

Monday, 27th February, 1922

THE
COUNCIL OF STATE DEBATES
(Official Report)

SECOND SESSION
OF THE
COUNCIL OF STATE, 1922



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	PAGE
THURSDAY, 23RD FEBRUARY, 1922	837-894
Questions and Answers.	
President's ruling in connection with the Withdrawal of Resolutions.	
Indian Lunacy (Amendment) Bill.	
Indian Income-tax Bill.	
Bills passed by the Legislative Assembly.	
Governor General's assent to Special Laws Repeal Bill and Indian Criminal Law Amendment Repealing Bill.	
Resolution <i>re</i> : Right Hon'ble Winston Churchill's Speech at the East African Dinner on Status of Indians in East Africa.	
Indian Emigration Bill.	
Adjournment of Council.	
MONDAY, 27TH FEBRUARY, 1922	895-928
Questions and Answers.	
Resolution <i>re</i> : Reduction of the United Provinces Government Contribution.	
Resolution <i>re</i> : Constitutional Practice of Voting an Address after Speech from the Throne.	
Adjournment of Council.	
TUESDAY, 28TH FEBRUARY, 1922	929-963
Questions and Answers.	
Message from the Legislative Assembly.	
Desirability of Quorum at Council Meetings.	
Indian Emigration Bill.	
Indian Merchant Shipping Bill.	
Delhi University Bill.	
WEDNESDAY, 1ST MARCH, 1922	965-980
Civil Procedure (Amendment) Bill.	
Indian Limitation (Amendment) Bill.	
Message from Legislative Assembly <i>re</i> : Income-tax Bill.	
Budget for 1922-23.	
Date for Discussion of Budget.	
President's ruling <i>re</i> : Lists of Business.	
Registration of <i>Chelas</i> Bill.	
WEDNESDAY, 8TH MARCH, 1922	981-1053
Questions and Answers.	
Message from H. R. H. Princess Mary.	
His Excellency's orders <i>re</i> : Discussion on Budget.	
Governor General's assent to certain Bills.	
Facilities to Members of Indian Legislature visiting London.	
Discussion on the Budget.	
Adjournment of Council.	

COUNCIL OF STATE.

Monday, the 27th February, 1922.

The Council assembled at Metcalfe House at Eleven of the Clock. The Honourable the President was in the Chair.

QUESTIONS AND ANSWERS.

RECRUITMENT OF INDIANS IN SUPERIOR SERVICES OF DIFFERENT RAILWAYS.

*91. The HONOURABLE MR. SETHNA: Will Government be pleased to state how many Indians have been directly recruited in the superior services of the different Railways in different departments within the last five years and how many of them have continued in their employment?

The HONOURABLE MR. H. A. F. LINDSAY: A statement giving the information is laid on the table.

Number of Indians directly recruited in the Superior Railway Services within last five years.

Departments.	STATE RYS.		M. & S. M. Ry.		B., B. & C. L. Ry.		S. I. Ry.		E. I. Ry.		B. N. Ry.		G. I. P. Ry.		TOTAL.	
	No. recruited.	No. in service.	No. recruited.	No. in service.	No. recruited.	No. in service.	No. recruited.	No. in service.	No. recruited.	No. in service.	No. recruited.	No. in service.	No. recruited.	No. in service.	No. recruited.	No. in service.
Engineering	11	11	2	2	...	...	2	2	2	2	8	8	...	...	25	25
Locomotive and Carriage and Wagons.	1	1	...	...	...	...	...	...	1	1	...	...	...	...	2	2
Traffic	16	16	3	3	Details		1	1	6	6	8	7	Details		34	33
Stores	3	2	...	...	not		...	...	...	...	1	1	not		4	3
Electrical	1	...	...	...	supplied		...	...	...	...	...	...	supplied		1	...
Audit	*	*	1	1	..	...	1	1	1	1	...	...			3	3
Total	32	30	6	6	8	6	4	4	10	10	17	16	9	9	69 +17	86 +15
															86	81

* State Railway Audit Officers are not railway staff and are borne on the cadre of the Finance Department.

GRADES A AND B IN SUBORDINATE SERVICE OF GREAT INDIAN PENINSULA RAILWAY.

*92. The HONOURABLE MR. SETHNA: Will Government be pleased to state: (a) if in the subordinate service of the Great Indian Peninsula Railway there are grades A and B with different scales of salary for work very similar in either grade?

*The Honourable Member was not present.

(b) That although the nomenclature does not suggest difference of nationality, yet the official interpretation by the Railway and executive instructions have made grade A synonymous with Europeans and Anglo-Indians and grade B with Indians?

(c) What is the number of Europeans, Anglo-Indians and Indians respectively in grade A?

(d) What is the number of Europeans, Anglo-Indians and Indians respectively in grade B?

(e) If it is a fact that certain ticket-collectors and guards appointed at first in the B grade have subsequently been transferred to grade A on their proving that they are partially of European descent?

The HONOURABLE MR. H. A. F. LINDSAY: The Agent, Great Indian Peninsula Railway, has been addressed on the subject and the information asked for by the Honourable Member will be furnished to him on receipt.

ADDITIONAL ALLOWANCES TO ALL INDIA-RECRUITED TRAFFIC OFFICERS ON GREAT INDIAN PENINSULA RAILWAY.

*93. The HONOURABLE MR. SETHNA: Will Government be pleased to state: (a) If in accordance with their Resolution No. 1506-E.—10, dated Delhi, 3rd February, 1921, all India-recruited traffic officers on the Great Indian Peninsula and the Bombay, Baroda and Central India Railways have been given a special additional allowance counting as pay for all purposes and corresponding in amount to the Overseas pay sanctioned for Europe-recruited officers?

(b) If any such officers have not been given this allowance the names of such officers and the reasons for not giving them the same?

(c) If such allowance is given at a later date to officers referred to in (b) will retrospective effect be given to such allowance and from when?

The HONOURABLE MR. H. A. F. LINDSAY: The orders in question are not necessarily applicable to officers in the employ of Railway Companies. It is entirely optional with companies whether they adopt the rules in part or in full or not at all.

The Agent, Great Indian Peninsula Railway, reports that the proposals in connection with individual officers' salaries have not yet been settled, but that the present intention is to follow the East Indian Railway procedure and to treat all officers who were in service on the 1st April 1921 alike.

On the Bombay, Baroda and Central India Railway, it is understood that certain Anglo-Indian officers already in the service were admitted to Overseas Allowance. This concession has not been extended to Indian Officers, the reason being that it had not previously been the practice to differentiate between Anglo-Indian and European officers in the matter of pay. It is believed that, with effect from the 1st October 1920, Overseas Allowance has been confined for all future entrants to officers of overseas domicile.

LIST OF MALIKANA HOLDERS.

*94. The HONOURABLE DIWAN BAHADUR NAIDU: (a) Will the Government be pleased to lay on the table a list of Malikana holders for all the provinces?

(b) How many Malikana holders are there in Malabar District? How many are there in other districts of the Presidency?

*The Honourable Members were not present.

(c) When was the exemption granted to the Malikana holders of Malabar from the operations of the Arms Act?

(d) After the new Arms Act rules were framed in 1920, do Malikana holders who are ancient Zamindars and who were enjoying the privilege of exemption prior to the granting of the exemption to the Malikana holders of Malabar, enjoy the same privilege?

The HONOURABLE MR. S. P. O'DONNELL: (a) and (b) The Government of India are not in possession of the information asked for.

(c) January 1886.

(d) Under the Arms Rules of 1920 the ancient Zamindars and Poligars of the Madras Presidency and every Malikana holder in the Malabar district are exempt, but this exemption is subject to the orders of the Local Government regarding the persons to be included in this category.

**MEMORIAL OF DEPUTY EXAMINERS IN THE F. C. M. A.'s OFFICES,
POONA AND LAHORE.**

*95. The HONOURABLE DIWAN BAHADUR NAIDU: (a) Will the Government of India be pleased to state whether the Deputy Examiners serving in the F. C. M. A.'s Offices, Poona and Lahore, have memorialised the Viceroy for (1) the refund of deputation allowance drawn by them between April and December 1920 under the orders then in force but recovered from them on the introduction of time scale of pay, the recovery being thus effected retrospectively and (2) for the continuance of the deputation allowance up to 31st March 1921, and if so, what action has been taken thereon?

(b) Is it a fact that the cases of superior civil officers of the Department and of the establishment have been treated differently, the former having been allowed to retain the allowance till 31st March 1921, with the increased emoluments given to them under the time-scale and the latter are still in the enjoyment of it as personal allowance?

The HONOURABLE MR. E. M. COOK: (a) Memorials for the grant of the concessions referred to in the question have been received by Government from the Deputy Examiners serving in the office of the Field Controller, Military Accounts, Poona, but not from those serving in the office of the Controller, Military Accounts, Waziristan Force, Lahore. The memorials from Poona are under consideration.

(b) The answer to the first part of the question is in the affirmative. The matter will be carefully reviewed before the memorials referred to in part (a) of the question are finally disposed of.

**RESOLUTION *RE* REDUCTION OF THE UNITED PROVINCES
GOVERNMENT CONTRIBUTION.**

The HONOURABLE LALA SUKHBIR SINHA: Sir, I beg leave to move:

'That this Council recommends to the Governor General in Council to reduce substantially the contribution payable by the United Provinces Government to the Central Government under Devolution Rule 17 in the year 1922-23, and to extinguish it as soon as possible within three years.'

Sir, I daresay that the Honourable Members are aware that until recently the Government of India used to get estimates from all the Provinces of their revenue and expenditure, and after considering the needs

*The Honourable Member was not present.

[Lala Sukhbir Sinha.]

of every Province they used to give as much to every Province as they thought to be necessary. This arrangement was found unsatisfactory. Then a quinquennial settlement was introduced. This also was found to be unsatisfactory. Then in 1910 a *quasi*-permanent settlement was introduced. But when the Reforms Scheme came into force, this system also was abandoned. At that time, when the Reforms Scheme came into operation, it was found that the Central Government was going to have a deficit of over Rs. 10 crores, which it was proposed to be met by all the Provincial Governments. To settle this question a Committee, called the Meston Committee, was appointed. They went round to all the Provinces and made inquiries. To make up this ten crores of rupees, this Committee based their calculations on the total income and expenditure of every Province without having any regard to the prospective rise of expenditure of every Province that was due to the Reforms Scheme. In their recommendations they said that the United Provinces Government would have to pay about 240 lakhs of rupees every year out of their total income of about 13½ crores; that is, about one-fifth of their total income. In the same way they recommended a very high percentage from Madras. They expressed their willingness to take much less from Burma and Bengal. From Burma they recommended to take less, on the ground that Burma was not so much developed as the other Provinces were, and Burma wanted more money for the development of resources like forests and mines, and so forth. Bengal did not get enough from land-revenue on account of the permanent settlement, and so they recommended that Bengal should also pay at a less percentage. On the whole Madras and the United Provinces were taxed as heavily as they could be. Honourable Members will find that the percentage of expenditure per head at that time in every Province was as follows.

Bengal used to spend Rs. 5·3 per head; Bombay 4·7; the Central Provinces 2·3; Assam 2·2; Madras 2·2; Burma 1·6; and the United Provinces only 1·5. From this it will appear that the United Provinces Government used to spend as little as possible for the advancement of the Province. The Meston Committee did not take into consideration the prospective rise of expenditure as regards salary and other things. This question was raised in the United Provinces Council in December last by my friend, Pandit Hirday Nath Kunzru. During that discussion almost all the Members, officials and non-officials, supported the Resolution. The Honourable Mr. Blunt, Financial Secretary, gave it a very strong support, and he said:

‘I must warn the Council that we are now rapidly approaching a time when we shall have to face one of the two alternatives mentioned by the Honourable Member. We shall either have to reduce expenditure or we shall have to increase the taxation unless we get back a part of the contribution.’

He expressed his willingness to approach the Government of India again on the subject; although he said that it was not probable that the Government of India would listen to the request of the United Provinces Government, because it had been made before several times. But he said that he would again try to lay the whole case before the Government of India in the hope that something would be done. The Honourable Mr. Chintamani also supported this Resolution as a Minister and said that as they were in charge of the spending Departments they stood more in need of money in order to justify their existence to the people. Unless and until the Ministers get enough money for the spending Departments, I am afraid they will not be

able to make any appreciable progress in those Departments. The Honourable Sir Ludovic Porter, Finance Member, also gave his full support to this Resolution. He said :

' This Province stands last of all as regards expenditure per head, and when you go into details the results are even more striking. The Province stood last in Education; the position was the same with regard to the cost of law and justice, medical, sanitation and agriculture. In Civil Works our position was also of startling inferiority. Then, the Province which has to pay one-fifth of its gross revenues as contribution and which is meeting one-fourth of the Imperial deficit is the one Province which in previous settlements has been unable to attain the standard expenditure which has been found absolutely essential elsewhere in every Department of its activities.'

Then, Sir, he said lastly :

' I would like to emphasise what this Government has already said to the Government of India, namely, that we 'are convinced that public opinion in this Province under the new regime will not accept a position by which a gross provincial revenue of 13½ crores is to be annually mulcted to the extent of 2½ crores in the form of contribution; nor will it agree indefinitely to contribute one-fourth of the Imperial deficit of 10 crores, while two important Provinces contribute nothing whatever and others make only a negligible contribution.'

Sir, in the Assembly at Simla in September last the Honourable the Finance Member raised a question in regard to Bengal. Sir Malcolm Hailey recommended the Governor General in Council to remit Bengal's contribution of 63 lakhs of rupees for three years. During that discussion he put forward the case of Bengal alone, but he said that similar requests would come from other Provinces also in the course of time as was pointed out about United Provinces by my friend, Lala Girdharilal. That being so, he was in favour of considering the demands from other Provinces for the reduction or remission of their contributions. In the United Provinces there is a great field for development in agriculture and industries, but for want of money very little has been done. When proposals are made to the Executive Departments they say that they have no money. There are many agricultural and engineering schemes waiting to be taken in hand, and the United Provinces Government had, therefore, to raise a loan of four crores of rupees, out of which, so far as I know, they intend to spend about 75 per cent. on productive works and the remainder on unproductive works. When, however, we are getting sufficient revenues from our own resources to meet the cost of our development schemes, I see no reason why so much as 240 lakhs of rupees a year should be contributed to the Central Government. If all their revenues were left to the United Provinces I think all these schemes, so useful for the people, can be taken in hand without raising loans to meet their cost. Otherwise for want of money very little can be done. It may be said that the Central Government also has to meet a great deficit and that this is not the proper time for Local Governments to ask for a reduction in or the remission of their contributions. But, Sir, it is a question of principle. When the Central Government has reserved certain heads of income in their own hands, it is for them to make themselves self-supporting. They can get all they need from those reserved heads of income which are very big indeed; for instance, customs duties, income-tax, railways, post-offices, telegraphs, salt, opium and so on. If the Government of India cannot make itself self-supporting, I do not understand how the Provincial Governments will be able to make themselves self-supporting. The example should be set by the Government of India. If they do not, then, how can the Provinces be expected to make themselves self-supporting and self-contained? I repeat that the example should be set by the highest authority, and that is the Government of India. The United Provinces have the

[Lala Sukhbir Sinha.]

largest population in India, but at the same time they spend less per head than other Provinces. The Meston Committee recommended that when the time came for a remission or reduction in the Provincial contributions, the United Provinces and Madras should be first considered. I appeal to the Financial Secretary to see to it that, as soon as it may be possible, the United Provinces may be relieved of this contribution absolutely or at least that a substantial reduction be made in it.

I think this is a matter which requires little discussion. It is only a question of principle and a question of necessity. The United Provinces want more money as a matter of necessity in order to meet their rising expenditure on salaries and for their building schemes. Building materials have gone up 400 per cent. They have no money with which to carry on their building programme, a programme of most urgent necessity. The position in every Department is the same, medical, sanitation, etc. We require more money for agriculture, but the Government has no money. The United Provinces should, therefore, be relieved as soon as possible and then Madras and the other Provinces. I do not say that the other Provinces should be overlooked. I have every sympathy with them, but I feel that the United Provinces stand more in need of money than any other, and I have, therefore, brought its case before the House. If this Resolution is accepted, I think the Honourable the Finance Secretary will be able to do something for the United Provinces.

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

THE HONOURABLE MR. E. M. COOK: Sir, I am rising early in this debate because I feel it is just possible that what I say may simplify the discussion for subsequent speakers. There are several reasons why I do not think it necessary for me to follow my Honourable friend through every part of the description he has given of the financial difficulties of our province. In the first place, if I understand his case correctly, he does not base his claim solely, or indeed mainly, upon the fact that the United Provinces, like all other provinces, are in financial difficulties. I take it that he does not come before this Council merely with a plea *ad misericordiam*. I rather understood that he entered his claim as a matter of right and justice, and because in his opinion the United Provinces are paying more than a fair proportionate share of the total contributions which are at present payable from the provinces to the Central Government. Secondly, Sir, even if I wished to traverse the facts which my Honourable friend has given, I am not at all sure that I should be in a very good position to do so. The fact is that in the Central Government we no longer, as was the case in pre-reform days, exercise any sort of check over the Provincial budgets, and it follows that these budgets do not have to come to us for scrutiny or approval beforehand; in consequence, we have not any very detailed or up-to-date information regarding the state of the Provincial finances, not very much more indeed than any ordinary member of the public has, who reads in the newspapers the accounts given by the various Finance Members of the state of the Provincial finances. And, in the third place, it would be useless, I think, for me to enter into any detailed discussion of the state of the United Provinces finances, or indeed of that of any other province, unless at the same time I could give the House a picture of the present financial position of the Central Government. If my Honourable friend had not been so fortunate in the ballot,

and if this Resolution came on a week, or even two or three days, later, I should probably be able to speak with more freedom, and certainly with a good deal more precision. Nevertheless, Sir, I think there is a sufficiency of material, already before the public, to enable me to deal with the general principles underlying my Honourable friend's motion. I may say at once that, so far as those principles are concerned, there is practically no difference between my Honourable friend and myself. What little difference there is—and I am not sure that even that will not disappear this morning—is rather as regards the immediate application of those principles.

But before I get on to the particular case of the United Provinces, I think it is very important in a matter of this sort to get our ideas quite clear as to the constitutional and legal position, and I make no excuse therefore for taking the Council back to that essential and vital ingredient of the Reform Scheme, *viz.*, the establishment of Provincial autonomy. It is not my intention, Sir, to trespass on ground which is beyond the scope of this motion, but there has been in recent months such an amount of loose talk going about India, which neglects or seeks to obscure the real position that I think it is necessary, and of cardinal importance, that I should say a few words as to what is the actual position as it stands.

Now, Sir, as I think most Honourable Members know, the framers of the reforms saw clearly—and indeed, whatever controversies there have been subsequently; I have never heard this challenged—that if you were to have Provincial autonomy, which in itself is a necessary preliminary if you are going to make a beginning with responsible government in the provinces, it was absolutely essential that there should be a clean cut between the activities of the Central Government on the one hand and those of the Provincial Governments on the other; unless that clean cut were made there must inevitably be overlapping, and if you have overlapping then inevitably there must be interference and no proper autonomy. That, Sir, is the fundamental reason why certain subjects were defined as being solely the concern of the Provincial Governments, while certain other branches of administrative activity were defined as being solely the concern of the Central Government. Now, it follows from that—and I submit equally without question—that if you are going to have this essential administrative division of functions, this clean cut, you must also have corresponding financial division. I think that is obvious, because if a Provincial Government administers a certain subject, such as land-revenue, education, or police, then it is absolutely essential that they must both have the receipts and bear the expenditure relating thereto. Take, for example, the case of land-revenue. If you had continued the old system of divided heads, under which the Central Government got half or $\frac{2}{3}$ ths, and the provinces got half or $\frac{1}{3}$ ths, and if the Central Government had a financial stake in the land-revenue, then, if only in the interests of its own finances, the Central Government would be certain, little by little, to endeavour to interfere with or influence the land-revenue policy. I take that, Sir, as an axiom.

Now, the principle of this clean cut having been established, the next step was to ascertain how this was going to affect the finances of the Central Government on the one side and the Provincial Governments on the other. It was quite obvious to everyone that this clean cut was going to involve a very substantial transfer of revenues from the Central Government to the Provinces. Taking the figures as they stood three years ago,

[Mr. E. M. Cook.]

upon which the framers of the Reforms worked—and I do not think that the mutual relation of the figures has altered very much since then,—the operation of this clean cut was to transfer to the provinces additional resources of not less than 18½ crores, that is to say, there was 18½ crores less for the Central Government. I may add that similar figures were worked out last year, for 1920-21 and were quoted by the Finance Member in his last Budget speech, the actual transfer of revenues on the figures of 1920-21 was just over 20 crores, excluding the contributions. The framers of the settlement, after making every allowance for possible increase of revenues, and after taking what I am afraid is now seen to be a very optimistic view of the Central Government's scale of expenditure, said that the irreducible minimum of the contributions from the provinces was 983 lakhs. To sum up, the decision involved a transfer of revenues of 18½ crores from the Central Government to the Provinces, of which the Central Government took back only about 9½ crores.

I am not seeking to imply, Sir, that, as the result of this transfer, the provinces have been wallowing in newly-found riches, and have had too much money to spend. Everyone knows perfectly well that quite the reverse is the case, and I need not go into details. The whole fact of the matter is that, when the settlement was framed, no one foresaw the immense effect that the rise in prices was bound to have on the pay of all our establishments, and the extra expenditure that has been found necessary, not only in Provincial Governments but everywhere, has been something like eleven or twelve crores, so that the all-India position, Central and Provincial combined, is fundamentally worse since then. I said just now that we did not have very many details of the position of the provinces, but I can say this much that I know there is no single Province which will not be forced next year to budget for a deficit. In the case of one important province, it will indeed only be able to carry on with a large advance from the Government of India. The total amount next year, so far as our information goes, by which Provincial Governments' expenditure will exceed their revenues is 8 crores. So the position, I fully admit, is a serious one. I cannot yet give the other side of the picture. I merely mention these facts about the provinces in order to show that, when I spoke of this transfer of revenues and increased spending power that the provinces then obtained, I did not mean to imply that they should be thankful for what they have got.

Now, Sir, Honourable Members may ask, why did the Joint Parliamentary Committee and the framers of the Reforms, leave nearly 9 crores of the Central Government's deficit uncovered, that is to say, 18½ crores which the Central Government lost, while they only took back temporarily 9½ crores? I think there can be very little doubt that the authorities at that time were influenced by the thought that the heads of revenues allotted to the Central Government were capable of considerable expansion, not only natural expansion, natural growth from year to year, but also by increased taxation. I am quite sure however that they little thought that in the first year of the reforms, in March 1921, it would be necessary for the Central Legislature to impose extra taxation of nearly 18 crores, as was the case a year ago. At the same time, although the provinces did get this increased spending power of nearly 9 crores, the framers of the Reforms looked ahead. They realized that, with the establishment of greater popular control in the Provincial Governments, there would inevitably come a popular demand for increased

expenditure on what a very distinguished Indian Minister described as the 'nation-building' departments, *viz.*: Education, Sanitation, Agriculture, etc. It was for that reason, that the Joint Parliamentary Committee laid down, and the Secretary of State and the Government of India accepted, the view that these provincial contributions should be gradually reduced and finally extinguished with as little delay as possible. I would like to read what the Joint Parliamentary Committee said, because that really binds Government, but I am afraid I have mislaid their report—in any case what they said is probably within the recollection of Honourable Members. They laid down as a matter of great importance that these provincial contributions should be regarded as purely temporary, and that the Central Government's financial administration should be so conducted as to enable the contributions to be gradually reduced and finally extinguished in the shortest possible space of time. That is the actual position. And, so far, there is, I think, absolutely no difference between my Honourable friend and myself. I fear these preliminary remarks have been rather lengthy, but without them I could not get on at once to the particular case of the United Provinces, which is also the case of one or two other Provinces.

I have now to deal with the way in which the Joint Parliamentary Committee distributed these contributions of 983 lakhs. This distribution was based on what Lord Meston's Committee and the Joint Parliamentary Committee considered that each individual province could pay at the outset. They recognised, however, that these initial contributions did, in some measure, stereotype the inequalities, as between provinces, which had existed for very many years, and the full extent of which has always been obscured by the previous system of 'divided heads. I would like to read what the Meston Committee said on this point, because it is a matter of some importance, so far as the United Provinces are concerned:—

'The individual ratio which we have proposed is a practical necessity, but the provinces which will be called upon to pay thereunder more than they should pay in equity ought not to be required to bear that burden for a longer period, or to a greater extent than is required to prevent dislocation of the provincial budgets.'

By 'provincial budgets' they meant of course the budgets of the other provinces. The Meston Committee provided that, after a few years, these contributions should be re-arranged and the contributions of the other provinces should be increased. I think the Council may remember that that recommendation was not accepted by Parliament. Parliament laid down that in no event must the contribution of any individual Province be increased, but that, as the total was decreased, and as the Central Government found it possible to dispense with more and more of the contributions, certain provinces, who started by paying more than their full share, should get the first benefit. That decision is embodied in Devolution Rule No. 18. It is rather a complicated rule, but I should like to give the Council, if I may, an illustration of how it works out. Let us suppose, for example, that it were possible next year to reduce the total provincial contributions by an amount of 183 lakhs—I give that particular figure because the rule is a very complicated one,—and this figure works out rather easily arithmetically. The result would be, if the total contribution were reduced by 183 lakhs, that Madras would get relief at once of 98 lakhs, the Punjab would get a relief of 47 lakhs, and the United Provinces would get a relief of 38 lakhs. No other province would get any relief for the time being. For example, take Bombay. Bombay only started by paying 56

[Mr. E. M. Cook.]

lakhs, and would get no relief at all until the total contributions had fallen below four crores. That is the effect of Devolution Rule 18. My Honourable friend will see that, as soon as any reduction is made, his province will at once receive a larger proportion of benefit than any other province, except Madras and the Punjab. That is how the position stands. Personally I think that is only right, and that anyhow that is how the position stands. What my Honourable friend's Resolution really comes down to is, that he is dissatisfied, I take it, because so far, no reduction in the total contribution has been effected.

The HONOURABLE LALA SUKHBIR SINHA: May I ask the Honourable Member to state whether any reduction of the United Provinces contribution was made when 63 lakhs were remitted for Bengal?

The HONOURABLE MR. E. M. COOK: That, Sir, is an argument, and not a request for information; the Honourable Member knows the answer to his question perfectly well. I was going on to say that there has not been very much time for a reduction of the total, seeing that the new financial arrangements were only started on April 1st last. However, I presume, as my Honourable friend has moved his Resolution, that he is definitely of opinion that the Central Government are in a position, or could put themselves in a position—the terms of his Resolution are a little bit peremptory to make this reduction at once. Well, as to that, Sir, there is room for much difference of opinion, not only as between my Honourable friend and myself, but also between my Honourable friend and the other Chamber of the Legislature, which, after all, would have to find the money. I think the Council will see that my Honourable friend seeks to commit, not only this Council but also the Legislature as a whole, to putting the Central Government in funds to the extent necessary to meet his wishes. I must say that I think the Honourable Member is a little courageous in endeavouring to commit the Legislature in this way, before it knows what the present position of the Central Government is. If I had some magical way of projecting myself into time to the extent of 48 hours, I should be in a position to deal rather more effectively with this question, but I will only say just one word: and this is a point, I think, of very great importance to all Honourable Members,—no matter what the claims of their particular province may be,—and which they should bear in mind. These contributions, as I think I have already shown, do not even pretend to make up to the Central Government more than a half of the revenues which they lost. But, over and above that, even this contribution of 983 lakhs was based on two very important assumptions. One of these was the stabilisation of the rupee at 2 shillings, and the other was a military budget of 43 crores. Now the non-realization of a 2-shilling rupee makes a difference to the Central Government of some 16 crores a year. As for the military budget, the Council knows what the current year's budget is; it has been in excess by about 20 crores. By 36 crores therefore the Central Government are worse off: I think that fact speaks for itself, as to the possibility or the practicability of our being able to accept my Honourable friend's rather mandatory Resolution. However, Sir, it is very far from my wish to bang the door upon what the Government of India admit is by no means an unreasonable claim, for this is a claim which arises directly out of the reforms arrangements and out of the commitments entered into when the reforms were inaugurated. But, as my Honourable friend has referred to the case of Bengal, let me first say a few words about that case. I should not be in order if I were to dish up the whole of the arguments which were

put forward in another place last September, but I must remind my Honourable friend of one thing, and that is, that this was gone into very carefully and very fully in another place,—and that the other Chamber, after hearing the arguments, decided to commit itself to treating the case of Bengal specially, no matter how illogical it may have seemed, and no matter how much it may have seemed to prejudice the claims, the rights and vested interests of other provinces. Now I would just remind Honourable Members that the case for the special treatment of Bengal arose directly from the recommendation of the Joint Parliamentary Committee itself. That Committee said that they were much impressed with the special difficulties of Bengal. They said:

‘The Committee desire to add their recognition of the peculiar financial difficulties of the Presidency of Bengal, which they accordingly commend to the special consideration of the Government of India.’

Well, the Government of India have always realized that the other provinces have to meet with difficulties, due to the growth of their expenditure, just as much as Bengal has, but their embarrassments differ considerably in degree from those of Bengal, and the Government of India felt that the recommendation of the Joint Parliamentary Committee created a wholly exceptional position. Their task in dealing with it would have been very much easier if the Joint Committee had made their recommendation in more specific terms. It proved impossible for the Government of India to obtain—although they tried to obtain—a more precise indication of what special treatment the Parliamentary Committee intended should be given to Bengal. So, after much consideration, it was decided to suggest to the other House that this recommendation of the Joint Committee should be met, to some extent, by temporarily waiving Bengal's contribution. I am afraid this is rather a digression, but I think I ought to bring back to Honourable Members' recollection the actual facts of the case.

As regards this particular Resolution, Sir, I think I have shown my Honourable friend that, so far as the principle is concerned, there is practically no difference between us, but, having regard to what I have said about the all-India position generally, I am afraid the utmost extent to which it is possible to go to meet him is to say that the Government of India recognize that the reduction of these contributions is, and must be, a first charge upon any betterment that may accrue in the Central Government's own position; that is to say, that any such betterment must go in relief of the provinces before it is devoted to anything else. I am afraid I could not accept the Resolution in the actual terms in which it is worded. If my Honourable friend had merely made a recommendation that the Provincial contributions, as fixed by the Devolution Rules, should be reduced in the manner specified in Rule 18, and finally extinguished at as early a date as possible, then in that case I should have had no hesitation in accepting it.

The HONOURABLE THE PRESIDENT: The Honourable Mr. Kale.

The HONOURABLE MR. E. M. COOK: If my Honourable friend is going to move his amendment, I should be much obliged if I might raise a point of order. I should like to invite your attention to Standing Order 32, clause (I):

‘An amendment must be relevant to, and within the scope of, the motion to which it is proposed.’

I submit, Sir, that this amendment is not only not within the scope of this Resolution, but goes an enormous way beyond the scope of the Resolution,

[Mr. E. M. Cook.]

and that it is quite impossible to debate the two things in the same discussion. If you wish, Sir, I will give my reasons.

The HONOURABLE THE PRESIDENT: I think the Honourable Mr. Cook has explained his point of order sufficiently. When this amendment was put on the paper, it seemed to me also to be somewhat wide and to go beyond the actual motion. I allowed it, however, to stand because I thought the Government might desire to have a general discussion of the question of provincial contributions. Apparently that is not the wish of Government. I must admit also that the amendment goes somewhat further than that. But I have listened to the Honourable Mr. Cook's speech and I think he has himself clearly entered upon the discussion of other provincial contributions. That is dealt with in the first part of the amendment. I have no hesitation in admitting that part down to the word 'practicable'. The second part of the amendment in my judgment is certainly not only beyond the scope of the actual motion on the paper, but also beyond the discussion which has transpired. It will be open to Mr. Kale, if he so desires, to move his amendment down as far as the word 'practicable'.

The HONOURABLE MR. V. G. KALE: Sir, the amendment which I have to move is this:

'Omit all the words after the words 'Devolution rule 17,' and substitute the following:

'as well as the contributions of other Provincial Governments who have suffered by the scheme of financial redistribution carried out under the Government of India Act, 1919, at as early a date as practicable'.

I do not move this amendment in any spirit of hostility to the request which has been made in the original proposition. I am entirely in sympathy with the claim which has been put forward on behalf of the United Provinces. The object of my amendment is to emphasise the fact that it will not be possible for the Central Government to reduce or to extinguish the contribution of a single Province without considering the claims of other Provinces also. As my friend, the Honourable Mr. Cook, has already pointed out, the financial position of the different Provinces is entirely unsatisfactory at the present moment. But an impression seems to have got about that any Province which can clamour the loudest has a good chance of getting something by way of remission of its contribution or other relief from the Government of India. It is unfortunate that after the financial re-distribution effected under the Government of India Act, 1919, there should be a repetition of the scramble that one witnessed in the past between the different Provinces in connection with the grants which they received and wanted from the Central Government. Under the old financial system of what were called 'quinquennial settlements', each Province tried to get as much as it could out of the Central Government; and when the period of the quinquennial settlements came to a close, there was a regular fight for better treatment at the hands of the Central Government on the part of the Provinces, and the present position is very much similar to what the financial position was in the past. Many provinces have come to think that the treatment meted out to them is worse than that which has been accorded to certain others. Bengal thinks that it must be treated as a special case; Madras thinks that it has been hit the hardest; the United Provinces share the feeling of Madras; while many provinces hold the view that Bombay, though it is a wealthy province, has been treated altogether with too much favour and leniency. But what are the facts?

We see from the newspapers that the Government of Bombay is faced with a deficit—a deficit for the current year and a deficit for the coming year. All the resources of the Government of Bombay have been exhausted; balances to the extent of $3\frac{1}{2}$ crores have been exhausted in the course of two years, and it will be seen from the budget for the next year that there will be a minus balance of about 30 lakhs of rupees. Each of the Provincial Governments is trying to meet the financial situation in the best manner possible; and the test of their sincerity is to be found in their desire, not only to retrench and economise, but also to impose additional taxation. Under the new scheme of financial re-distribution the provinces have been endowed with the privilege of imposing provincial taxation; and that privilege—very inconvenient as it has been found to be—is being exercised in the very first year of the constitutional Reforms, and in almost all provinces new taxes have been imposed. Without new taxation it has been found absolutely impossible to make the two ends meet. Even with new taxation, they find that their balances are being exhausted and that they are left with *minus* balances. The point I wish to impress upon the Council is this. You cannot deal with this question in a piecemeal fashion. You cannot deal with the problem independently in regard to the position of one particular province. The Honourable Mr. Cook has pointed out that there has been a clean cut made between the finances of the Central Government and those of the Provinces. Certainly, provincial autonomy required this clean cut; but at the same time there is a world of difference between the position of the provinces and that of the Central Government. The resources of the Central Government are vast and very much larger than the resources of the Provincial Governments. The mere fact that the Central Government could impose additional taxation to the tune of 18 crores in a single year, goes to show what resources of financial power are possessed by the Government of India. I recognize that their financial responsibilities are also very great. In the matter of defence in particular, the responsibilities are great. But the taxable resources of the provinces are not elastic as they are sometimes believed to be. You can perhaps add to the duties on stamps; you can make something perhaps from an amusement tax. Beyond that, it is not possible for them to go. It is, therefore, necessary to emphasise that there is a limit beyond which such a clean cut and financial separation cannot be carried. As I said in my speech on the Retrenchment Resolution, whoever the taxing authority may be—the Central Government, a Provincial Government or a local authority—it is ultimately the citizen who has to bear the burden. When the Government of India increases its taxes or levies new taxes, a smaller amount of financial power is left to the citizen to meet further additional taxation in the provinces. The limits of provincial taxation are, therefore, very narrow indeed, and consequently it is desirable that the Government of India should treat the provinces with as much liberality as possible, in spite of the fact that provincial autonomy requires that there should also be financial autonomy. There is an intimate relation between Central and Provincial finances, and it is impossible to make an absolutely clean cut division between the two. Under these circumstances, it is, to my mind, necessary to review the whole position; and if I understood my friend, the Honourable Mr. Cook, correctly, all his arguments went to show that anticipations have not been fulfilled in regard to the award made by the Meston Committee as between the Government of India and the Provinces. The anticipations have not been fulfilled. Consequently a reconsideration of the matter has become necessary. There are certain factors which have entirely changed the position. No doubt, the Government of India, I am glad to say, is

[Mr. V. G. Kale.]

willing to reduce the provincial contributions as early as possible. But as I have been saying, the whole thing turns upon one or two important factors. For example, there is the question of exchange. The relief which it was expected the Government of India should receive on account of the rupee being fixed at 24*d.* has not been secured. That relief may be obtained or may not be obtained. That will depend upon what will be the exchange policy of the Government. Then, secondly, much will depend also upon the financial policy of the Government of India in connection with Railways. I am one of those who think that the Railway revenues of the Government of India should not be sacrificed in any scheme of separation of the general Budget of the Government and the Railway Budget. That question has, however, yet to be decided. There are thus many questions which have yet to be decided, the exchange question, the Railway finance question and the question of the resources that are available and the expenditure that is obligatory on us. Therefore, I think, it is essential, in the immediate future, to review and reconsider the whole position. It may not be possible to reconsider the particular ratios in which contributions are to be made, because the object even of the Meston Committee was not to redress the inequalities as between one province and another, but it should certainly be possible for the Government of India to say whether it can forego any particular amounts of contribution to be received from the Provinces. I think, therefore, that the question ought to be reconsidered in the light of the experience that we have gained during the last twelve months, in view of the complaints that we have heard from all sides, and in view of the hopes raised at one time in the minds of the provinces. In view of all these facts, I think the whole question should be reviewed and reconsidered. With these few words and for these reasons, I hope that my amendment will be accepted.

The HONOURABLE THE PRESIDENT: Resolution under consideration. Amendment moved:—

‘Drop all the words after the words ‘Devolution rule 17’ and substitute the following: ‘as well as the contributions of other Provincial Governments who have suffered by the scheme of financial redistribution carried out under the Government of India Act, 1919, at as early a date as practicable.’

The Resolution will therefore read as follows if amended:—

‘This Council recommends to the Governor General in Council to reduce substantially the contribution payable by the United Provinces Government to the Central Government under Devolution Rule 17 *as well as the contributions of other Provincial Governments who have suffered by the scheme of financial redistribution carried out under the Government of India Act, 1919, at as early a date as practicable.*’

The HONOURABLE LALA SUKHBIR SINHA: I want to move an amendment to this amendment of the Honourable Mr. Kale.

The HONOURABLE MR. E. S. LLOYD: I support the amendment moved by the Honourable Mr. Kale. I shall endeavour to be as brief as possible, though much might be said on such a very big subject. I shall also endeavour to be as calm as possible, because this is a subject which has created some very strong feeling in the past and upon which some rather heated discussions have taken place. I am aware that circumstances have rather altered the situation, and that at the present moment we have got to discuss the present and not the past. The Honourable the Finance Secretary, if I may say so, ‘hath a stern look but a gentle heart.’ I am quite sure he is prepared to meet the provinces as far as possible. His

position of course is that the Government of India are themselves in difficulties. I am quite aware that to a certain extent the provinces are beggars begging of beggars. It is, no doubt, somewhat unfortunate that this Resolution has come up at a moment when we do not exactly know what the financial position for next year is, and when we cannot perhaps expect a more definite answer from the Government of India. I do not think that this Resolution will carry us very far, but it may be of some assistance to the country at large and to the provinces if we pass it as amended, because, Sir, the position has undoubtedly altered. The Honourable the Finance Secretary has stated that the Government of India's position is worse. What about the position in the provinces? At the time when what Madras considered an exorbitant contribution, at any rate an extraordinarily heavy contribution, was levied on it, the position of the province was that they expected at any rate a certain amount of surplus and they thought that they would be able to carry on. That is not the case now. The position in the United Provinces is possibly not so bad as in Madras. The Honourable Mover of the Resolution has told us that he wants money for development, he wants money for improvements, and therefore he thinks that it would be right that the contribution should be lessened in his case. But the position in Madras is far worse than that. We no longer want money only for development, that is to say, we do want it very badly indeed, for development, but we also want it at the present moment for actual necessities. Our position is this that, owing to the non-co-operation movement, our excise revenue, as the House is aware, has fallen in the present year by something like a crore of rupees, and the position, therefore, is that not only are we faced with a deficit of Rs. 66 lakhs in the present year, but our anticipated deficit for the next year is something like $1\frac{1}{2}$ crores. Well, it can hardly be wondered that the Madras people when they see that they have to pay to the Government of India the enormous sum of $3\frac{1}{2}$ crores which is much more than any other province has to pay, they naturally feel that the Government of India should now come to their assistance even if at the time the contribution was levied it was thought to be fair. It has never been thought to be fair in Madras. Still, as I said, I shall not go into that part of the question. What they do say now is, that the time has come when something should be done and what they do feel more than anything else is that if the finances of the Government of India are bad, theirs are worse and that the Government of India, as the Honourable Mr. Kale said, has better facilities of imposing taxation than the provinces have, and that we ought somehow to get the clean cut to which the Finance Secretary has referred. That is what all the provinces really want. The Government of India no doubt want it also. When the provinces are left entirely alone, they can probably manage themselves. At any rate at that time it would be for them to impose their own taxation and to cut their coat according to their cloth. If the provinces had their own money, they could carry on. Until they do so, I will not say they ought not to raise taxation, but the difficulty is that you cannot persuade the people to impose necessary taxation until this heavy contribution is removed, or at any rate reduced.

I think that all there is in the Resolution which we are asked to consider this morning is, that the contributions should be reduced substantially from next year and extinguished as soon as possible. I will not say that we should reconsider the proportions of the amounts paid by the respective Provinces. That possibly is out of the question. Anyway, what we do want is a concession, if we cannot get justice; and if Madras could get those 93 lakhs or 98 lakhs, which the Honourable the Finance Secretary spoke about,

[Mr. E. S. Lloyd.]

I do not say that they would be satisfied, but at any rate they would get something. All we ask for is something in the next year, with the hope of getting more hereafter.

The HONOURABLE MR. E. M. COOK: I am just a little bit mystified in regard to the position, as I am not quite sure what my Honourable friend, Mr. Kale, wishes. I am not quite sure whether he merely wants the Government of India to agree to reduce the provincial contributions in the manner specified in Devolution Rule 18: or whether he wants to extend the reduction to cover the case of the other Provinces.

The HONOURABLE THE PRESIDENT: Those are the terms of the Honourable Member's amendment.

The HONOURABLE MR. E. M. COOK: If that is so, I am willing to accept that particular portion of it, but I have considerable difficulty, Sir, in accepting an amendment which goes on to make the pious expression of opinion 'who have suffered by the scheme of financial re-distribution carried out under the Government of India Act, 1919.' That begs the whole question. Some provinces say they do suffer by that re-classification, other Provinces say they do not. Once one introduces that sort of thing into an amendment it alters the whole position. I am afraid Government could not commit themselves to a statement which would not even go into the preamble of a Bill. If an amendment of this sort would meet the Honourable Mr. Kale's, and also the Honourable Mr. Sukhbir Sinha's wishes, I shall be pleased. I would like, Sir, if you will give me permission, to move an amendment that. . . .

The HONOURABLE THE PRESIDENT: Has the Honourable Member got a copy of his amendment?

The HONOURABLE MR. E. M. COOK: I will read it out and give you a copy. My amendment is:

'That after the words 'Governor General in Council' the Resolution should read: 'that the Provincial contributions, as fixed by the Devolution Rules, should be reduced in the manner specified in those Rules, and finally extinguished at as early a date as possible.'

That will commit the Government so to order the administration of the Central Government's finances that it will put the reduction of these provincial contributions in the very forefront of its liabilities. That, I think, sums up the feeling of most of the Members here and will not excite feelings which would set one province against another.

The HONOURABLE THE PRESIDENT: The debate is still open to Honourable Members.

The HONOURABLE MR. LALUBHAI SAMALDAS: We are awaiting the amendment before speaking.

The HONOURABLE THE PRESIDENT: The amendment moved by the Honourable Mr. Cook runs as follows. I will read the amendment and the Resolution as amended:—

'This Council recommends to the Governor General in Council *that the Provincial contributions as fixed by the Devolution Rules should be reduced in the manner specified in those Rules, and finally extinguished at as early a date as possible.*

I will allow that amendment to be put to the Council, although it is only a more precise expression of that of the Honourable Mr. Kale's which it supersedes.

The HONOURABLE MR. E. M. COOK: Yes, that was my intention.

The HONOURABLE THE PRESIDENT: The amendment is now open to debate.

The HONOURABLE LALA SUKHBIR SINHA: The amendment moved by the Honourable Mr. Cook does not contain any special reference to the United Provinces. The amendment moved by the Honourable Mr. Kale is more acceptable to me, and I was going to accept it with the addition of two words.

The HONOURABLE THE PRESIDENT: If the Honourable Member desires to make an amendment, he must hand it in.

The HONOURABLE MR. E. M. COOK: I think I can remove my friend's doubts. I specially put in the words 'in the manner specified in those Rules', because the effect of that is to bring relief to the United Provinces in the way provided for in those Rules. Under Devolution Rule 18, as I explained, Madras, the United Provinces and the Punjab get the first benefit of any such reduction. That is why I put in the words 'in the manner specified in those Rules'.

The HONOURABLE LALA SUKHBIR SINHA: I want to say that if the Honourable Mr. Cook will add his words 'after Devolution Rule 17' I will accept his amendment.

The HONOURABLE MR. E. M. COOK: Devolution Rule 17 is not the operative one; Devolution Rule 18 is. That is the one I was referring to in my speech.

The HONOURABLE THE PRESIDENT: Does the Honourable Member desire to move his amendment or not?

The HONOURABLE LALA SUKHBIR SINHA: Yes, Sir.

The HONOURABLE THE PRESIDENT: Then let him hand it in at the table. In the meantime I put the Honourable Mr. Cook's amendment before the House.

The question is:

'That, in the Resolution moved by the Honourable Lala Sukhbir Sinha, the following amendment should be made, namely, that the words 'to reduce substantially' down to 'three years' be omitted and the following be substituted:

'that the Provincial contributions as fixed by the Devolution Rules should be reduced in the manner specified in those Rules, and finally extinguished at as early a date as possible.'

The motion was adopted.

The Resolution now runs as follows:—

'This Council recommends to the Governor General in Council *that the Provincial contributions as fixed by the Devolution Rules should be reduced in the manner specified in those Rules, and finally extinguished at as early a date as possible.*'

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is:

— That the Resolution as now amended and which runs as follows:

'This Council recommends to the Governor General in Council *that the Provincial contributions as fixed by the Devolution Rules should be reduced, in the manner specified in those Rules, and finally extinguished at as early a date as possible.*'

be accepted.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The Honourable Mr. Khaparde.

The HONOURABLE LALA SUKHBIR SINHA: What about my amendment?

The HONOURABLE THE PRESIDENT: The Honourable gentleman is too late. He unfortunately did not hand in his amendment before I put the Question.

RESOLUTION RE CONSTITUTIONAL PRACTICE OF VOTING AN ADDRESS AFTER SPEECH FROM THRONE.

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

‘This Council recommends to the Governor General in Council the desirability of introducing the constitutional practice of voting an address, after the speech from the Throne, which in India would be the speech of His Excellency the Viceroy, opening a Session of this Council and the Indian Legislative Assembly.’

In this Resolution, the words which I have used—‘constitutional practice’—are of great importance. The Constitution, as I take to mean, forms an organic part of the original, which has ultimately developed into the present practice. ‘It is constitutionally so,’ meaning it has been there from its very inception. We know that the institution of ‘Parliament’ is a very old one, and so was its predecessor; the Anglo-Saxons brought it to England with them and then it gradually developed into the Parliament that we speak of now. The principal part of it is that the King calls the subjects together, or, as is the technical term, all the estates of the realm are called, and the King has a speech with them, and they have a speech with the King. The word ‘Parliament’ itself means ‘conversation’ ‘colloquy,’—and, as that has been interpreted later on in the 12th and 13th centuries, it means ‘debate,’ ‘talk’ on high matters of State,—a ‘deep speech on high matters of State’ as it has been ultimately interpreted. Originally, then, the King used to send for the estates of the realm to an assembly, and have a speech with them,—and I suppose they, in their turn, had a speech with the King, and that is the meaning of the word ‘Parliament.’ Mr. Freeman says that it was a conversation or talk, as it is called, a deep speech on high matters of State. Now it is a very very ancient institution not only in England; we find it going back to the time of the Anglo-Saxons when they came over to England. In our own history here in India, you find the same thing. There was a time when the King used to send for all the estates of the realm, as he used to call them. The earliest that we know of is in the Ramayana, when king Dasaratha wished to abdicate in favour of his son Rama, the national hero, or, rather, to admit Rama to be the Yuva-raj, or the young kingship, meaning something like viceregentship; he wanted to make his son the Yuva-raj, and he convoked a sort of parliament. It was not called ‘parliament’ in those days, but all the estates of the realm,—that is, Brahmins were called, the merchants were called, and the Khatriyas were called,—the several professions that then existed. A second instance of this is to be found in the Mahabharata where Yudhishthira wished to celebrate the sacrifice called the Rajasuya sacrifice, and then had an assembly of all the estates of the realm, much in the same way as Dasaratha did; and these people were called, and they were consulted, and they were asked. Then he convoked a Privy Council, and then, ultimately, not being satisfied, he called his allies, and his allies were called, and they were asked, and the allies were consulted, and then he

performed that sacrifice. A third instance of that we have got in our books; it is that of Dhritarashtra. When he became very old and got tired of this world and wanted to retire into the forest, he convoked again a great assembly, and he told them that he was very old now, he could not manage to perform his duties, and wished to retire; and he also admitted the faults he had committed and so forth, and ultimately he recommended to the people that they should accept Yudhisthira as their king, and then he retired. So you see it appears from the instances I gave that this was an institution which existed before the Aryans divided. It appears to have been brought by them, I do not know exactly from where; Mr. Tilak would think they brought it from the Arctic regions; anyhow this appears to be an institution that is quite as old as any. This is, of course, so far as the Hindus are concerned. The Muhammadans also are an extremely democratic race,—republican I might say; to this day you see they have in the villages what are called 'jirgas'; every male member across the border goes there and says what he has to say. I suppose the Parsis also had a similar institution, though I am not able to quote it. It is thus a very very old institution, which has got its roots down to pre-historic times. With-in historic times we can look up as many text-books as can be found in the libraries and not one of them discusses it,—because it is something which exists from time immemorial, it is a practice, it is a thing to be found in the whole history of England; you do not find an instance where anybody tried to inquire why this practice is of the King speaking first, and the assemblies then voting the address. This appears to have been disputed nowhere,—no precedents are to be found of any discussion. So, looking to all those instances and seeing these things, I come to the conclusion that as the word 'parliament' originally meant, it only meant 'conversation'; the King, when necessary, used to send for his subjects and have a conversation with them. Originally, it is difficult, very difficult to say when, but during the time of the Plantagenets, originally the idea was that the King, like everybody else, had his own separate estate, and he was supposed to exist and maintain himself by the estate or Crown lands. Gradually the royal expenses increased, and the King could not live within his means, and more especially when there were wars and other things had to be undertaken, then he used to send for his Lords, the Barons and the commonalty, and then he asked for money from them and said 'I have got a war on hand; my son is to be knighted; my eldest daughter is to be married; and I want so much more money,' and so on. In those days the Barons were consulted separately, the Londoners were consulted separately, and the merchants were consulted separately,—and the merchants also appeared to have been very important and they were also consulted separately,—and also the clergy—and all were laid under contribution. Sometime later the clergy retired; they would have nothing to do with this taxation business. Eventually the clergy got dropped out altogether, and then there came the coalition between the Knights and the commonalty which formed the House of Commons, the Barons becoming the House of Lords, and this is how the three estates got established. I mention all this to show that the original purpose was to get these people together and ask them to contribute money and that was called 'causes for summons.' The King issued the summons to each person of the commonalty through the Sheriff and then the causes of the summonses were disclosed at the opening of the Parliament. It was a very picturesque ceremony. As I read of it in books it brought back to me the scenes which we have witnessed here at the time that His Royal Highness the Duke of Connaught opened our Legislatures, and also when His Excellency the Viceroy came to the Council at Simla and made a speech. That was a very picturesque ceremony, and though in these modern days

[Mr. G. S. Khaparde.]

there are many people who do not attach much importance to ceremony, I, being of an older generation, am fond of ceremony. I think the ceremony that I suggest will lend solemnity to our proceedings and will impress upon the people round about what is going on, and it will do a great deal of good. This ceremony of the opening of Parliament in England is very important. It has been described with great minuteness of detail and it is very difficult to resist the temptation of mentioning something about it here. Writs are issued to the Sheriffs of Shires, to the House of Lords. . . .

THE HONOURABLE THE PRESIDENT: I would remind the Honourable Member that his time is somewhat limited.

THE HONOURABLE MR. G. S. KHAPARDE: I won't go into minute details of it, Sir, but for the purposes of my speech I will mention a few things. Then the Commons assemble in their own House and the Lords assemble in their House. And then the Lord Commissioners come and summon the Commons to the bar of the House of Lords. The Commons go there and they are told 'gentlemen you had better go and elect your speaker.' Then the Commons come back and elect their speaker and next day they again appear. Then the King comes in state to open the Parliament and delivers a speech. After that the Commons return to their own House and they vote what is called an 'Address' in reply to the speech from the Throne. The Lords also either the same day or the next day vote an address in reply to the speech from the Throne. Then two persons are appointed in the House of Lords and two in the House of Commons who propose and second the Address. The discussion then takes place and when the Address is eventually passed, it is made over to certain appointed persons in both Houses for delivery to His Majesty. In this matter of the opening of Parliament a difficulty arose in 1688. The Ministry resigned during the vacation and no new Ministry had taken office. Sir Erskine May devotes a whole page to describing how the difficulty was got over, because until the proper ceremony had been gone through no one would believe that Parliament had been opened, that is to say, until the speech from the Throne had been made and an address voted from both Houses. It is a custom, a practice. It is not a right or a privilege. Nobody claims it as a right; nobody says it is a privilege. It is something that has grown up with the Parliament. The King in sending for his Parliament delivers a speech, and that speech necessitated a reply from the people. That reply is called the address in reply to the speech from the Throne. I have endeavoured to show that it is a very ancient custom; it has gone on uninterruptedly to the present day and serves a very great and useful purpose. The useful purpose that it serves is, that it enables the Government to give a general review of its administration and to set forth the legislation that they have in mind with the general policy that they mean to pursue. The reply from both Houses indicates their side of the case. They generally begin by thanking His Majesty for his gracious speech, and then they either approve the policy which has been outlined in the speech or they express dissent or propose amendments. In this way this ceremony forms a link of understanding between the Government and the people. There is an old maxim in England—a very old maxim—namely, 'What affects all must be approved of by all.' This is supposed to be a maxim coming down from Saxon times. As taxes affect everybody, therefore taxes must be approved of by all. As the policy of the Government affects everybody in the Realm, therefore it must be approved of by all. The speech

from the Throne, therefore, and the address voted in reply serve a most useful purpose. It not only enables the Government to explain their policy and helps the people to understand exactly what their position is, but it gives a tone to the whole of the Session that follows. That is an important matter.

Another thing is that the British Dominions all have more or less the same constitution as that in the Home country. In a book written by Professor Dodds it is made clear how Parliamentary Government is carried on in the different Colonies. The same principle is maintained under different forms. The King is represented by the Governor or the Viceroy; the House of Lords or aristocracy is represented by a Second Chamber; and the commonalty or the House of Commons is represented by a House of Representatives or whatever the local designation may be. This form of government is reproduced everywhere. Here in India we have the Viceroy, who represents the King, the Council of State and the Legislative Assembly. In the matter of the opening of the Legislature also the same practice has been introduced in the Colonies. The Governor or the Viceroy opens the local Parliament in state and delivers a speech. The Houses after listening to the speech vote, each separately, an address in reply to the speech. So that, what I am asking for is nothing more nor less than what is already the practice in the Dominions. We have much the same kind of constitution as they. Some of them may be a little in advance of us, as, for instance, Canada; but there are other Colonies which have a constitution somewhat inferior to ours. But apart from that, this is a custom which does a great deal of good and I have, therefore, proposed in my Resolution that the practice may be introduced here also. It simply means that the Viceroy will open a Session of the Legislature with a speech in which legislation proposed to be taken in hand is foreshadowed and the general policy of Government defined. Then that will be followed by each House sitting separately and voting an address in reply, thanking His Excellency and pointing out any differences that may exist between the policy of Government and the wishes of the people.

Would I be in order, Sir, if I made a few remarks about the amendment to my Resolution?

THE HONOURABLE THE PRESIDENT: I think the Honourable Member can reserve his remarks until the amendment is moved. Any speech on the amendment must be made after the amendment has been moved.

THE HONOURABLE MR. G. S. KHAPARDE: Then, Sir, I will not prolong my speech on my motion. I submit that the practice which I desire to introduce is one which has come down in England from time immemorial and which has done a great deal of good. With these words I trust that my Resolution will be accepted by this Honourable Council.

THE HONOURABLE SIR ARTHUR FROMM: Sir, I beg to move the following amendment to the Honourable Mr. Khaparde's Resolution:

'That after the words 'constitutional practice' the following be substituted for the remainder of the Resolution:

'of a general discussion on the topics raised by the Governor General's speech at the opening of each Session of the Legislature in so far as those topics are open to discussion by the Council.'

Sir, I think it will be obvious to all the Members of this Council from the very picturesque history which the Honourable Mr. Khaparde has given

[Sir Arthur Froom.]

us of the House of Lords and the House of Commons at Home, that the Resolution to which I am moving this amendment is based on the procedure in England where the conditions of the constituted Government are considerably different from those obtaining in this country at the present time. The speech of His Majesty the King at the opening of Parliament is in effect a declaration by the Prime Minister of the policy of the Government in power for the time being. If the motion to move an address is negatived or substantially amended, it usually amounts to a Resolution of want of confidence in the Government which accordingly resigns. Now, at the present stage of the Legislature in India, I cannot see the usefulness of a Resolution to vote an address in reply to the Governor General's speech. Suppose the Resolution is not adopted or is substantially amended, what result has been obtained? There is no particular Government party to resign and you can hardly expect the Viceroy in office at the time to do so. On these lines we might have a new Viceroy once a year. Nor can you expect the Executive Members of the Viceroy's Council to resign; they are not comparable with the Members of the Cabinet in England, but correspond more closely with the permanent staff and are in effect an irremovable Executive who do not hold office at the pleasure of the Legislature. Fancy the possible calamity of say a new Home Member or new Finance Member every year. (*A voice*: Thrice).

Sir, I think I have said enough to show what little, if any, advantage would be gained from this Council having an opportunity of voting an address on the Governor General's speech, but I am in sympathy with the motives underlying the Resolution, and for this reason have brought forward my amendment that this Council should be given an opportunity of a general discussion on the Governor General's speech, subject always to the reservation that nothing arising thereon can be discussed which is not open to discussion in this Council under the rules. The speech doubtless will always embrace topics of particular interest and give voice to some declaration of Government's policy, and a discussion in this Council on such topics and such declarations of policy would, I think, be all to the good. Misunderstandings could be smoothed away, explanations would be forthcoming. The moving in Council of ineffective and unprofitable Resolutions would be avoided, while the way would be prepared for other Resolutions which would be of assistance in the fit and proper conduct of the administration of this great country.

Sir, I hope that my amendment will be acceptable to the Honourable Mover of the Resolution and also acceptable to Government.

I would add one point more. I consider that a calm and carefully studied discussion on the Governor General's opening speech, reported as it would be in the Press both European and Vernacular throughout India, could not fail to be but beneficial and educative to the masses generally. With these few remarks, Sir, I move my amendment.

THE HONOURABLE THE PRESIDENT: Resolution under discussion. Amendment moved:

'That after the words 'constitutional practice' the following be substituted for the remainder of the Resolution:

'of a general discussion on the topics raised by the Governor General's speech at the opening of each Session of the Legislature, in so far as those topics are open to discussion by the Council.'

The Resolution would read as follows if amended :

' This Council recommends to the Governor General in Council the desirability of introducing the constitutional practice of a general discussion on the topics raised by the Governor General's speech at the opening of each Session of the Legislature, in so far as those topics are open to discussion by the Council.'

The Amendment and the Resolution are alternative propositions and open to debate in the Council.

THE HONOURABLE SIR WILLIAM VINCENT: Sir, I do not propose to follow the Honourable Mover in his dissertations on the Parliaments of the ancient Hindu Kings or of those of the Muhammadan Democracy, which, he says, are in force over the frontier. From what I have sometimes heard I should think every member of Parliament there must bring a rifle with him, and I hope we shall not imitate that practice here.

In his Resolution before the Chamber, however, the Mover really wants to follow English constitutional practice and it is on that basis that I prefer to deal with the question. Now, there are two aspects from which the constitutional position can be examined. First of all let me examine the position of the two Chambers of the Indian Legislature and compare it with that of Parliament. Here there are two Chambers, the Legislative Assembly and the Council of State which have certain powers of legislation, certain financial powers, and certain powers of discussing Resolutions. But on all these matters restrictions have been imposed upon the authority of the Assembly and this Council by Parliament. Certain legislation cannot be enacted by the Legislature; certain legislation can only be passed with the sanction of the Secretary of State; certain Acts can only be considered with the previous approval or sanction of the Governor General; and in certain circumstances legislation can under the Statute be effected, without the consent of a majority of Members. Similarly, the financial powers of the Legislative Assembly are subject to material restrictions. Certain demands are not voted, and in other cases there is the power of restoration in particular conditions. If you take discussions of Resolution on matters of public interest, there again the powers of the Legislature are equally limited by the rules under the Statute. In all these respects the position of the Legislature differs entirely from that of Parliament which has unfettered powers. Now, let me turn to the position of His Excellency particularly in relation to his power of addressing the two Chambers. It has been argued that in this respect the Viceroy occupies the position of the representative of His Majesty. I venture to submit that this is a false analogy. For the purposes of the King's speech, His Majesty is really only a figure-head representing His Majesty's Government. The King was originally the authority that actually wielded all power. Gradually, by degrees, his powers have been curtailed and absorbed by Parliament. The position out in India is entirely different. The chief controlling authority is not, and has never been, the Governor General. The Government is vested in the Governor General in Council. It is the Governor General in Council who is the Government in this country and not the Governor General. When it comes to a speech from the Throne, the difference between the practice at Home and that out here is abundantly demonstrated. The speech from the Throne, as correctly stated by Sir Arthur Froom, is in effect a declaration by the Cabinet of the policy of His Majesty's Government. It is framed by the Cabinet, who are responsible for it. They can defend it—they have to defend it—on the floor of the House. If they failed to defend it, they are liable to be removed. If the motion to move a reply to the address is amended, the amendment may imply a censure upon the Government and mean the resignation of the Government. We saw this but a few days ago when

[Sir William Vincent.]

there was a motion of an amendment on the reply to the King's speech affecting the Secretary of State for India. That was intended, as everyone thought, as a vote of censure on the Government. The Government took it in that sense and opposed the proposed amendment winning by a large majority. The King's speech is not written by the King. The King is not responsible for it, and any reply voted does not affect His Majesty, but affects His Majesty's Government.

Now let me contrast the position out here. The Governor General here has two separate sets of functions. One arising out of his position as the head of that body called the Governor General in Council, which is the Government of India. The second is a separate set of functions altogether, which he is called on to perform as a representative of His Majesty the King, by virtue of which position he exercises certain statutory and non-statutory powers. For the exercise of these latter functions the Government of India is in no sense responsible. We have no part or parcel in those duties, and of them one is the right to address the Chambers of the Legislature vested in His Excellency the Governor General, by virtue of the Government of India Act. That power is exercised by him without any control from his Council or from anyone else. Nor is this true only in theory. I can assure this Council that in practice the Viceroy's speech is not submitted to His Council for examination; and he says exactly what he likes and what suits him. He does not speak or profess to speak on behalf of the Government of India. He expresses his personal views often on subjects which are entirely outside of the cognizance of the Assembly or this Council, but which are of the very greatest interest to the public. By reason of his high position and his personal touch with His Majesty's Government, he is indeed often able to afford information of a very valuable character to the Legislature, but that is not done by the authority or with the cognizance or under the control of the Government of India. The occasion is one on which His Excellency is pleased to place his personal views before you and in doing so he is performing a duty, the responsibility for which he cannot share with his Executive Government or with anyone else.

That leads me to another point. In these circumstances it is clearly not fair or proper that the Members of the Government should be called upon to defend the Viceroy's speech on the floor of the House. (Hear, hear.) It is his speech, it is a speech of the King's representative. It is delivered on his individual responsibility and it is not a speech of the Government. It would be improper for us to criticize it; it would be unfair to ask us to defend it, if indeed that also would not savour of impropriety. What then would be the position? Honourable Members might attack the Viceroy's speech; no Member of Government would be in a position to defend it. The Viceroy himself cannot come down to the Council to place his views before the Assembly. Is it right? Is it fair then that the Viceroy should be criticised, in his absence, in an arena into which he cannot come, on the exercise of a power which is vested in him by Act of Parliament, for performing a duty which he ought, under that Statute, to perform? I maintain if the Statute is examined, if the Rules are examined, it will be quite clear that it was never the intention of the Statute at all that the Viceroy's speech should be debated in this Council or in the Legislative Assembly (Hear, hear). I maintain that the responsibility for the statements made in that speech is the individual responsibility of the Viceroy, and that it is unreasonable that his observations should be criticised in his absence when no one is there who can legitimately defend him.

Now, what would be the effect of the Honourable Mover's Resolution? Would it not, in fact, render His Majesty's representative open to censure here? Was that the intention of the Statute of Parliament? Can it have been the intention that His Excellency should be attacked, criticised in a forum where he cannot defend himself. That indeed would not be consistent with his position as His Majesty's representative. Of course, it may be said that this reply would be merely a method of conveying a gracious message to the Viceroy, and that that has been our experience in the past in regard to messages of welcome to His Excellency—I think one was passed by the Council of State—or in regard to the message of welcome to His Royal Highness the Duke of Connaught; but those addresses were of an entirely different character. On occasions of that kind controversial subjects are naturally avoided. The position in regard to His Excellency's speech is entirely different. If the Viceroy is to make an interesting live speech, he must touch on controversial topics, and it would be most undesirable that in exercising this privilege of addressing the Legislature he should be open to censure and thereby possibly prevented from delivering any address in future to the Legislature at all. This is a consideration which must occur to everyone, and if he were prevented from exercising a personal duty imposed on him by law it would indeed be most unfortunate. Would that, in effect, not be really nullifying what the Statute requires? Of course if it could be assumed that the discussion on the reply would never be hostile, there would not be the same objection to the proposal; but there would be this equally grave objection that if the discussion was not frank and free, it would be lamentably dull and useless.

I said just now that I believe that such a reply to the address is not contemplated by the Statute or the Rules. I should like here to invite attention to Standing Order No. 65. I am not sure if I am citing the number correctly as I am speaking from memory, but the Order prohibits any personal reflection on the Viceroy. Now, how would it be possible to criticize his speech unless some reflection upon his conduct were made? Would it not be necessary to reflect on his language, on his policy, on his attitude and, on his conduct, if the debate was to be of any real use to the public or to the Members of the Council?

I have dealt with this question only in so far as it touches a reply to His Excellency's address. But this is only one of many statutory functions which the Viceroy exercises. Honourable Members who are familiar with the Act know that there are numerous sections which confer on him specific authority in regard to particular matters. If you once begin to seek to influence the Viceroy in the exercise of one statutory power, it is a very short step before you seek to fetter his discretion and influence him in all directions in regard to matters which have been placed not under the authority of the Government of India, but under his sole control. Those

1 P.M. who propose this are indeed seeking to arrogate to this Council and to the Legislature a power which is not vested in the Executive Council of the Government. It is quite certain that the Executive Council has no right to advise the Viceroy at all on such matters unless he asks their help. It is true that this motion proposes to arrogate to this Council a right to criticize the Viceroy in the exercise of one of those Statutory functions only. But I say that if you once begin in this way, it will very shortly be argued that other Statutory functions are equally open to criticism. It seems to me very doubtful if anyone has the power to control the authority of the Viceroy exercised under this Act. It is certainly not a power within the authority of the Government of India. I

[Sir William Vincent.]

have no doubt myself that it is not within the power of the Legislature, which is just as much a part of the Government of India as the Executive Council. I doubt even if it is within the power of the Secretary of State. If you read section 33 of the Government of India Act, it says that 'the Governor General in Council is to render due obedience to the Secretary of State'; but I am not at all sure that that extends to the personal powers of the Governor General. Nor is any interference with the Statutory powers of a Governor allowed in, if I may say so, more powerful Assemblies than this. I think I can remember a case in which the Governor of the Punjab had appointed a Minister, and when it was sought to criticise that appointment in the House of Commons, my recollection is that the criticism was ruled out of order and no discussion of the point was allowed. Why? Because the Governor was exercising a statutory power. It is no use arguing on the analogy of the King's speech, because there is no analogy at all between the King's speech and that of His Excellency. Here you are dealing with the exercise by His Excellency personally of a Statutory power, with which I submit neither this Council nor the Legislative Assembly nor the Executive Council, nor even Parliament, can interfere, save by exercising a right which is always vested in His Majesty's Government. I think I have now said very nearly all that has to be said on this question, the general question. But I want the Council to remember that what they say here applies equally to the provinces; such a discussion would be of very great importance. I am told that in some provinces this question has been raised and has been ruled out of order. I am not, however, prepared to make a definite statement on that point.

And now I want to turn to Sir Arthur Froom's amendment. It is quite obvious that Sir Arthur Froom has made some study of the subject, which has enabled him to express himself in detail regarding it and he saw at once what the weakness of the original proposal was. It was for that reason that he put up an amendment, proposing a 'general discussion.' Again I say, on a reference to the Statute, section 63, or to the rules,—that if it had been the intention that there should be a general discussion on the Viceroy's speech,—we should have had either in the Statute or in the rules some reference to this. There is none. We know a general debate is allowed on the Budget; and full provision is made in the rules for that. My objection, Sir, to the 'discussion' which the Honourable Sir Arthur Froom proposes are two-fold. In the first place, it is open to the same objection that I raised just now; it involves a criticism of the Viceroy's conduct here, where he cannot defend himself, on a speech for which the Government of India are not responsible, which the Government of India do not control, or the contents of which they have nothing to do with. We should not be in a position to defend such a speech, and it is unfair that the Viceroy should be criticised in his absence. Again, let us look at the safeguards there are in the rules for the discussion of matters of public importance. In the first place 'Notice': Again certain Resolutions can be disallowed if the Viceroy thinks that the discussion is undesirable. The rules also provide that a Member cannot forestall a discussion, notice of a Resolution on which has already been given. Now how are those safeguards to be preserved in a discussion such as is proposed by the Honourable Sir Arthur Froom? They all vanish. Then again what policy are Government to defend? Not their own, but the views of the Governor General. How are they to deal with a discussion which anticipates a Resolution on which a particular matter would be discussed

later? Further, what has been our experience of these discursive discussions? I remember the old Budget debates in the old Legislative Council when I had the honour of being the Secretary in the Legislative Department. They really were, if I may say so, about the most futile discussions that anybody heard; there was no subject that was not casually discussed, debated; there was no voting, and no decision or even careful examination of any of the questions. Sir, in the circumstances I must also oppose this amendment, though I quite admit that it is not open to all the objections as the original motion both on constitutional and practical grounds. I say that a general discussion would be productive of no useful moment. I say that it would be unfair to the Viceroy to attack his speech and his conduct in an arena where he cannot defend himself, and where it would be unfair to Members of Government to undertake that task. All these objections apply equally whether you have a vote or not. Indeed if a reply were voted, it would make very little difference; the Legislature could not remove the Viceroy, although by a vote of course the House of Commons could prejudice the position of His Majesty's Ministers very materially. Sir, though I oppose this motion I do not want anyone to think for one moment that the Government seeks to impair the right of this Council or of the Legislative Assembly to discuss any matter that is open to discussion. What I submit is that proper provision is already made for such discussion. Where any subject is open to discussion, it can be debated on a Resolution—I am not talking of legislative or financial discussion,—or a Member can put up in certain cases a motion for adjournment of the House. Those are the two proper ways of forcing a discussion on any question,—and it is certainly undesirable in my opinion that the discussion of any speeches made by His Excellency should be allowed to forestall debates which are prescribed by the rules. I believe, indeed, that what the Honourable Sir Arthur Froom desires can be secured, without the objections which I have mentioned, by a debate on Resolutions properly framed on all subjects mentioned in his speech which are open to discussion, and this last is one of the conditions he makes . . .

THE HONOURABLE SIR ARTHUR FROM: I am trying to remove objectionable Resolutions by a general discussion.

THE HONOURABLE SIR WILLIAM VINCENT: I think that the Honourable Member is a little optimistic if he thinks that the proposal will get rid of objectionable Resolutions. The man who wishes to bring an objectionable Resolution will not be deterred from doing so in the least. Members would merely have a double discussion of the same facts, one of the discussions being singularly infructuous.

Sir, I have given my reasons for believing that such a procedure as is proposed by the Honourable Mover or that contained in the amendment of Sir Arthur Froom would be contrary to the spirit of the law. I believe that both would be dangerous to the maintenance by His Excellency of the authority which is vested in him: and I believe it would afford a peculiarly unsatisfactory method of debating the questions referred to in the speech which are open to discussion. I hope that this Council will reject both the motion and the amendment.

THE HONOURABLE SIR ARTHUR FROM: May I rise to a point of explanation, Sir? I wish to state that in moving my amendment I did not propose that there should be any opportunity given of an unfair attack on His Excellency the Viceroy in this Council. What I had in mind is— and this is my point of explanation—that the speech will be criticised as it always is criticised throughout India in the Vernacular press; and if we had

[Sir Arthur Froom.]

a good discussion in this Council, we might keep the Vernacular and European press straight. I did not have any idea of an unfair attack on His Excellency the Viceroy, as it were, behind his back.

The HONOURABLE SIR WILLIAM VINCENT: I did not mean to suggest that that was the Honourable Member's intention; but I suggested that it might be the result.

The HONOURABLE THE PRESIDENT: The Honourable Sir William Vincent referred in his speech to a Standing Order, I think to the wrong one. Will he kindly let me know if the Standing Order in question is Standing Order 28?

The HONOURABLE SIR WILLIAM VINCENT: I am afraid I was quoting from the Standing Orders of another Chamber.

The HONOURABLE MR. V. G. KALE: Sir, I accept the purely constitutional position and the position with regard to practice as it has been pointed out by the Honourable Sir William Vincent. I admit that there is no analogy between the constitutional practice in England and the practice which the Mover of the Resolution has proposed; but I do not agree with him when he seeks to show that the practice proposed cannot be instituted in this country for very serious reasons. He has piled difficulty upon difficulty—and most of them constitutional difficulties. However, I do not think that even the author of the Resolution intended in any way to violate or alter any Statutes or rules already existing. It was his intention, I believe, that the Government of India should start a constitutional practice which, without in any way going against the Statutes, should be conducive to a discussion of Government policies in this House. I will refer only to a few difficulties which have been pointed out by the Honourable Sir William Vincent. He says that a personal attack upon His Excellency the Viceroy is likely to be made. I do not think that such an attack on the Viceroy or, for the matter of that, on any Member of the Government, can be allowed under the rules. Why, therefore, should this special difficulty be placed before us? It is a common rule that no personal attack shall ever be made upon His Excellency the Viceroy or any Member of the Government. Therefore, I am not frightened by that difficulty.

Then, with regard to the second constitutional difficulty, namely, that His Excellency the Viceroy and his Executive Council are not equally responsible for certain statements which are made in His Excellency's speech, I am aware that the position of His Excellency the Viceroy is quite unique in this respect, and that his Executive Council does not take part in the discussion of, and the decisions arrived at on, certain questions. But is it intended to be conveyed to this House that when His Excellency the Viceroy makes certain statements he does not wish to carry his Executive Council with him? Does not his Executive Council share the views of the Viceroy? Constitutionally speaking, what Sir William Vincent says may be right. But, as a matter of practice, I think that His Excellency the Viceroy and his Executive Council do agree on most of the important questions that will be normally dealt with in the Viceroy's speech. . . .

The HONOURABLE SIR WILLIAM VINCENT: May I explain, Sir, that we often do not know what His Excellency is going to say. It is a little difficult to expect Members of Council necessarily to agree with what they have not even seen.

The HONOURABLE MR. V. G. KALE: In the amendment moved by Sir Arthur Froom certain questions which are not open to discussion in this Council are excluded, and I support that amendment. If the Council accepts that amendment then the objection raised by Sir William Vincent will vanish, and questions like those of foreign policy, for instance, matters which may lie out of the purview of the Executive Council and are dealt with entirely by the Viceroy, will be excluded from the discussion in this Council. So, that difficulty will disappear.

It is also said that the discussion in this Council will be futile. I agree with Sir Arthur Froom, however, that inasmuch as in the Viceroy's speech, a general statement about the policy of the Government will be made, as it has been made in the past, that will be a proper opportunity for the Council to express its own views. No doubt, it is open to the Members of this Council to move Resolutions and declare its views with regard to the details of the policy of the Government. A statement made by the Viceroy, however, will present the policy of the Government in a condensed and crystallised form, and I think that it will afford the proper opportunity for this Council for discussing its views and expressing its own opinions with regard to that policy.

Then, another objection that has been taken is that some Members might forestall the discussion that is expected to take place later on in the Council. I think this objection is more imaginary than real, and I do not think much need be said about it. I do not, again, believe that the discussion which is proposed, will in any way fetter the discretion of the Viceroy. What we want is that a convention, a new constitutional practice, should be established. Theory and practice, even in England, do not agree, as we see in the case of the King's speech. As we have already been told the King's speech is not a speech framed by His Majesty, but it is prepared by his constitutional advisers, his Ministers. In this way, there will be no danger of the statutory powers of the Viceroy being fettered if the discussion is allowed. We want to create a convention and by means of that convention we want, in one way or another, to make an advance in the path of constitutional development. I am aware that the difficulty of Government here is that ours is not a popular or responsible Government, and therefore that the analogy, as pointed out by Sir William Vincent, cannot be carried to the extent of the Government of India resigning on an adverse vote. It is because there is no analogy of this kind that I want such a convention, which, if instituted, will be very useful and which should, therefore, be allowed. For these reasons, Sir, I support the amendment moved by Sir Arthur Froom.

The HONOURABLE SIR DINSHAW WACHA: Sir, from the very beginning I thought that the motion of Mr. Khaparde was out of the question. In fact some of the objections which the Honourable Sir William Vincent just brought forward were in my mind when I first read the Resolution. I do not think that Mr. Kale has been able to meet successfully or convincingly the very strong objections, constitutional and otherwise, which the Honourable Sir William Vincent has brought forward so effectively. I am emphatically of opinion that the Resolution, if adopted, would put the Viceroy in a very difficult position as much as the Government of India, so, too the amendment of Sir Arthur Froom. And I do earnestly appeal to the House especially my non-official colleagues, that they should not at this stage of the infancy of our Legislature, adopt a Resolution of this character which may land us into bitter controversies and perhaps to more catastrophic contingencies in the future. I consider it almost a

[Sir Dinshaw Wacha.]

dangerous Resolution so innocent looking, to bring forward at this moment, and I do sincerely hope that no Honourable Member of this House will agree to either the amendment of the Honourable Sir Arthur Froom or the original Resolution of the Honourable Mr. Khaparde. I firmly believe, Sir, that the practice that is going on for some years past is the best, that is to say, of the Viceroy whenever he thinks he ought to come before the Assembly, either this Assembly or the other, and give out his own views on particular subjects or a particular policy, about which there may be difference of opinion in the public or misapprehension. That sound practice is, I think, the best. I think the Viceroy should be left alone, in his own splendour and in his own lonely dignity and isolation to remain aloof from all political controversies. He might come forward only when he himself voluntarily desires it essential to make a declaration of policy or explain certain matters which require elucidation. (Hear, hear.) I think that is a wise policy to follow in practice for some years to come before the Legislature at any rate till it has reached a mature age. I repeat most emphatically, therefore, my opinion that neither the amendment of Sir Arthur Froom nor the Resolution of Mr. Khaparde should be passed. More, I entirely agree with every word of what the Honourable Sir William Vincent has said in regard to this matter.

THE HONOURABLE MIAN SIR MUHAMMAD SHAFI: I move that the question be now put.

THE HONOURABLE MR. G. S. KHAPARDE: First, Sir, with your permission I wish to speak about the amendment and I regard it as a friendly amendment intended to carry out my real intention. Of course, my friend, the Honourable Sir Arthur Froom, agrees with me in principle, but he does not agree over the ceremonies. For the 'address' he substitutes 'a general discussion,' which carries out the gist of my intention minus the ceremonial I had in view. And considering that we are living in this present century when ceremonials are not held, in respect I suppose I had better not value that. So I am disposed to accept the amendment as put forward by Sir Arthur Froom. Now, as to the objections that have been taken both to the main proposition as well as to the amendment, I wish to make a few submissions. One of these submissions is that the Honourable the Home Member thinks that there is no analogy between the circumstances as now obtaining in India and the circumstances as obtaining in England. I humbly beg to differ. I say this practice existed in the days when irremovable Executive did hold office in England also. During the days of the Plantagenets, the Tudors and even the Stuarts, the Executive were not removable on the vote either of the House of Commons or the House of Lords. It was the later development that has come into it. But this practice existed long before even the Plantagenets came to the throne. So, so far as one sees, this practice pre-existed the removability of the Executive, and I believe it will last for all time, because Parliament will always be intimately connected with the administration by the three estates of the realm. The next objection that has been taken is also rather difficult. My friend, the Honourable Mr. Kale, has explained that the constitutional position is right. When the Honourable the Home Member and a distinguished friend of mine agree, I suppose it is rather bold to disagree with them, but I shall venture to do so, and I submit that my position is correct and the other position put forward in opposition is not correct; and, why is that so? How do I make bold to make this assertion? It is this that the principle of ministerial responsibility holds good not only in

England, in the British Isles and all over the British Dominions, but in the Colonies as well as in India. His Excellency the Viceroy represents the King. The Governor General is the President of the Ministry. So the Governor General and the Ministry between them carry on the administration. His Excellency the Viceroy represents the King and the King is above politics. So is the Viceroy above politics. Therefore, the position of the Viceroy as it is called in constitutional books is the representative of His Majesty the King. His position is exactly the same as that of the King himself. It is not merely what I evolve out of my inner consciousness. I have not brought the book with me, but if it is necessary, I could produce the book, which lays down these doctrines and they have been accepted in correspondence between the colonies and the Colonial Government or the Colonial Secretary of England. There are Governors and Governors. There are some Governors with no power or fraction of royal prerogative given to them; some people like Commissioners have no prerogative, no fraction of the prerogative of the Crown. Governors have got a fraction of the prerogative given to them. It is only the Viceroy alone to whom all the prerogatives of the Crown have been assigned, *viz.*, the prerogative of mercy, and various other prerogatives and dissolution. The Governors in India have acquired a fraction of the prerogative of dissolution. But all the other prerogatives still remain vested in His Excellency the Viceroy. I, therefore, humbly submit that our position is very much the same as that—I will not say of Canada, because Canada stands a little higher—of all the rest of the British Colonies and above the Crown Colonies and similar Colonies that exist elsewhere. Some Colonies also have what we call irremovable Executive and yet this practice of speech or having an address in reply to a speech from the Throne obtains and is continued to this day. Instances of these are given by Dodd in his book 'Parliamentary Government in British Colonies.' This distinction also which I spoke about and the position of the Viceroy and Governor is also made out in two long chapters in the same book. In another book, I think written by a German, the same thing is brought out. Apart from that objection, the Honourable the Home Member when he spoke of section 65, I believe, was referring to section 50, and not section 65. That does not appear to deal with the matter. It is dealt with in section 50. (At this stage the Honourable Sir William Vincent showed the rule to the Honourable Mr. Khaparde). The wording is the same. We are agreed that it is the aim. What is this clause? It says:

'The matter of every speech shall be strictly relevant to the matter before the Council.' (Hear, hear).

What is the difficulty? I am only reading the first part of the clause. Why is it difficult for you? It says:

'(1) The matter of every speech shall be strictly relevant to the matter before the Council.'

(2) A Member, while speaking, shall not—

I shall omit the other things.

'reflect upon the conduct of His Majesty the King or the Governor General or any Governor (as distinct from the Governments of which they are respectively the heads).

This comes in parenthesis. Now, what does this parenthesis indicate? So far as my poor intelligence goes, nobody is to speak against His Majesty the King or the Governor General or any Governor certainly; but when

[Mr. G. S. Khaparde.]

you are talking of the Head of the administration you may find fault with some part of his administration. You may criticise that administration or you may make what remarks you please; otherwise this parenthesis would be meaningless. 'A member while speaking shall not reflect upon the conduct of His Majesty the King or the Governor General or any Governor (as distinct from the Governments of which they are respectively the heads).' Why is this parenthesis introduced? A Member shall not reflect upon the conduct of His Majesty the King or the Governor General or any Governor, and then in parenthesis it is said (as distinct from the Governments of which they are respectively the heads). That means that I may not make any remarks on the Governor General or Governor. I have got strictly to keep in view, while making my remarks, the administration and its head, and nothing else; not to make any personal remarks. So that the rule quoted by the Honourable the Home Member supports me, and that argument of his does not hold at all. I have already said that there is no difference in the position in this respect or in any other respect. I shall now proceed to develop further the second part of the objection. In theory even to this day His Majesty the King rules supreme, and he has got all the powers and everything else, but he cannot exercise those powers except through His Ministers, and the Ministers have either got to take the responsibility or resign. If the Minister is to be found, who is willing to take the responsibility and face Parliament by exercising that prerogative, well and good. If there is no Minister to be found, then His Majesty cannot carry the proposal. The position is similar here in India. Here it is this House and the other House. If there is a proposal to come, it has got to come through the Executive Government, that is to say, through one of the Ministers of His Excellency the Viceroy. The Viceroy does not come here to initiate a proposal, just as His Majesty could not go to the House of Commons or the House of Lords to initiate a proposal. The position is exactly the same. It is a constitutional function and that means that the King can do no wrong; so the Viceroy can do no wrong. Any wrong done must be by his Ministers, and the Ministers are the Home Member for one. We stand in the position of the House of Lords, and I see nothing anomalous in the position. No vote of this House will turn out a Minister. It may be that if this matter had been argued in the other House some distinction might be drawn and some difficulty might be felt; but so far as this Council stands, however humble it may be in comparison with the House of Lords, it is something like the House of Lords, and a vote of the House of Lords does not turn out a Minister; therefore an adverse vote here will not have the slightest effect.

Further, the Honourable Home Member has told us that it was not the intention of the Legislature, meaning Parliament, that we should be in a position to present an address in reply to the speech from the Throne. I have not come across any authority for that proposition. I was present during a discussion which took place when this Government of India Act was passed, and I don't think this question ever arose. I then consoled myself that it was merely a matter of practice and not a matter of Statute. I call it a practice, it is a practice, and practice always supplements the Statute law and does not go against the Statute law. There is no prohibition anywhere laid down; therefore I submit what is not prohibited may be initiated by practice, otherwise all customs and all practices in this world will have to go out. Unless I am told that there is a section and that this section prohibits this address through both Houses, I submit that the objection does not hold.

Further, it was pointed out that the inconvenience will be very great, and my Honourable Friend, Sir Dinshaw Wacha, thought that I was treading on very dangerous ground, and that no one with common sense would vote for me. I would like to know where the danger comes in. . . .

The HONOURABLE THE PRESIDENT: I must remind the Honourable Member that he is approaching his time-limit, and that he should bring his speech to a close as soon as he possibly can.

The HONOURABLE MR. G. S. KHAPARDE: The first point I have endeavoured to meet. There is no constitutional difficulty in the matter. The second is that there is no statutory prohibition of this practice. The third is that this practice is so ancient that it existed before the removable ministry stage and will endure to the end of time. Lastly, no inconvenience is caused by it. The last argument is that there cannot be any talk by one person with himself. His Majesty the King or His Excellency the Viceroy calls us here to deliver a particular message or a particular idea. I suppose it is natural that we should be able to say something about it. I never intended to transgress any rule of the Act. I know exactly what the limitations that exist are, and I have not the slightest idea of going beyond them. Therefore, so far as I am concerned, I very gladly accept the friendly amendment moved by Sir Arthur Froom, and I strongly oppose the reasons which have been given for rejecting both the Resolution and the amendment.

The HONOURABLE SIR WILLIAM VINCENT: There are just one or two points with which I should like to deal in reply. They are, however, so easily refuted that I shall not waste the time of the Council; and I shall deal with them very shortly.

The Honourable Mover assails my argument relating to the difference between the constitutional position here and in England, and says it does not affect the case, because this practice of voting an address to the King obtained long ago when the King was the sole authority, when there was no question of an attempt to remove the Ministers from office. The point is however that the speech is made in England and has always been made by an authority which was constitutionally supreme. So long as the King held the real power he made the speech, and the reply was made to him. He was the Government, now actually the real authority is vested in His Majesty's Ministers. The speech is drafted by them and the reply affects them, in either case, that is, the reply is really addressed to an authority which is constitutionally supreme. Here constitutionally the Government of India is not vested in the Viceroy, but in the Governor General in Council. The speech is not prepared by the Government, and consequently the reply would not be addressed to them either, and the constitutional position differs entirely from that which obtains in England. Further, it is well known that His Majesty does not personally perform many of the functions which are supposed to be exercised by him. We know that when a post has to be filled by His Majesty, it is filled by His Majesty's Government or by His Majesty acting on the advice of his Government. The position here is entirely different. The Viceroy has got certain powers including power of appointment, power of pardon and so on. Does the King ever see cases of applications for pardon? Very seldom I should say. The Viceroy sees a great many. And similarly the other Statutory powers vested in the Viceroy are powers really exercised by him; he necessarily takes an active part in the Government. Everybody knows, for instance, that he takes an active part in the proceedings of the Executive Council, a

[Sir William Vincent.]

part which the King does not take in the Cabinet. It is useless, in present circumstances, therefore, to say that there is any analogy between the position of the King and the position of the Viceroy in India in many respects.

Then the Honourable the Mover said: 'As in any case this Chamber could never remove a Minister, why not give it the harmless right to vote the reply.' Is that a practical proposition? Do you think, does any Member of this Council think, that the Legislative Assembly would consent to the Council voting the reply to the Viceroy's speech if the Legislative Assembly did not do it? Is that seriously proposed? Finally, may I ask what the real effect of this Resolution which I am glad to see has not obtained much favour would be? It would be either to deprive the Governor General of a Statutory power, a very valuable power that is vested in him, or to transfer indirectly to the Governor General in Council a power now vested in the Governor General. If a reply is to be voted the speech would have to be a speech on behalf of the Government and not the speech of the Governor General; and that is not what the Government of India Act contemplates.

The HONOURABLE THE PRESIDENT: The question is—

'That in the Resolution moved by the Honourable Mr. Khaparde the following amendment be made:

That after the words 'constitutional practice' the following be substituted:

'of a general discussion on the topics raised by the Governor General's speech at the opening of each Session of the Legislature, in so far as those topics are open to discussion by the Council.'

The Amendment was rejected.

The HONOURABLE THE PRESIDENT: The question is:

'That the original Resolution which runs as follows, namely:

'This Council recommends to the Governor General in Council the desirability of introducing the constitutional practice of voting an address, after the speech from the Throne, which in India would be the speech of His Excellency the Viceroy, opening a Session of this Council and the Indian Legislative Assembly.'

be accepted.

The Council will now divide by a show of hands. Those in favour of the adoption of this Resolution will hold up their hands—

Ayes—7

Noes—23.

The Resolution was therefore rejected.

The Council adjourned for Lunch till a quarter to Three of the Clock.

ADJOURNMENT OF COUNCIL.

The Council re-assembled after Lunch with the Honourable the President in the Chair. As there was no quorum the Council was adjourned till Tuesday, the 28th February, 1922, at Eleven of the Clock.