

Thursday, 31st January, 1924

# THE COUNCIL OF STATE DEBATES

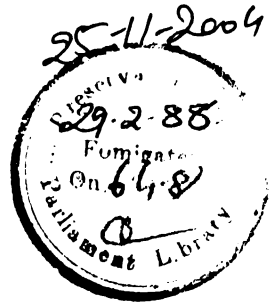
(Official Report)

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*(From the 30th January to the 25th March 1924)*

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## FOURTH SESSION OF THE COUNCIL OF STATE, 1924



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# COUNCIL OF STATE.

*Thursday, 31st January, 1924.*

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## INAUGURATION OF THE FOURTH SESSION OF THE COUNCIL OF STATE AND THE FIRST SESSION OF THE SECOND LEGISLATIVE ASSEMBLY.

His Excellency the Viceroy with the Presidents of the Council of State and Legislative Assembly having arrived in procession, His Excellency took his seat on the dais.

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H. E. THE VICEROY: Gentlemen, when I last addressed you, the Members of the Indian Legislature, the last Session of the first Legislative Assembly was at its close. A new Legislative Assembly has since been constituted; and the Members of the Council of State and of the Assembly are now about to enter upon the labours of the Delhi Session, to face new responsibilities and to strive to solve fresh problems in the best interests of India.

Let me in the first place extend a welcome to all the Members. I see many who have already notable achievements to their credit in the annals of the Indian Legislature. They need no special word of welcome and encouragement from me because they are aware of the high regard I entertain for their services; and in my address of last July, I set forth my view of the supreme importance of their work to the development of self-governing institutions in India and of the great value of the influence and traditions established by them. I miss, with regret, from this assemblage the faces of others (of the same fold) who had rendered yeoman service to the cause of constitutional progress. I see many new Members before me. I wish them welcome and shall watch their work in their new environment with keen interest. In their new responsibilities they will find the fullest opportunity for the display of the highest patriotism and for the noblest work for the service of India.

Before I pass to review the work before the Legislature and the internal affairs of India, let me dwell on a few questions of importance outside India, but closely affecting her welfare. Progress towards economic recuperation in Europe proceeds but slowly and the reaction of commercial dislocation still affects India together with the rest of the world. Nevertheless, there are indications of activity and trade revival in India; and there is good ground for hope that her period of convalescence will be more brief in duration and marked by more rapid and steady advance to strength than elsewhere.

A treaty was signed with Turkey at Lausanne in July last and its ratification by the signatory powers at an early date is anticipated. Tension has been relieved in the Middle East; and the Treaty has been welcomed by responsible Indian Muslim opinion as affording a solution to many problems exercising their minds.

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On the Northern boundary of India the traditions of amity, subsisting for a century past with her neighbour Nepal, have found a happy issue in a Treaty signed at Khatmandu in December last which is a legitimate cause of satisfaction to both the parties.

Beyond the North-West Frontier, India has another neighbour closely connected with her. The relations of India with the Kingdom of Afghanistan are conducted by His Majesty's Government and, as you are aware, a treaty of neighbourly relations exists between the two Governments.

I have read assertions recently in the press that these relations have been strained. There have been allegations on the one hand of the entertainment of aggressive feelings towards Afghanistan by His Majesty's Government and on the other hand of an unreasonable attitude on the part of that country. Our relations with Afghanistan, as I have said, are in the charge of His Majesty's Government. But there has been speculation in the Indian Press regarding these rumours, and considerations of propinquity and past intimate associations evoke a warm solicitude in India for the welfare of Afghanistan and for the maintenance of relations of amity. It is right in order to remove misconception in India that I should state that these rumours as to the alleged intention of His Majesty's Government and the alleged attitude of the Afghan Government are without foundation.

Certain questions have however been under discussion between His Majesty's Government and Afghanistan. Those discussions are now nearing a satisfactory solution. The discussions had their origin in outrages notably those at Barshore and Spinchilla committed on our frontier by Wazirs domiciled in Afghanistan. They were complicated by the execution of these outrages from a base in Afghanistan and by the removal of loot to Afghan territory. In some cases also the perpetrators were deserters from British Indian militia units who had found employment in Afghanistan. The raids were serious in their results. In addition to private losses, four British officers and 81 Indian Sepoys of our regular and militia Indian units lost their lives. Subsequent to these events, two Afghan subjects murdered two unarmed British officers near Landi Kotal and fled to Afghanistan where they were arrested by the order of their Government, but later escaped from custody. Meanwhile the members of the Kohat gang, who were not Afghan subjects, the men who had murdered Mrs. Ellis and abducted her daughter, made good their escape to Afghan territory.

In reply to the vigorous representations made by the British Government the Afghan Government admitted its obligations, furnished ample assurances and took action to implement them. Its action at first however proved abortive. The lives of British Frontier officers and the security of British Indian subjects depended upon the fulfilment of these assurances. But on our side His Majesty's Minister exercised patience and forbearance, as he was aware that the difficulties of the Afghan Government in securing effective results were greater than can generally be realised.

Before the close of the year his representations were successful; the outrages to which I have made allusion were completely liquidated. During the present month the active steps taken by the Government of Afghanistan, after inviting the co-operation of our officers, have ended in

the rounding up of the Kohat gang, who are in process of transportation to Turkestan. During the last few days Afghan troops have come in contact with the men charged with the Landi Kotal murders and in the encounter one of them named Ardali has been killed, though the other Daud Shah has effected his escape. Information has also been received that the militia deserters above-mentioned have been dismissed from Afghan service. As delicate negotiations were in progress you will realise that it was not possible to make a statement about these developments at an earlier date.

Of the other murderous outrages committed on our frontier, in one case suspicion fortified by constructive evidence points to members of the Kohat gang having been among the perpetrators of the murders at Parachinar, while the murder of Major Finnis and of the two Indians accompanying him is still under investigation. Two of those implicated in the crime have been arrested and every attempt is being made to bring those responsible for the outrage to account.

Before I close my observations regarding the position of affairs on our Frontiers, let me acquaint you with the progress achieved in the solution of the problem of Waziristan. We have continued to pursue the policy adopted by us after most careful consideration and with the approval of His Majesty's Government. We occupy a dominating position at Razmak in the country of the Utmanzai Wazirs with our regular troops at the request of the Wazirs themselves. A circular road more than 70 miles in length, running from Idak in the Tochi past Razmak and through Mahsud country to Jandola, has been efficiently constructed in a short space of time. A second road fringing the Mahsud country on the south-east is under construction from Jandola to Sarwekai. These roads have been constructed in the main by the tribes. They are protected throughout the greater part of their length only by irregular forces—scouts and locally recruited Khassadars; and under their protection they are beginning to carry the trade of the country and to exercise the civilising and pacific influences which are the special and beneficent characteristics of a road policy. Except for a few technical troops, there are now no regular troops in Mahsud country. Military expenditure has been steadily reduced; and more settled conditions on the border offer good prospects of a more than temporary success for our policy. We should be unduly sanguine if we declared that our difficulties are at an end. Nevertheless in our judgment, arrived at after much investigation and deliberation, this policy spells the best hope for progressive improvement in the future.

You will remember that when I last addressed the Legislature, the position of Indians in the Empire was a cause of serious concern to me and my Government no less than to Indian opinion generally. Since then, except in directions to which I shall subsequently refer, the results of the labours of the Secretary of State, the Maharaja of Alwar and Sir Tej Bahadur Sapru at the Imperial Conference have undoubtedly improved the situation. The Premiers of four Dominions have shown deep sympathy and expressed their earnest desire to remove the disabilities affecting Indians. There is good ground for hope that the attainment of a solution acceptable to India is only a matter of comparatively short time, except possibly in the case of Canada where there are some special difficulties. India most cordially appreciates their sympathy and encouragement; and I speak for India when I say that this recognition of India's position in the Empire is the source of high satisfaction to her.

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The position in South Africa, however, is different. The Union Government has reaffirmed its unwillingness to adopt the attitude of the other Dominions; and in addition proposals for legislation which are expected in practice to affect Indians adversely have been brought forward. The Natal Township Franchise Amending Act, vetoed on previous occasions by the Governor General of South Africa in Council, has again been passed in the Natal Legislative Council; and a Class Areas Bill has been published by the Union Government. Vigorous representations have been made by my Government which, we trust, will have success in regard to the Township Act. The Union Government have given an assurance that it is their desire and intention to apply the measure, the Class Areas Bill, if it becomes law, in a spirit of fairness to the interests and reasonable requirements of Indians. My Government, however, whilst welcoming the assurance, cannot rest satisfied with this position; and we shall continue our efforts to persuade the Union Government to incline to our view. We are aware of the strength of public opinion in India upon this subject and shall strive to give effect to it by all legitimate means within our powers.

The position as regards the Crown Colonies has materially changed owing to the acceptance of the proposal for a Crown Colonies Committee to be appointed by my Government which will confer with the Colonial Office on all pending questions including Kenya.

The late Prime Minister, Mr. Baldwin, has promised that there shall be full consultation and discussion between the Secretary of State for the Colonies and the Committee appointed by the Government of India upon all questions affecting British Indians domiciled in British Colonies, Protectorates and Mandated territories. I hope for nothing but benefit from these discussions; and we shall gratefully take the fullest advantage of the opportunity offered.

As regards Kenya the views of my Government were explained at length by me in my last address to the Legislature and formed the subject of a Resolution issued by my Government in August last. While acknowledging the difficulties of the issues and the great care and attention His Majesty's Government devoted to India's claims, we did not conceal our feelings of disappointment at the result; and we reserved the right to make further representations, with a view to re-opening these decisions, when a legitimate opportunity offers.

At the Imperial Conference His Majesty's Government have given an assurance that, while they can offer no prospect of the decisions being modified—"Careful attention will be given to such representations as the Committee appointed by the Government of India may desire to make to the Secretary of State for the Colonies." This assurance gives us the opportunity we have been seeking and is a substantial gain.

Following upon the decisions, statutory action has been taken as regards the Franchise question in Kenya. The Kenya Government has treated Indians on the same lines as Europeans and granted adult suffrage. Given communal Franchise, this method of working may be accepted, and it has now become law. It is open to our Committee, however, subsequently to make representations setting forth our contention that there are grounds for an increase in the number of seats to Indians and that in

our view all voters should be registered on a common electoral roll. We shall continue to press our views by means of the constitutional channel opened to us by the assurance of His Majesty's Government.

As regards immigration, the decision of His Majesty's Government was stated in the White Paper in the terms of a general principle only; and His Majesty's Government issued in addition an instruction to the Governor of Kenya to "explore the matter further on his return to the Colony and in concert with the Governor of Uganda to submit proposals to the Secretary of State for the Colonies for giving effect to that amount of control of immigration which the economic interests of the Natives of both dependencies require."

When we received a copy of the Ordinance, which had been drafted by the Governments of Kenya and Uganda and submitted to the Imperial Government, we took immediate steps to urge the postponement of the introduction and consideration of the Bill until the Government of India were able fully to present their objections; at the same time we strongly pressed that the Colonies Committee appointed by the Government of India should also have an opportunity of examining the question of the restrictions on immigration embodied in the Bill. These representations were accompanied by a preliminary statement of our objections to the provisions of the Bill. We received in reply an assurance by telegram from Lord Peel, the Secretary of State, that the introduction of the Bill had been postponed at the instance of the Duke of Devonshire, the Secretary of State for the Colonies. His Majesty's present Government have now informed me that the late Secretary of State for the Colonies found the Ordinance unsatisfactory and returned it to East Africa to be re-drafted. At the same time he called upon the Government of Kenya for certain information regarding immigration and for an explanatory statement respecting the method proposed for the administration of immigration measures.

His Majesty's present Minister for the Colonies will await the reply to these inquiries and the revised draft of the Ordinance and will be guided by further information received when these documents are before him. Meanwhile he has given me an assurance that ample opportunity will be afforded to my Government to express their views, and that he will give his earnest attention to any representations which the Colonies Committee appointed by the Government of India may desire to make regarding the measure whether in the form of a Bill or of an enacted Ordinance.

I desire to express my deep obligations to the late and to the present Secretary of State for the Colonies for the consideration given to the representations of my Government which have received the continuous support of Lord Peel and his successor. The steps taken are strong testimony to the sense of justice and fairness with which His Majesty's Government have been animated in dealing with the proposals.

As regards events in India, the two murderous outrages which have recently occurred in Bengal have caused as deep concern to my Government as they have excited reprobation and abhorrence in the minds of all good citizens of every community. It is the primary duty of Government to vindicate the law against such outrages and to bring their perpetrators to justice; and my Government is entitled to look for the moral support and active co-operation of all sections of the public in the task. We owe to the families of those who have been victims our deep and

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respectful sympathy, but we have an even wider duty—the duty to safeguard others from similar calamity. My Government have for some time been aware of the existence of conspiracies having as their object the assassination of public servants and of the correspondence of persons implicated in these conspiracies with communist agencies directed by organisations outside India. It was out of question to permit these sinister designs to advance on their way to results that no process of law can remedy. Our officers, on whom devolve the dangerous task of the prevention and detection of crime, must look to us for at least that measure of safety, so far as the law can give it, which their own services secure to the public. Punishment in cases of outrages of this nature is not an efficient substitute for prevention. It became necessary to take steps to confine certain of the persons concerned in these conspiracies under the provisions of Regulation III of 1818. The necessity for these measures has recently received tragic confirmation in the murder of Mr. Day and the injuries to three Indians who attempted to stop the flight of his assailant. I trust that these steps to combat an evil which not only destroys innocent lives, but is a menace to society as a whole and a grave obstacle to political progress, will command the approval of all those to whom security and progress are objects of vital and common concern.

Need I assert that it was only with the greatest reluctance that I assented to the use of these measures for the protection of the public and in the public interest. I am firmly impressed by the consideration that it is essential strictly to confine these special and extraordinary measures to extreme cases of emergency; and I fully appreciate and sympathise with the views of those who wish to protect the liberty of the subject with strict exactitude. In these days the strong light of publicity, both in the Legislatures and the Press, is brought to bear upon the use of emergency measures of this character; and this in itself acts as a safeguard against their abuse. Before any action is taken, I and my Government submit these cases to a scrupulously careful examination. If we decide that a case for arrest has been established and no other course is possible, in view of the serious character of the emergency, a warrant is issued. After the arrests in Bengal were made, as you are aware, all the documents and evidence relating to each individual have been placed before two Judges of the High Court for the purpose of thoroughly sifting the material on which action was taken, of submitting it to the technical tests of judicial knowledge and experience and of framing recommendations regarding each case. I shall myself re-examine the case of each man concerned with the greatest care in the light of the recommendations of the Judges in each case and with the assistance of their detailed scrutiny of the evidence and the documents. In this manner the greatest possible precautions will be exercised to secure that no individual shall run the risk of suffering injustice because of the gravity of a situation; and his right to an impartial investigation of a charge will never be imperilled by the immediate necessity for measures of prevention.

I attach great importance to the labours of two Committees at present engaged in the examination of certain aspects of the administration of the law. The first, which has been dealing with the subject of the Bar in India, is reaching the conclusion of its labours. The general question of the creation of an Indian Bar and special features of the varying systems in different Provinces in India regulating the appointment, practice and privileges of Advocates and Vakils attracted considerable interest among



the members of the late Assembly and were the subject of a number of private Bills, Resolutions and questions. The whole problem has now been examined by an expert and representative committee; and their recommendations will be of special interest.

The second Committee is entering upon the task of the examination of civil judicial procedure with a view to increasing the efficiency of the machinery, and in particular of expediting the technical processes for arriving at the final decision in civil suits and for securing to the successful litigant the fruits of his decree. Reproach for delay in these operations has been levelled at our administration; it is essential that for ends of justice and efficiency all cause for criticism should be removed. Any improvement, which it may be found possible to effect, will, I need scarcely point out, be of the greatest value to all litigants and as regards commercial cases will have re-actions of importance on the general commercial and industrial prosperity of India.

Another question of first importance connected with the administration is the problem of retrenchment. Though less than a year has passed since Lord Inchcape presented the report of his Committee, I am glad to inform you that most of the recommendations of that Committee have already been carried into effect; and the great benefit of reduction of expenditure will again be patent when the budget comes under discussion in the Legislature. Considering the far-reaching nature of the changes involved by the recommendations, the expedition with which they have been put into effect is to be commended. As you are aware, the reduction of troops as recommended by my Government on the basis of the report of Lord Inchcape's Committee was accepted in full by His Majesty's Government save in respect of the British cavalry regiments. As regards these regiments His Majesty's Government agreed to withdraw two, but not the third; as a result of discussion however His Majesty's Government have agreed to pay £75,000 annually as a contribution for the maintenance of the third regiment for a period of two years. At the end of that time, if the military situation is still unchanged, it will be open to my Government to raise again the question of the retention of the third cavalry regiment.

In addressing myself to the internal affairs of India I would remind you that a change of Government has happened in England within the last few days. In consequence, ordinary courtesy and also constitutional propriety render it incumbent upon me to refrain from some observations upon Indian affairs I should otherwise be tempted to make, until there has been opportunity for discussion with the new Secretary of State and His Majesty's Government. If therefore—contrary to your expectation—I do not express myself upon some matters, you will understand the reason. But it need not prevent my making some reference to the Reforms and the work before the Legislature.

With the institution of a Legislative Council in Coorg and the grant of representation in the Assembly to Ajmer-Merwara, the reformed constitution has become an integral part of the institutions in the smallest administrative units in this country. The attendance at the polls and the close contest between candidates during the recent Election demonstrate the increasing interest which the system claims from the electorate and the country at large. Within the walls of the Council Chambers parliamentary traditions have begun to be established. Representative institutions are being built up on a firm basis. The people of India are taking a share in the maintenance and activities of government which stands—as all

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civilised administrations must stand—for security against external aggression, for internal security by the maintenance of the law and the preservation of order, for the protection of the rights and liberties of individual citizens of every class and creed, for the development of the material and political welfare of the country and for ordered continuity of progress.

As you are aware, the policy of the Reforms in India was introduced with the approval of all political parties in England and all stand committed to it as the fundamental policy in relation to India of His Majesty's Government, however constituted, and apart from other political controversies which mark lines of division in Parliament. It is not uninteresting in this connection to pause for a moment and reflect upon the succession of Prime Ministers and of Governments that has taken place in England since I became Viceroy nearly three years ago. Mr. Ramsay MacDonald, who has so recently attained his present exalted office, is the fourth Prime Minister with whom I have served during my period of office as Viceroy. None of these Governments has wavered for one moment regarding the policy of the Reforms in India. Each in succession has immediately accepted the policy of the Reforms as the rock-foundation of British policy in India. Governments may, and doubtless always will, vary as regards details of administration and may differ in opinion regarding the stages of progression and periods of advance; but the cardinal policy of the Reforms remains the same for all. It is the policy of the British nation and not of any party. I commend these facts to the consideration of those—if there be any—who may still regard the promises held out as illusory and never to be fulfilled.

I came to India charged with the solemn duty of carrying out those Reforms, inspired by the earnest desire to make them a success and imbued with the firm determination to carry forward the conception along the road to further stages in its ultimate development. I have anxiously watched the consolidation of the foundations. I have seen the first courses of the edifice of parliamentary institutions and traditions and I stand pledged to carry onward the erection of the structure and to continue the building in the full hope of its ultimate completion. But be it remembered that the successful issue of the Reforms cannot depend solely upon the intentions and actions of His Majesty's Government, or the Viceroy, or the Government of India, or of all combined. The future must largely depend upon the people of India and the actions of the Legislature.

A first stage was passed when the first Assembly was dissolved. My own appreciation of the value of the achievements of the first Legislative Assembly and of the Council of State was expressed in my prorogation speech. We have now entered upon a second stage by the election of the new Assembly. I look and hope for continuity of the new Assembly of the same valuable tradition, for continuity is an essential condition of well-ordered political progress. A considerable advance has been made on the road. Many difficulties have been successfully overcome and obstacles surmounted by the Legislature. Differences have occurred, but I am convinced that these have left no bitterness in their wake. Opinions varied but there was a common objective, the advancement of India. To-day marks the opening of a new stage; it chances to happen at a specially important moment and when the future actions of this Legislature will be fraught with the deepest interest and significance to India. There is now a Government in England which numbers among its members some of the most ardent supporters of the Reforms and the most sympathetic

friends of India. There is now a spirit in India, if I am to credit all I read, which is bent upon destruction of the Reforms unless it immediately attains that which it is impossible for any British Government to grant forthwith, that is, complete Dominion self-government. I am well aware that words are often used in the heat of political conflict which perhaps convey more than is really intended. Moreover, it is but natural that when faced with the responsibility of action there should be deeper reflection upon its true significance and probable consequences. I cannot foretell the future; I do not know what it holds; but I cannot conceal from you that the political situation in India in its constitutional aspects causes me some anxiety for the future of the Reforms. I should be doing a disservice to India if I failed at this moment to give expression to my views formed not upon a hasty or cursory survey, but as the result of as profound study and reflection as I can bring to bear upon a subject of supreme interest to me. In October last I sounded a note of warning which I must now repeat in the friendliest spirit but with all gravity. I spoke with the object of presenting the picture of the future, as I then saw it, to those in India who had not failed in their support of the Reforms policy, although they had on occasions felt bound to oppose the actions of Government. You may remember that I adverted to the possible prospect, according to the then indication of events, of a check, which I deplored, in the onward progress of the Reforms. The possibility of this check has come nearer to us, indeed it is in a degree already with us in some aspects, although it has not yet happened and, I devoutly trust, it will not happen in the Central Legislature. If the position should become more acute in the Provinces, the Local Governments may rely upon my fullest support. I still wonder—as I wondered in October—what purpose beneficial to India will be served by any course destined to destroy the continuity of progress in the Reform movement. No change in the Constitution can be effected by legitimate and peaceful methods save with the assent of the British Parliament, that is, the British people. The British Parliament has already set up the machinery now in operation for some time past. It is working with efficiency through well ordered processes towards the creation of responsible self-government. It is difficult to conceive that any responsible body of opinion can ignore the purpose it has in view, or can desire to check its creative activities and to risk the injury which must result to the fine fabric already in process of being woven upon its looms. Nevertheless, I gather that there is a disposition in some quarters to believe that the hands of the British Parliament can be forced, and that a situation may be created which may impair the Reforms and thus cause Parliament to act contrary to their desire and better judgment. It may appear easy to impair and even to destroy and to re-create. Doubtless, destruction is always easier than construction. Violent revolutions have destroyed the institutions of nations. Neglect and apathy in other cases have induced their decay and extinction; but I beg you to remember that when influences of this nature have been set in motion, restoration and re-creation become infinitely more difficult and sometimes impossible. These influences make no appeal to the British people and the British Parliament would emphatically repudiate and reject them. Rather rest the real hopes of the consummation of India's desires in the promises already made and in the intentions already manifested and to be manifested by that great champion of liberties, the British Parliament. As a devoted friend of India, I am convinced that action based on reason and justice will alone prevail with the British people and will prove the only safe road to the ultimate goal to be attained. I feel sure that you will keep steadfastly in mind in the course of the deliberations of this Session that the eyes of all friends of Reform will be fixed

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upon the harvest which the Legislature will sow and reap. It is of the greatest moment to India at this juncture that her elected representatives, in the responsibilities of their present position, should make a wise choice as regards the course they will pursue. I do not doubt that they are imbued by those ideals which have from the outset inspired this Legislature and that they seek the welfare of India. I earnestly pray that calm judgment and a desire for mutual understanding and good-will may characterise this Session of the Legislature and may thus carry India further forward to the fulfilment of her legitimate aims and aspirations. (Applause.)

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The Council then adjourned till Eleven of the Clock on Monday, the 4th February, 1924.