT: The Council now stands adjourned to Tuesday, the 8th March, in the other Chamber where, I trust, some amelioration of the existing conditions in the matter of ventilation will be rendered possible by the good offices of the Honourable Member in charge of Public Works.

The Council adjourned till Tuesday, the 8th March 1921, at 11 A.M.