

COUNCIL OF STATE DEBATES

(Official Report)

VOL. III, PART II

(24th January, 1923 to 27th March, 1923)

THIRD SESSION

OF THE

COUNCIL OF STATE, 1923.



DELHI
GOVERNMENT CENTRAL PRESS,
1923

CONTENTS.

	Page
WEDNESDAY, 24TH JANUARY, 1923—	
Members Sworn	523
Death of the Honourable Maung Po. Bye	523—24
Grant of Honours to Members	524
Questions and Answers	525—14
Arrangement of Questions	545
Questions and Answers	545—48
Reports laid on the Table of Joint Committee on Bills	548
Governor General's Assent to Bills	548
Statement of Exchange Gains and Losses	548—60
Communications in Frontier Province	561
Muslims, Hindus, etc., in Government of India Secretariat	561—66
Policy of His Majesty's Government with reference to the Government of India Act	567—68
Emigration to the Straits Settlements and Malay States	568—69
Emigration to Ceylon	569—70
Business of the House	570
THURSDAY, 25TH JANUARY, 1923—	
Report of Joint Committee on the Workmen's Compensation Bill	571
The Hindu Ceremonial Emoluments Bill—Request for postponement	571—72
Resolution <i>re</i> Purchase of Stores in England	572—77
Appointment of Public Services Commission	577—78
Resolution regarding the Indian Civil and other Imperial Services	578—86
Resolution <i>re</i> Conditions of Service of future entrants to I. C. S.	586—87
MONDAY, 29TH JANUARY, 1923—	
Member Sworn	589
Questions and Answers	589—92
The Criminal Tribes (Amendment) Bill	592—612
Message from the Legislative Assembly	612
TUESDAY, 30TH JANUARY, 1923—	
Questions and Answers	613—18
The Indian Boilers Bill	618
Message from the Governor General	618—19
The Registration of Chelas Bill	619—28
Resolution <i>re</i> Promotion of Irrigation Projects	629—50
WEDNESDAY, 31ST JANUARY, 1923—	
Bills passed by the Legislative Assembly	651
Gift of Books by Sir William Geary	651
The Indian Cotton Cess Bill—Reference to Joint Committee	651—71
The Indian Cotton Cess Bill—Nomination to Joint Committee	671
Course of Business	671—72

WEDNESDAY, 31ST JANUARY, 1923—contd.

Resolution <i>re</i> Workmen's Compensation and Social Insurance in Agriculture	672—84
Resolution <i>re</i> Protection of Women and Children in Agriculture—Recommendations of International Labour Conference	684—89
Statement of Business	688

MONDAY, 12TH FEBRUARY, 1923—

Questions and Answers	689—99
Dates for Discussion of Budget	699—700
Governor General's Assent to Bills	700
Bills passed by the Legislative Assembly	700
Alteration of Date of <i>Shivraatri</i> and Course of Business	700
Resolutions of which notice is given but not moved in Council	701
Resolution <i>re</i> Repeal of Army Amalgamation Scheme of 1869	701—17
The Malabar (Completion of Trials) Supplementing Bill laid on the Table	717—18

WEDNESDAY, 14TH FEBRUARY, 1923—

Questions and Answers	719—32
The Cotton Transport Bill	733—39
The Cantonments (House-Accommodation) Bill	739—49
Statement of Business	749

THURSDAY, 15TH FEBRUARY, 1923—

Statement <i>re</i> Government of India Presses laid on the table	751—53
The Malabar (Completion of Trials) Supplementing Bill	754—55
The Indian Mines Bill	755—59
The Indian Boilers Bill	759—65
Resolution <i>re</i> Emigration of Unskilled Labourers to Ceylon	765—70
Resolution <i>re</i> Emigration of Unskilled Labourers to Straits Settlements and Malay States	770—72

FRIDAY, 16TH FEBRUARY, 1923—

Resolution <i>re</i> Inquiry into Industrial Finance and Industrial Banks	773—87
Resolution <i>re</i> the Adoption of a System of Compulsory National Military Training and Service	787—98
The Married Women's Property (Amendment) Bill laid on the Table	798
Resolution <i>re</i> the Adoption of a System of Compulsory National Military Training and Service	798—818
Resolution <i>re</i> Necessity of Census of Products of British India	818—19

MONDAY, 19TH FEBRUARY, 1923—

Questions and Answers	821—23
Resolution <i>re</i> Necessity of Census of Products of British India	828—26
Resolution <i>re</i> Opportunities to Indians for qualifying for Secretaryships, etc.	825—27
Resolution <i>re</i> Radio Communications	828
Resolution <i>re</i> Imposition of an Export Duty on Benzine and Petrol	828—34

TUESDAY, 20TH FEBRUARY, 1923—

Bills laid on the Table	885
The Prisoners (Amendment) Bill	885
The Indian Naval Armament Bill	886
The Workmen's Compensation Bill	887-78

WEDNESDAY, 21ST FEBRUARY, 1923—

Resolution <i>re</i> Administration of Ajmer-Merwara	879-88
Resolution <i>re</i> Cognizance by Legislature of Matters on which Govern- ment of India has undertaken legislation [Modification of Rule 23 (1) of the Rules of Business]	888-906
Resolution <i>re</i> Recommendations of the Committee on Indian Arms Rules	907

THURSDAY, 22ND FEBRUARY, 1923—

The Criminal Law Amendment Bill laid on the Table	909
Message from the Legislative Assembly	909
The Workmen's Compensation Bill	909-17
The Indian Factories (Amendment) Bill	917-20
The Hindu Ceremonial Emoluments Bill	929-31
Statement of Business	931

MONDAY, 26TH FEBRUARY, 1923—

Questions and Answers	933-33
Bills laid on the Table	938
Resolution <i>re</i> Recommendations of Committee on Indian Arms Rules	939-62
Resolution <i>re</i> Amendment of Standing Orders	962-64
Discussion on the Criminal Law Amendment Bill	964

TUESDAY, 27TH FEBRUARY, 1923—

Message from the Legislative Assembly	967
Bills laid on the Table	967
The Indian Paper Currency Bill	967-68
The Prisoners (Amendment) Bill	968
The Repealing and Amending Bill	969
The Hindu Ceremonial Emoluments Bill	969-95
Message from the Legislative Assembly	995

WEDNESDAY, 28TH FEBRUARY, 1923—

Bill laid on the Table	997
Conference <i>re</i> Regulations under the Electoral Rules	997
Resolution <i>re</i> Appointment of Indians to the Traffic Inspector Cadre	997-1020
Resolution <i>re</i> Appointment of Indians as Departmental Secretaries, Joint Secretaries, etc.	1020-50
Statement of Business	1050

THURSDAY, 1ST MARCH, 1923—

Member Sworn	1051
The Budget	1051-59
The Criminal Law Amendment Bill	1060-83

MONDAY, 5TH MARCH, 1923—

Questions and Answers	1085
Statement laid on the Table	1085
Resolution <i>re</i> Imposition of an Export Duty on Benzine and Petroli	1085—1101
Resolution <i>re</i> Rights and Status of Indians in Kenya	1102—21
The Married Women's Property (Amendment) Bill	1122—23

TUESDAY, 6TH MARCH, 1923—

Member Sworn	1127
Questions and Answers	1127—29
The Code of Criminal Procedure (Amendment) Bill	1129—31
Bills assented to by the Governor General	1131—32

WEDNESDAY, 7TH MARCH, 1923—

The Budget	1133—81
----------------------	---------

THURSDAY, 8TH MARCH, 1923—

Absence from House at question time of Members who have given notice of Questions	1183
Questions and Answers	1183—90
Draft Notification <i>re</i> Emigration of Unskilled Labour to Mauritius	1190—91
The Indian Cotton Cess Bill	1191—1203
The Indian Income-tax (Amendment) Bill	1203—04
The Government Savings Banks (Amendment) Bill	1204—05
The Official Secrets Bill	1205—15
Message from the Legislative Assembly	1216
Statement of Business	1216

MONDAY, 12TH MARCH, 1923—

Questions and Answers	1217—18
Message from the Legislative Assembly	1218
Bill laid on the Table	1218
Resolution <i>re</i> Amendment of Electoral Rules	1219—29
The Malkharoda and Gaontia Villages Laws Bill	1229—30

TUESDAY, 13TH MARCH, 1923—

Announcement of Summer Session in July, 1923	1231
The Code of Criminal Procedure (Amendment) Bill	1231—70

WEDNESDAY, 14TH MARCH, 1923—

Questions and Answers	1271
Resolution <i>re</i> Indian Stores Department	1271—85
Resolution <i>re</i> Eligibility of Political Prisoners for Election to Legislature	1285—1302

THURSDAY, 15TH MARCH, 1923—

The Malkharoda and Gaontia Villages Laws Bill	1303—04
The Indian Penal Code (Amendment) Bill	1304—24
Statement of Business	1324—25

	Pages.
WEDNESDAY, 21ST MARCH, 1923—	
Member Sworn	1327
Questions and Answers	1327—34
Bill laid on the Table	1334
The Indian Finance Bill	1335—36
The Mahendra Partab Singh Estates Bill	1336—38
Report of Select Committee on Amendments to Standing Orders	1338
Bills assented to by His Excellency the Governor General	1339
Resolution <i>re</i> Emigration of Unskilled Labour to Mauritius	1338—45
FRIDAY, 23RD MARCH, 1923—	
Messages from the Legislative Assembly	1347
Bills laid on the Table	1347—48
The Indian Finance Bill	1348—97
MONDAY, 26TH MARCH, 1923—	
Questions and Answers	1399—1401
The Mahendra Partab Singh Estates Bill	1401—07
The Legal Practitioners (Women) Bill	1407—08
The Indian Merchant Shipping Bill	1408—10
Statement of Business	1410
TUESDAY, 27TH MARCH, 1923—	
Message from the Legislative Assembly	1411
The Indian Finance Bill	1411—18
Adjournment of Council of State and attendance at meetings	1413

COUNCIL OF STATE.

Wednesday, the 14th March, 1923.

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

QUESTIONS AND ANSWERS.

STRAITS SETTLEMENTS AND INCOME-TAX.

187. The HONOURABLE DIWAN BAHADUR S. M. ANNAMALAI CHETTIYAR: Will the Government be pleased to state—

(a) whether, since the passing of the Income-tax Act of 1922, they have corresponded with the Government of the Straits Settlements regarding the relief in respect of double income-tax;

(b) if the answer to (a) is in the affirmative, whether they will be pleased to place copies of the correspondence on the table?

The HONOURABLE MR. E. M. COOK: (a) Yes.

(b) It is not proposed to lay the correspondence on the table but I will show it to the Honourable Member if he so desires.

APPOINTMENT OF PROTECTORS OF INDIANS IN COLONIES.

188. The HONOURABLE DIWAN BAHADUR S. M. ANNAMALAI CHETTIYAR: Will the Government be pleased to state whether they propose appointing a protector of Indians in each of the colonies as recommended by the Right Honourable V. S. Srinivasa Sastri in his report?

The HONOURABLE MR. B. N. SARMA: Mr. Sastri suggested that a Protector of Indians should be appointed to guard Indian interests in Fiji, New Zealand, and Australia; or that alternatively one officer should combine the duties of Protector and of Trade Commissioner for the two Dominions only. A somewhat similar suggestion has been put to Government by the Fiji deputation. The matter is under consideration and cannot be settled without previous consultation with the Imperial Government and the Dominion and Colonial Governments concerned.

RESOLUTION *RE* INDIAN STORES DEPARTMENT.

The HONOURABLE MR. V. G. KALE (Bombay: Non-Muhammadan): Sir, the Resolution which I have to move runs as follows:

“This Council recommends to the Governor General in Council that effect may be given, at an early date, to the recommendation of the Stores Purchase Committee, 1920, regarding the gradual reduction and reconstitution of the Indian Stores Department in England and the development of the Stores Department in India, with a view to expand the scope of the work of the latter and to render it thoroughly efficient.”

[Mr. V. G. Kale.]

Sir, I trust that this Resolution is more or less of a non-controversial character. The Resolution does not recommend the adoption of any new policy, nor does it propose any departure from a policy which has already been accepted by Government. This question of the purchase of stores has been under discussion for a very long time. Even in this House there have been debates on that question. I do not however propose to deal with the question regarding the policy to be pursued in the matter of the purchase of Indian stores and European stores and so forth. I will assume that the Government have accepted the policy of assisting and encouraging Indian industries so far as that is practicable, and in consonance with efficiency and economy, in their purchases of the stores required for different Government Departments and allied departments. That being so, I refer only to a portion of the large subject of stores purchase, and I wish Government only to follow the path which they have chalked out for themselves in relation to the institution of a machinery for carrying out their own accepted policy. Machinery for the purchase of stores has been set up in this country already and the Indian Stores Department has been started. A Chief Controller and Assistant Controller, Directors of Purchase and Intelligence and other officials have been already appointed and a good deal of work is being done in connection with the purchase and inspection of stores. The Stores Purchase Committee, which reported in 1920, made certain recommendations as to the organisation for the purchase of stores in England and in this country. I will only refer to the relevant recommendations of the Committee. The Stores Purchase Committee observed :

"With the establishment of an efficient department in India for the purchase and inspection of stores the time has, we consider, now come when the Secretary of State should delegate to the Government of India full control over the details of the stores used. Complete freedom should be granted to India in this matter and it should be accepted as a policy not only in theory but also in practice that all stores required for the public services should be obtained in India whenever they are procurable in the local market of suitable quality and reasonable price, preference being given to articles of Indian origin."

They go on further to state :

"We anticipate that the work devolving upon the Director General of Stores, India Office, will be reduced and consider that his Department should in due course be re-constituted as the London Branch of the Indian Stores Department, the status of the officer in charge becoming that of a Director immediately subordinate to the Director General of Stores in India."

That is, Sir, the important recommendation of the Stores Purchase Committee with which I am concerned at the present moment. As at present constituted, the Indian Stores Department purchases textile stores for the Army Department. The Government of India do not seem yet to have issued orders to other Departments to purchase their stores only through the Indian Stores Department. I wish to make a point of one important fact, namely, that the Government of India ought to make very full use of the machinery which they have already instituted and that all Government Departments should, as far as practicable, use this machinery for the purpose of purchasing stores so that the country might get the full value of the money that is spent by it upon the organization of the Indian Stores Department. Now, though the Stores Department purchases textiles for the Army Department, the inspection of those stores has not yet been handed over to the Indian Stores Department and inexpert military officers are employed for the

purpose of inspection. Now, this kind of dualism affects the quality and the efficiency of the work that has to be done by the Stores Department. Similarly, there are other stores which can usefully be purchased by the Stores Department; for example, oils and paints. There is thus very wide scope in this regard and the Government of India should see to it that the work of the Stores Department is extended so as to give it sufficient latitude and sufficient work to perform in the interests of national economy. Now, only the other day, certain questions were asked in another place regarding the work of the Indian Stores Department, and in the answers that were given to those questions some four or five facts were prominently brought out. It was quite clear, and it is a fact admitted by Government itself, that the work of the Indian Stores Department, since its establishment, has proved eminently satisfactory. It has been admitted, secondly, that this Department has been able to effect substantial economies in its purchase of stores so far as it has been allowed to do so. Thirdly, the policy to be pursued in the matter of the Indian Stores Department has not yet been finally settled by the Government of India because the answer to one of the questions runs thus :

“ No reduction in the establishment of the London Stores Department has yet been possible pending the determination of the policy to be pursued in the matter of the Indian Stores Department.”

It seems from this that the Government of India have not yet made up their mind as to how and when they will bring about the reconstitution and reduction of the Stores Department in London and the expansion of the Department in India. If a considerable amount of economy has been admittedly rendered possible by the work that the Indian Stores Department has already performed and if almost all the Departments of Government will benefit in the matter of economy and efficiency if the Stores Department is allowed to make purchases for those Departments, then certainly the time has come when the Government of India should expand the new Department in this country. No one suggests, and I do not for a moment want to suggest, that the policy recommended by the Stores Purchase Committee should be given effect to immediately. Reorganization will take some time and even the Stores Purchase Committee did not contemplate that the reorganization recommended by it could be effected in the course of a very short time. However, the Government of India, which, it is clear, has not yet made up its mind on the question, must now decide as to when and along what lines effect will be given to the policy recommended by the Stores Purchase Committee; and if the Government of India once decides what it will do, I think that in the course of a few years it will be possible to entrust the Indian Department with the very important work of purchasing and inspecting all the stores required by different Departments in India. The scope for the work of this Department is bound to increase as time goes on. Already something like 15 crores of rupees are spent upon stores. The expenditure is bound to increase and many more Departments are likely to make their purchases through this Stores Department; and though it may appear that the expenses of this Stores Department will slightly increase owing to the expansion of its activities, in the long run it is bound to prove economical, because a few lakhs spent upon this Department in India will ultimately mean so much reduction in expenditure upon stores purchased by it for various Government Departments, so that this expenditure is essentially economical. From this point of view, I think Government should have no

[Mr. V. G. Kale.]

objection in carrying into effect the recommendations made by the Stores Purchase Committee. As I said at the outset, I do not propose to discuss the principles underlying the policy which has already been accepted by Government. I only want to emphasise the necessity of efficiently organizing the Indian Stores Department. No further expenses are likely to be involved in the matter, because the Stores Department in London is already spending lakhs, and when the work of that Department is transferred to the Indian Stores Department, naturally there will be no increase in expenditure taken as a whole. It will only mean the transfer of work and therefore transfer of expenditure to this country. But this transfer of work and transfer of expenditure will lead to efficiency, efficiency of working and, as I have already said, to economy in the general expenses incurred for the Stores required by various Departments. I do believe, Sir, that the Government will see its way to appreciate the spirit in which this Resolution has been moved, and will see their way to accord their support to the Resolution. With these words, Sir, I commend the Resolution to the acceptance of the House.

THE HONOURABLE MR. D. T. CHADWICK (Commerce Secretary) : Sir, I can assure my Honourable friend Professor Kale that we do appreciate very much the spirit in which this Resolution has been moved, and from the Government Benches we thank him for the interest that he is taking in the Stores Department. As he truly said, this Resolution aroused and has aroused great interest in India and, generally speaking, its tenour is in consonance with the policy which has been on former occasions adumbrated by the Government of India. It certainly emphasises one or two points, which have not perhaps been so strongly emphasised from these Benches, as for instance the need for action at an early date, and the reorganization of the Stores Department in London ; but to that no exception can be taken. It follows, as I said, the lines upon which the Department with which I am concerned to some slight extent has been working, and it is really conceived, I think, in the spirit of encouragement—a spirit of 'go on and do better'. However, Sir, there are many other considerations which arise, and in the first place I must apologize for the absence of the Honourable Member for Commerce and Industry, as he, as all the House knows, takes the liveliest interest in all these matters affecting the development of industry in India. As the House knows, he is more in touch, and has been more in touch, with the details of such movements than I have been. But, also as the House knows, he is at present in another place struggling with the Demands for Grants on the Railway Budget, so that, Sir, I trust the House will excuse him. He asked me specially to present his regrets. Now, Sir, Professor Kale has referred to many points in connection with the development of the Stores Department in India, and I think on the whole they can be classified under two heads—one, the stores purchase rules, for which he asks that an early revision should be made, and the other was a general and strong plea for an expansion of the activities of the Department. Well, as Professor Kale probably knows, the stores purchase rules have been and are being subjected to very close scrutiny by a combined Committee of officials and non-officials in connection with the Railways Industries Committee ; its report I believe is almost ready. As regards the other portion, Sir, Professor Kale's speech is a justification for our spending more money on developing the Stores Department. We have already started a Stores Department, and considerable progress has been made with the scheme for its organization. At a

meeting of the Standing Finance Committee, my Honourable friend (Mr Chatterjee), who now holds the exalted position of a Member of Council, then appearing before the Standing Finance Committee in a more humble capacity, as Secretary, gave an assurance on behalf of the Industries Department that its policy is to develop the Stores Department in India on efficient lines so as to enable it to deal fully with the requirements of manufacturers and suppliers in the country, and correspondingly to effect reductions in the Stores Branch of the High Commissioner's Office, as Indian manufacturers and resources prove increasingly capable of meeting the requirements of Government on reasonable terms. That, Sir, was a statement of the general policy of Government. It of course was subject, as the Standing Finance Committee said, to scrutiny into the expenses of the Department by that terrible inquisition which has been sitting upon us all, namely, the Inchcape Committee. The Stores Department, like every other Department, came within the purview of that Committee : and the House knows that that Committee has recommended, on financial grounds, that the expansion of the Indian Stores Department be postponed for three years, and a reduction of Rs. 83,000 be effected in the present year's Budget—Rs. 1,41,000, I stand corrected, Sir, by our watch-dog of finance. Now, Sir, a recommendation such as that cuts straight across the policy which this Department was pursuing. Further, the House will agree that a recommendation from a Committee such as the Inchcape Committee cannot be exactly ignored. It obviously raises issues which require very careful thought. As the House knows, the Government has, in the statement of the revised Demands for Grants which was presented in another place, accepted the vast majority of the Inchcape Committee's recommendations. On a few points, the Honourable Finance Minister stated, the decisions have been reserved. Sir Basil Blackett said that although credit had been taken in the Budget for the cuts recommended by the Inchcape Committee, yet some three or four points might ultimately be decided in the other way. One of those points which was reserved is the provision of the money needed for the expansion and development of the Stores Department. Government has necessarily to watch the financial cost of its activities and policies, and I hope the House will realize that the Department for which I am to-day speaking, even with the best will in the world, is not able to-day to announce exactly what the policy of the Government in this matter will be. It is only a matter of about a fortnight since we have received this recommendation, which, as is clear, cuts straight across the lines upon which we were working, and on a point of policy of a magnitude of that nature, a little further time is I think reasonably required before a decision can be arrived at. Then, Sir, instead of being in the happy position, as I hoped when I saw this Resolution tabled, of being able to define what Government proposed to do, I find myself in the thoroughly unhappy position of asking the House to allow some further time for consideration, and I must say that if this debate is to proceed, the House I think will see that it will be impossible for us on the Government side to take any part in it on its merits. It would perhaps suit—I suggest it to the House—it would perhaps suit the convenience of the House and be better if, on a subject in which they are so greatly interested, they would kindly postpone this matter and adjourn the debate so that it could be discussed with fuller knowledge at a later date. If the House could kindly let us recover from the bomb shell which fell from the Inchcape Committee's Report only a short time ago, I should be very grateful to them.

The HONOURABLE MR. LALUBHAI SAMALDAS (Bombay : Non-Muhammadan) : Sir, I welcome the speech of my Honourable friend Mr. Chadwick, in so far as it goes in support of the Resolution moved by my Honourable friend Mr. Kale. As regards the giving of more time, I do not think the House will object to it, but I hope that, when the matter comes up again before us, the Honourable Commerce Secretary will place us in possession of the full facts,—of all the facts that throw a light on the subject to enable us to come to a right decision on the subject. If I understood him aright, the remarks made by my Honourable friend Mr. Chatterjee before the Standing Finance Committee, which the Honourable Mr. Chadwick read to the House, referred to the purchase of stores in India and not outside India. Am I right ?

The HONOURABLE MR. D. T. CHADWICK : May I explain, Sir ? It was raised on the question of a portion of the Budget of the High Commissioner's Office, and I think it referred generally to purchases in connection with stores. It reads thus—an assurance was given on behalf of the Industries Department that its policy is to develop the Stores Department in India on efficient lines so as to enable it to deal fully with the requirements of manufacturers and suppliers in the country, and correspondingly to effect reductions in the Stores Branch of the High Commissioner's Office, as Indian manufacturers and resources prove increasingly capable of meeting the requirements of Government.

The HONOURABLE MR. LALUBHAI SAMALDAS : It comes to this, Sir, that the Department only wants to take up the work of placing orders in India. Whether orders outside India are to be placed through the Stores Purchase Department or not is not made quite clear. And that is a point on which we lay very great stress. Not only do we want the Department to be organised for purchase of stores in India but we also want that all orders outside India should be placed through the same Department working under the Commerce and Industries Department. For this purpose the Stores Department should be so organised that all the work which is now being done by the High Commissioner should, gradually, as far as possible, (any words that you like) be transferred to India. We do not want that the Government of India should have to go to England to place its orders through the High Commissioner. Let the Commerce Department organise the Stores Purchase Department in such a way that they may be able to carry on the policy of purchasing all stores through that Department. By all means let the Commerce Department take as much time over the matter as it really requires for the purpose of carrying out the organization of this Department which has begun well. I know as a matter of fact that the present Stores Purchase Officer is very anxious to encourage Indian industries as far as it lies in his power. He has, if I understood him aright, placed orders for khaki cloth in India which till now was placed outside India. He is trying to develop Electrical Engineering, and I saw an advertisement asking for applications from men capable of doing cement analysing work. He is trying his best. What we want Government to do is to help him and to give him all the assistance that he needs, so that later on all orders for Indian stores whether manufactured in India or outside should be placed through that Department. My Honourable friend Mr. Chadwick referred to the recommendations of the Inchcape Committee. I know Government will have to consider very carefully how far they can accept the recommendations. But they need not be afraid of rejecting

this recommendation. We all know that even the Finance Department has stated that they are not going to accept all the Committee's recommendations. There was one matter in which His Excellency the Commander-in-Chief said that he was going to accept our recommendation against the recommendation of the Incheape Committee. In the same way I want the Honourable Mr. Chadwick to realise that the feeling of the country is that we want this work to be done in India through the Commerce Department. We do not want orders to be placed by any officer outside India. That is the point that I want Government to consider carefully; and if after doing so Government will go before the Standing Finance Committee with the support of this House at a later stage, I am quite sure that the Standing Finance Committee will give all the necessary financial assistance, even if in doing so they have to go against the wishes of the Incheape Committee. It will only be then that the Department will be out in a very strong position.

As regards postponement of the consideration of this question, I do not object to it.

The HONOURABLE SIR MANECKJI DADABHOY (Central Provinces : General) : Sir, in view of what has fallen from the Honourable Mr. Chadwick, I think it will not serve any useful purpose to prolong this debate. However, I am not inclined to agree that an adjournment would be the proper course. I would request my Honourable friend Mr. Kale to consider whether it would not be more expedient to withdraw this Resolution at this stage with liberty to bring forward a fresh Resolution enlarging the scope of his Resolution at a later date. We do not know what action the Government of India is going to take in connection with the recommendations of the Incheape Committee, and if the debate proceeds now it will be confined to the narrow scope of the Honourable Mr. Kale's Resolution, while, on the other hand, it will give ample opportunity for debating if this Resolution is brought forward again at the next session altered in such a way as to have full discussion on the subject.

The HONOURABLE LALA SUKHBIR SINHA (United Provinces Northern : Non-Muhammadan) : Sir, in view of the statement made by the Honourable Mr. Chadwick, I think adjournment of the consideration of this Resolution would be better than its withdrawal as suggested by the Honourable Sir Maneckji Dadabhoy, because, I think, the Resolution is of great importance and if it is withdrawn at the present time, then the mover will not be able to move it again for one year; and, therefore, adjournment of the discussion will be better than its withdrawal.

As regards the Resolution itself, I thought that the Government would be able to accept it as it stands, but I find that the Honourable Mr. Chadwick has accepted the spirit of the Resolution only and not the Resolution itself. He has stated that Government wants more time to consider the whole question and he suggests that the consideration of this question may be postponed. Therefore, without saying anything more at this time on the subject, I am for the adjournment.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan) : Sir, I rise to support my Honourable friend Mr. Kale and the Honourable Mr. Lalubhai Samaldas. The opinion of this House ought to be before the Government when they are considering the report of the Incheape Committee. It is in every way desirable that the Government

[Lala Ram Saran Das.]

should have the view of this House before they come to a definite decision. The Resolution, as far as India is concerned, is a very important one so far as the industrial welfare of the country is concerned, and I strongly urge that the interests of the Indian industries ought to be well safeguarded. During the war a number of small industries were started, but for want of encouragement on behalf of Government, many of them had to shut up. The activities of the Indian Stores Department will greatly help the local industries and will thereby add to the wealth of the country. We find that certain industries cannot compete with the foreign markets, but it will be, I presume, the duty of the Indian Stores Department to find ways and means to let those industries which are in danger to successfully tide over their difficulties. With these few remarks, Sir, I commend this Resolution to the favourable consideration of the House.

The HONOURABLE SIR DINSHAW WACHA (Bombay : Nominated Non-Official) : Sir, while I welcome the Resolution of the Honourable Mr. Kale, I do not see any reason for postponing it as suggested by our friend Sir Maneckji Dadabhoy. Let Government take its own time to complete the re-organization of the Stores Department, but that is no reason why a Member should be asked to withdraw or postpone the Resolution. As a matter of fact, my own experience is that our Government is always a procrastinating Government. "Procrastination is the thief of time" of which Government know the value, and it is always the case, so far as the Stores Department and other Departments are concerned. We can never know when the Government is going to complete this affair at all. For the last 40 years this question has been hanging on. It was Lord Ripon who first published in 1882 the Resolution about buying stores in India, and after that date series and series of Resolutions have been issued; and what is the result after all? Nothing. Postpone, postpone and postpone, just like Royal Commissions which are simply put into motion to postpone problems awaiting solution and gain time; nothing comes out of the Resolutions of this character. Throughout all these years I have seen one matter or another in the settlement of which we are treated like children. We are persuaded and told, "Grow, grow up and you will have liberty". We are growing up. Indeed we have overgrown ourselves, and still nothing has been done to satisfy us. That will not do, Sir. We want this Stores Department to be centralised. It should be centralised in such a way that we may be able really to economise expenditure. The Stores Department is the most extravagant department in the whole of India, and no stores department is so extravagant as that which is a branch of the India Office where there is a Director of Stores. Besides there is that Deputy, Assistant deputy, brokers, etc. These do nothing but pocket their fat salaries. And another thing is this. There are so many lobbyists shadowing Members of Parliament; so many wish to promote their interests and urge Members to use their influence with the Secretary of State for India. The Secretary of State for India puts the screw on the Viceroy here, and, of course the poor Viceroy is helpless. All this has gone on and still goes on, and therefore, of course, it often happens that we get sadly disappointed in gaining the end in view. Look, for instance, at the question of the purchase of ordnance. The War Office first requisition for larger and larger supplies of ordnance which India should provide, and when indents arrive the War Office have got their own friends the manufacturers and other suppliers whom they patronise.

These manufacturers and others in turn assiduously ply the Stores Department in England. Then there are the Railways. The Railway magnates want to patronise their own friends. They want their friends to have the orders sent from India, and so *ad infinitum*, from large to small orders. This is the state of things. If you look into the inwardness of the thing it won't bear examination. I say, I condemn *in toto* the entire Stores Department at the India Office. It is the most wasting department and it is the department in which a lot of iniquities have prevailed for 60 years and more. Did not we find even in the Munitions Department here four or five years ago what an amount of extravagance and waste went on? There were scandals here on the subject, as there were scandals in England where, to give an instance, one astute supplier brought in a bill for a million and the department people paid it, but did not know they had already paid the bill for the million! That is the sort of irregularity that had gone on in England and what do you expect in India? India is darker than England in point of stores supplies. In England there is well informed and critical public opinion. In India there is nothing approaching it. Of course we speak here in this Chamber for a day, but these gentlemen opposite on the Front Bench stuff their ears with cotton and there is an end to our protests. The sooner the Stores Department is efficiently and honestly centralised and an immaculate organisation established the better. Of course we will give Government ample time to do so. But what is the use of saying to Mr. Kale that he should withdraw his Resolution? Sir, I entirely condemn this sort of stifling public opinion brought forward here. We are now and again asked to withdraw this, that and the other Resolution brought forward in public interests. The cry is, "Withdraw, withdraw". Why? You may laugh. But I should like to know the reason from Sir Maneckji Dadabhoj himself why he wants Mr. Kale to withdraw this excellent Resolution and why do some of my other friends want us to withdraw, when we see before our very eyes extravagance going on, rivers and rivers of extravagance flowing onward and onward like the Ganges. What are you going to do? Are you going to readjust and economise your expenditure on stores, or are you going to be further burdened with taxation which such extravagant expenditure demands? I do not believe the Inchcape Committee's cuts will last long. Three years hence you will find that expenditure will be exactly the same as before. You will find that out for yourselves. Therefore, I do believe that the centralization of the Stores Department and its overhauling in the India Office is urgent. Let Government take breathing time; but let Government go forward and set about the reform in earnest. We are sick of "sympathy" for every Resolution. Mr. Kale's Resolution is a practical Resolution of the first importance. As I said the other day, there is no use talking about sympathy. Oh yes, "sympathy" is very good but it never materialises, and I am very strong on this now because my patience is exhausted of hearing this word—"sympathy". "Sympathy" is ringing in our ears ever so long. My ears have grown deaf of hearing this word. If we wish to go forward and make an advance in our industries, the Stores Department, which is now the most wasteful department, should be the first to be reorganised. Therefore, Sir, I warmly support Mr. Kale's Resolution, and hope that those who think he should withdraw will withdraw their own words.

The HONOURABLE SIR MANECKJI DADABHOY: Sir, may I offer a personal explanation?

The HONOURABLE THE PRESIDENT: The Honourable Member may make a personal explanation but may not make another speech.

The HONOURABLE SIR MANECKJI DADABHOY: I think my Honourable friend on the other side of the House has entirely misunderstood me. I did not speak on the merits of the Resolution; I merely suggested that the Resolution should be withdrawn and be brought up at the next Simla Session three and a half months hence, with the permission of the House. I never said anything about a total or indefinite adjournment.

The HONOURABLE MR. A. C. CHATTERJEE (Education Member): Sir, I had no intention of taking part in this debate in view of the terms of Mr. Kale's speech which was entirely friendly towards the Government and towards the policy which has hitherto been followed by Government, but I cannot let pass some of the remarks which have been made by my revered and respected friend opposite with regard to the *laches* of Government in the matter of stores purchase. My Honourable friend does not seem to have realised that 40 years have really passed since the days of Lord Ripon when the stores policy was first adumbrated by the Government of India, and that a great many things have happened during the last 40 years.

The HONOURABLE SIR DINSHAW WACHA: I don't deny that.

The HONOURABLE MR. A. C. CHATTERJEE: I think, Sir, it is entirely unjust to say that Government have always professed to adopt a progressive policy in the matter of stores purchase in India and have really done nothing

The HONOURABLE SIR DINSHAW WACHA: I emphatically deny that proposition.

The HONOURABLE MR. A. C. CHATTERJEE: I understood the Honourable Member to make that statement.

The HONOURABLE SIR DINSHAW WACHA: I do make it; I deny that the Government has done anything.

The HONOURABLE MR. A. C. CHATTERJEE: If the Honourable Member will allow me to proceed with my remarks, he will find that he is entirely mistaken. The whole question has been discussed many times during the last 40 years and many progressive steps have been taken, not only in Lord Ripon's time but during the early years of this century. I do not wish to tire the patience of this House just now by a detailed statement of the various steps that have been taken, but I just wish to remind the House that this particular question was one of those which were discussed in the report of the Indian Industrial Commission of 1917-18. The Indian Industrial Commission recommended that this method of giving encouragement to Indian industries should be specially examined by a Committee. The Government of India lost no time in appointing a suitable Committee. That Committee worked during the year 1920 and submitted its report early the following year. The Government of India again lost no time in addressing Local Governments on the policy to be pursued on the recommendations of that Committee and the Government of India also lost no time whatsoever in giving effect, so far as possible, to the recommendations of the Stores Purchase Committee, and as my Honourable friend will admit, and as the

Honourable Mr. Kale has very generously admitted, the Government of India appointed the Chief Controller of Stores and started an organisation for the Indian Stores Department. I repeat again, Sir, that it is extraordinarily unjust on the part of my Honourable friend opposite to say that the Government of India have been entirely negligent of the matter and have done nothing

The HONOURABLE SIR DINSHAW WACHA: I repeat, the progress has been there, but the progress has been the progress of the snail and the tortoise.

The HONOURABLE THE PRESIDENT: The Honourable Member will do well to allow the Member addressing the House on behalf of the Government to speak without interrupting him.

The HONOURABLE MR. A. C. CHATTERJEE: I think the Government of India have done everything in their power to give effect not only to the recommendations of the Indian Industrial Commission, but also to the recommendations of the Stores Purchase Committee. Another statement, Sir, which the Honourable Member made was that the Government of India always say they will adopt a progressive stores policy in order to give encouragement to Indian industries, but the Secretary of State in England is always putting pressure on the Government of India, and whatever the Government of India's own inclinations may be, the Secretary of State prevents the Government of India from giving encouragement to Indian industries in the interests of British manufacturers. I wish, Sir, to enter an emphatic protest against that statement.

The HONOURABLE SIR DINSHAW WACHA: You may.

The HONOURABLE MR. A. C. CHATTERJEE: In another place, Sir, this matter has been discussed on various occasions and in reply to a certain Resolution brought forward by our late lamented friend Sir Vithaldas Thackersey in the Legislative Assembly it was my privilege to give an emphatic denial to any imputations of that sort. The Stores Department in London is now under the High Commissioner for India and the High Commissioner for India is a servant of the Government of India, and the Secretary of State has publicly stated more than once and the Government of India have also publicly stated more than once that the Secretary of State has no part or lot in connection with the purchase of stores in England,

The HONOURABLE SIR DINSHAW WACHA: Still there are fights going on between the High Commissioner and the Secretary of State.

The HONOURABLE MR. A. C. CHATTERJEE: There are no fights at all. I think, Sir, if the Honourable gentleman would give me the privilege of addressing the House without these constant interruptions

The HONOURABLE SIR DINSHAW WACHA: If the gentleman can make unjust statements which cannot be verified I have the right to interrupt him and

The HONOURABLE THE PRESIDENT: Order, order. The Honourable Member will at any rate remember that when I rise he should resume his seat. I will make this remark. The Honourable Member makes a speech in the House without interruption, and he must not interrupt during other

[The President.]

Members' speeches. Unless they give way he cannot speak at all. The rule is well known and I am surprised that the Honourable Sir Dinslaw Wacha should require to be referred to the rule.

The HONOURABLE MR. A. C. CHATTERJEE: I am making categorical statements, Sir, and I defy the Honourable gentleman to prove that I am speaking an untruth. It has been stated over and over again, Sir, both by the Government of India and by the Secretary of State that the High Commissioner is under the Government of India and the stores purchase policy, whether in India or in England, is entirely in the discretion of the Government of India. The Secretary of State does not exercise any influence whatever over the High Commissioner. The Secretary of State, it is quite true, has the constitutional power of superintending the Government of India, but the Secretary of State cannot issue any orders to the High Commissioner with regard to the purchase of stores in England. I wish to repeat that statement. (*Honourable Sir Dinslaw Wacha*: "You can do so.") And I again say, Sir, that I defy the Honourable gentleman to prove me wrong by any statement of fact.

Then, Sir, the Honourable gentleman went on to speak about the scandals in the Munitions Board and subjects like that. I really do not understand what relevancy those facts have with regard to the present Resolution. I wish again, Sir, to thank the Honourable Mr. Kale on behalf of the Government for having brought forward this Resolution. The Government of India, as I have said, Sir, is greatly interested in this question. They have done everything in their power to further this policy. As the Honourable Mr. Chadwick has stated, a few months ago on behalf of the Department of Industries I gave an assurance to the Standing Finance Committee that it was the policy of the Government of India, at least it was the policy of the Department of Industries, to expand the machinery which the Government have already established in this country. That is to say, the policy of the Department of Industries was to expand the Indian Stores Department. That Department is only in a chrysalis stage at the present moment. We want it to become bigger; we want it to do the various things which the Honourable Mr. Kale has said that it should do; we want it to take up inspection; we want it to purchase not only textiles but other articles; not only on behalf of the Military Departments but on behalf of all Departments of the Government of India. We also want the Indian Stores Department, if orders are placed with it by Local Governments and by Indian States and by local authorities in India, to execute those orders. That was the policy of the Government of India, Sir. But as the Honourable Mr. Chadwick has stated, we have since had the report of the Retrenchment Committee. It is a most important and weighty report. Government cannot neglect the recommendations in that report. As the Honourable Mr. Chadwick said, the Honourable the Finance Member has already stated in another place that this matter is at present engaging the attention of the Government of India. It is impossible therefore, Sir, for Government to give any definite answer or make any definite statement on the present Resolution. It has, therefore, been suggested that it would be better if the consideration of this Resolution is adjourned to a later date by when Government hope that their attitude will be defined. I think, Sir, the other Honourable Members of this House have generally agreed that this course would be preferable and I commend that course to the House.

The HONOURABLE MR. E. M. COOK* (Finance Secretary) : Sir, I beg to move that the debate be now adjourned.

The HONOURABLE THE PRESIDENT: I would suggest that if it is the intention of a member to move to adjourn a debate, leave to move should be asked for as early as possible. I have allowed this discussion to proceed in the present case for the purpose of emphasising that the only way of bringing a question before this House is by a motion or by an amendment. It is no use wasting time in discursive conversational suggestions. If the motion which the Honourable Mr. Cook now makes had been made earlier I could have restrained the debate within reasonable limits. As it is, the House has now more or less discussed the Resolution in a desultory and unsatisfactory way.

The HONOURABLE MR. D. T. CHADWICK: I apologize, Sir, for my omission.

The HONOURABLE THE PRESIDENT: The procedure is well known. The Mover has moved his Resolution. There is now an amendment that the discussion be adjourned.

The HONOURABLE MR. V. G. KALE: Sir, so far as the proposal for adjourning the debate is concerned, personally I would have no objection to it. But I look at the proposal from the point of view that the Government have stated that they have not yet decided what they will do with regard to the recommendations of the Retrenchment Committee bearing upon the expenditure on the Stores Department. I thought that the expression of the opinion of this House might be of some use to the Government, so that they might know exactly what the country wants with reference to the development of the Stores Department. I do not think that the Government of India would be in any way embarrassed if the House came to a certain decision in the matter of this Resolution; because the Resolution, after all, asks the Government of India to take certain steps at an early date for the gradual development of the Indian Stores Department, so that they are not being asked to do anything immediately. And even if they cannot undertake to do this next year, they might do so, say, in the year 1924-25. I do not see, therefore, any point in the Government of India rejecting or opposing this Resolution or suggesting a postponement of the debate. I do not think that anything will be lost if we carry this motion to a certain decision. I do not believe that that will come in the way of the Government of India arriving at a decision on the question. I should therefore like the debate to proceed.

The HONOURABLE THE PRESIDENT: The only question before the House now is that the debate be adjourned. Honourable Members who have not spoken on that point may speak on that again.

The HONOURABLE SIR DINSHAW WACHA: Sir, I do not see any reason for adjourning the debate after what has fallen from the Honourable Mr. Kale. Mr. Kale's proposition is a very innocuous one which cannot interfere in any way with the action of Government. I consider it is very wrong on the part of Government officers always to say whenever they do not like a thing, "adjourn, adjourn".

The HONOURABLE DR. MIAN SIR MUHAMMAD SHAFI (Law Member): Sir, with all deference to my venerable and respected friend Sir Dinshaw

[Dr. Mian Sir Muhammad Shafi.]

Wacha, it is I submit not right for him to say that whenever the Government want to avoid a decision on any question they come forward to ask for an adjournment. The ground upon which this request for adjournment is based, I submit, is perfectly reasonable. In so far as the opinions expressed by the Honourable Professor Kale in moving his Resolution are concerned, the Honourable Mr. Chadwick as well as the Honourable Mr. Chatterjee have already expressed the attitude of Government towards those opinions in language which I thought would have produced a certain measure of satisfaction in non-official circles. But, as has been pointed out, the Retrenchment Committee have made definite recommendations with regard to the expenditure in this Department and these recommendations are now under consideration. The Government of India have not yet arrived at a definite decision with regard to those recommendations. It is in these circumstances, and in these circumstances alone, that this request for adjournment is put forward from this side, not because the Government wish to avoid or wish to evade a satisfactory decision on the question involved. I submit that in those circumstances it was not right for my Honourable and venerable friend to make an unfounded charge against the Government of this character.

The HONOURABLE SIR ZULFIQAR ALI KHAN (East Punjab : Muhammadan) : Sir, I stand to support the sentiments expressed 12 NOON. by the Honourable Sir Muhammad Shafi and also by the Honourable Mr. Chadwick and I think that the adjournment of this debate may be sanctioned by this Council. Sir, although the Honourable Sir Dinshaw Wacha may have insisted on our continuing the debate, I think by insisting on the conclusion of this debate, we might be walking into a blind lane and might come back to the point we started from, and in those circumstances I think we might give the Government somewhat more time in order to frame their policy and consult the Secretary of State in this matter and then announce to the House what their final decision on this matter would be. Therefore, Sir, in those circumstances, I support the idea of adjournment.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Sir, I rise to support the Resolution. What I wish, Sir, is that while the Government of India is considering this question, the view of this House ought to be before them.

The HONOURABLE THE PRESIDENT : The Honourable Member has expressed that view before.

The HONOURABLE SAIYID RAZA ALI (United Provinces East : Muhammadan) : Speaking to the amendment, Sir, I recall to my mind the advice that was given to me in the September Session of 1921 by my Honourable and revered friend Sir Dinshaw Wacha. Speaking on a Resolution of mine, addressing me, he said, 'rest, impatient spirit, rest'. Sir, the impatient spirit of 1921 has learnt to rest, but the very much patient spirit of 1921 has grown rather impatient.

The HONOURABLE SIR ZULFIQAR ALI KHAN : May I correct the Honourable Member? What Sir Dinshaw Wacha said was 'perturbed spirits'.

The HONOURABLE SAIYID RAZA ALI : I accept my Honourable friend's amendment with great pleasure.

The HONOURABLE THE PRESIDENT: I must draw the attention of the House to the fact that there ought not to be a long debate on a dilatory motion.

The HONOURABLE SAIYID RAZA ALI: That is not my idea. I think, Sir, for the reasons that have been assigned on behalf of the Government, it would be just in the fitness of things if we allow the discussion to be adjourned.

The HONOURABLE KHAN BAHADUR NAWAB MOHAMED MUZAMMIL-ULLAH KHAN (United Provinces: Nominated Non-Official): Sir, I will just quote a Persian verse, that is that "Banazdike mun sulhe behtar ze jung" which means that 'In my opinion, peace is better than to fight'; so if we can make peace and adjourn this for the present, it would be much better.

The HONOURABLE THE PRESIDENT: The question is that the discussion of this Resolution be adjourned.

The motion was adopted.

RESOLUTION *RE* ELIGIBILITY OF POLITICAL PRISONERS FOR ELECTION TO LEGISLATURE.

The HONOURABLE SAIYID RAZA ALI (United Provinces East: Muhamadan): Sir, I move the following Resolution:

"This Council recommends to the Governor General in Council that the electoral rules should be modified in such a manner as to make a person convicted of a political offence involving a sentence of imprisonment for more than six months, eligible for election to any legislative body constituted under the Government of India Act, 1919."

Sir, under sections 64 and 129A of the Government of India Act, 1919, the Electoral Rules are made by the Governor General in Council with the sanction of the Secretary of State in Council and approved by both Houses of Parliament. Certain rules were made in the exercise of this power that disqualify certain persons for being elected as Members of the Indian Legislature or of the Provincial Councils. Sub-rule (2) of rule 6 of the Electoral Rules reads thus:

"A person against whom a conviction by a Criminal Court involving a sentence of transportation or imprisonment for a period of more than six months is subsisting shall, unless the offence of which he was convicted has been pardoned, not be eligible for election for five years from the date of the expiration of the sentence."

Sub-rule (3) of the same rule provides:

"If any person is convicted of an offence under Chapter IX-A of the Indian Penal Code punishable with imprisonment for a term exceeding six months, such person shall not be eligible for election for five years from the date of such conviction."

The HONOURABLE SIR MANECKJI DADABHOY (Central Provinces: General): 'From the date of the expiration of the sentence.'

The HONOURABLE SAIYID RAZA ALI: I hope those, Sir, who interrupt in order to correct me will take care to have a copy of the Rules in front of them.

The HONOURABLE SIR MANECKJI DADABHOY: I am speaking of the law.

The HONOURABLE SAIYID RAZA ALI: There is power given to the Governor General in Council, and in the case of a Provincial Council to the Governor in Council, to order the removal of certain disqualifications. Honourable Members will remember that the disqualifications were removed in 1920 in the case of those persons who had been convicted of various offences in connection with the trouble that followed the passing of the Rowlatt Bill. Unfortunately, however, Government's action was so belated that it deprived the action of all grace. Action to remove the disqualifications was not taken

The HONOURABLE THE PRESIDENT: What is the Honourable Member discussing, what has been done in the past, or what should be done in the future? I would suggest he should discuss what should be done in the future. His Resolution relates to the future.

The HONOURABLE SAIYID RAZA ALI: I just wanted to refer to the past to show that there is ample precedent for such action having been taken by Government in the past. Now, the important point is this, Sir, that if action in this direction is to be taken, that action should be taken as early as possible. As the saying goes, 'there is no use shutting the stable door after the horse is gone'. In the past, the Government's action was so belated that people could not take full advantage of that, and therefore it is high time, in view of the forthcoming elections, that the Government should give a careful consideration to the plea that is raised, in my conclusion, at an early date. What is going to be the attitude of the Government of India during the coming elections is a question to which great importance naturally is attached. With a view to ascertain that attitude, Sir, I gave notice of a Resolution in the beginning of January advocating the removal of the disqualifications mentioned in the Rules which I have already made reference to. In reply, Sir, I received a letter from the Secretary to the Legislative Department in these terms:—

"I am directed to inform you that His Excellency the Governor General has under Rule 22 (1) of the Indian Legislative Rules disallowed your Resolution relating to the removal of disqualifications imposed on certain persons convicted of political offences so that they may stand for election, on the ground that it is not primarily the concern of the Governor General in Council to recommend to the Governor General the use of his prerogative of pardon by which alone the disqualification under the electoral rules can be removed."

There was no other alternative then left to me, Sir, but to raise the question in the form of a Resolution that would not be open to technical objections and notice of the present Resolution was given by me immediately after that. Sir, the Resolution raises two main questions. One is the question of law and the other is, if I may term it so, the question of fact. The question of law arises because we find that in framing rules under the Government of India Act a very serious departure on questions of principle has been made from the rules that govern the elections to the House of Commons. I know, Sir, that it has almost become a fashion in certain quarters to say that it would be extremely improper to follow British practice slavishly. Now, Sir, I think a charge of this kind can hardly be brought in a case in which we have to inquire into the practice and the rules that govern elections to the Mother of Parliaments, I mean the British House of Commons. We should not, it is true, follow slavishly everything that pertains to England, but when conditions are such that we can follow English practice with considerable advantage, I think it would be the height of folly to shut our

eyes to that practice. I, Sir, certainly have no prejudice against borrowing all that is best in England; her literature, her science, her Art, her ennobling conceptions of political liberty, all these things are sources of the greatest inspiration to us, Indians. As a well-known writer has said, 'Light no more comes from the East'. Shall we, Sir, deny to ourselves such light as peeps through to this country from far off England? The law we find governing such questions in the House of Commons is:

"Conviction for felony is a disqualification until the sentence has been served or free pardon under the Great Seal has been granted."

Our rules have departed from the salutary principle that obtains in England in that they insist that even after the expiration of the sentence of imprisonment, it shall not be open to a person to seek candidature if he has been sentenced to imprisonment exceeding six months till five years have rolled by or a pardon has been granted. Sir, it is of no use discussing the question of pardon which is the prerogative of His Excellency the Viceroy as the representative of His Majesty the King Emperor. We must, therefore, confine ourselves to the effect of the imprisonment as taken from the date of the expiration. I ask, Sir, is there any reason why the law governing our elections should be so vastly different from what it is in England? In England if a man has undergone a sentence of imprisonment, he is at once eligible to Membership of the House of Commons. We find here he must wait for 5 years. I ask, is there any reason that can be adduced in support of the Indian rules? Then, again, Sir, it should not be forgotten that the English rule confines itself to felonies which correspond to serious offences in India, whereas in India no distinction is made between major and minor, serious and ordinary, offences. Here taking the word of the law as it is, Sir, even if a man is sentenced to fine and in default of payment of such fine he is sentenced, we will say, to 7 months' simple imprisonment, and he chooses not to pay the fine but to undergo the sentence of imprisonment, he is debarred from seeking election. That I submit, Sir, is a state of law which cannot be supported by any convincing or strong argument. So, on the question of law, Sir I hope I have made it clear to Honourable Members that our rules are very unsatisfactory. I believe it was impliedly conceded during Monday's debate in this House that at times our Indian rules do not seem to have been made quite consistently with the law as it is or, I should say, as it ought to be. I hope it will be conceded so far as legal considerations are concerned that everything strongly suggests that our rules be amended and brought in conformity with the English law.

Now, Sir, coming to the question of fact, let us see what the situation is to-day as compared with the situation as it existed last year.

Sir, I should not be surprised if Government make a reference to the political creed of the non-co operators, who are, after all, the people who will be mainly affected by the acceptance or the non-acceptance of this Resolution. I should also mention that there are other people who will also benefit if this Resolution is accepted—I mean the Akalis and certain Khilafat workers. Sir, last year recruits were being raised from end to end of the country with the declared object of embarking on a campaign of intensive and aggressive passive resistance. Huge sums of money were being collected with a view to supporting the families of those who in the course of the trouble were sent to jail. Mass meetings were held in almost every place and wild talk was

[Saiyid Raza Ali.]

indulged in. The atmosphere, one might say, was altogether full of excitement. What is the situation to-day, Sir, as compared with the situation 12 months back? We find fortunately things have been restored to normal conditions. No excitement is going on and in fact we find that better counsels have, after all, prevailed in a large section of the non-co-operation camp. (*An Honourable Member* : "Question.") If my learned friend the Honourable questioner had followed even the proceedings of the last National Congress as they came out from day to day in the press, I am sure he would have spared himself the trouble of putting this question. Again, Sir, the Indian National Congress is not the only body that tried to pass Resolutions in favour of Council entry. We find that the campaign has been taken up by a large number of zealous and sincere workers. They have been going round the country and explaining to their followers and the masses, that after all the best thing would be to exercise their influence inside instead of outside the Councils. I should not forget that they also say that they want to enter these Councils in order to wreck them; but that, Sir, is a statement the proper value of which Honourable Members can assess for themselves. I have always taken the view, and I do take the view that the best thing would be for our friends to come over here and try to wreck the Councils. After a month's experience, I have too much faith in the honesty of purpose of Government and the sincerity of my own countrymen to doubt that they will be very much changed men, if they are not already so. Sir, a very large section of the people having declared it as their policy to enter these Council Chambers, I say, is it not for Government now to make a response? Sir, it is open to Government to say that these men only last year, or say 18 months back, declared that they were the enemies of Government. I would point out at once that nobody would be able to find out anything uttered by any non-co-operation leader which savoured of treason to the King, to the Sovereign. What they urged was a change in the system of Government, and they have consistently adhered to that. You will not be able to find in the utterances of any responsible non-co-operation leader anything that goes against His Majesty the King or against India's connection with England. As a matter of fact, it will be within the memory of Honourable Members that the first man who opposed the so-called independence Resolution at the Ahmedabad Congress was no less a man than Mr. Gandhi himself. But, Sir, even assuming that they were enemies, or that they claimed to be enemies, is it not a fact that the enemies of to-day are often the friends of to-morrow? There have been many cases, Sir, in which people who were not on the best of terms with Government have after all been converted into friends and entered the charming circle. We know that the leader of the anti-partition agitation in Bengal, who was even reported to have been crowned in Calcutta, has fortunately been spared to us to hold the portfolio of one of the Ministers in the Bengal Government. Need I refer to that Punjab rebel who was sentenced to transportation for life with confiscation of property, I mean Lala Harkishan Lal, who to-day holds the responsible post of His Excellency the Governor's Minister in the Punjab. It will not be out of place to refer to the cases—they are inspiring cases—of the late Mr. Michael Collins and Mr. Griffiths who for a long time were engaged in carrying on actual warfare with England and her King, and who ended their days as among the truest and best of England's friends. Sir, according to my reading, the non-co-operation party in India closely corresponds to the Labour Party in England. We were reading only

the other day that at the Countess Astor's place His Majesty the King-Emperor of India dined with the leaders of the Labour Party. We further hear that His Majesty

The HONOURABLE THE PRESIDENT: Order, order; the Honourable Member must refrain from referring to His Majesty's conduct for the purpose of influencing the Council on any occasion whatsoever.

The HONOURABLE SAIYID RAZA ALI: I was referring, Sir, to the growing cordiality between the Government

The HONOURABLE THE PRESIDENT: My ruling is quite distinct. The Honourable Member must refrain from referring to His Majesty the King's conduct in this Chamber.

The HONOURABLE SAIYID RAZA ALI: Since you have given your ruling, I will not refer to the conduct of His Majesty. My submission is this, that the relations between the governing classes in England and the Labour Party have been growing more and more cordial. We must also hope that the party here which corresponds to Labour, I mean the non-co-operators, should also be welcomed by the Government if they have decided to work with Government.

Sir, I must acknowledge that one of the difficulties, if my Resolution is accepted, would be as to what class of persons can be placed in the category of political prisoners. There will be some no doubt who may claim to be political prisoners but who upon inquiry will be found to have been sentenced to imprisonment for committing some offence involving violence or some offence against property. For myself, I would leave the determination of that question to the Local Governments and I would give the power to those Governments to select the persons who, having regard to the circumstances in which they were sent to prison, can safely be considered as purely political prisoners, I mean, the unadulterated article.

Sir, I have said almost all that I wanted to say. The only plea that I would urge before this House is, could any Legislative Assembly claim to be the representative of India from which men like Lala Lajpat Rai, Dr. Jotendra Nath Banerji, Mr. Rajagopalachariar were to be excluded, to mention only a few names out of many that would readily suggest themselves to Honourable Members. Sir, I am convinced that there is ample scope for India to work out her destiny in partnership with England on terms of absolute equality. Such partnership, Sir, would redound to the glory of England; it would redound to the glory of India; what is more, Sir, such partnership would redound to the greater glory of what I might call the Indo-British Commonwealth. Sir, it is after all a friend and not a foe that is giving a gentle knock at the door of the Government of India through this House. We shall all eagerly await the response.

The HONOURABLE SIR MANECKJI DADABHOY: Sir, I propose to speak on this Resolution with a certain amount of restraint, particularly as I do not desire that the position of Government should be embarrassed in any way or that the position of many of the candidates who are going to stand for election should in any way be prejudiced. I have heard the speech of the Honourable Mover of this Resolution and I must unhesitatingly say that I am as unconvinced as regards the desirability of this Resolution now as I was

[Sir Maneckji Dadabhoj.]

before coming to this Council. I feel that it is not possible for any Member of this Council if he carefully and without prejudice considers this question to give his support to the Resolution. My Honourable friend has justified his Resolution from two points of view. The first is a point of law as he has termed it. He has stated that the law in England is that a man who has undergone the sentence and has thus purged his offence can stand for election, and he has asked why an Indian should be debarred from enjoying the same privilege under the Indian electoral rules. In other words, the essence of his argument is that the law both in India and in England should be of a uniform character. Now, I do not understand this part of his argument, and I say that with great respect to him. My Honourable friend knows, as a lawyer, that this is not the only matter in which the law in England is divergent from the law in India. Our criminal law in many respects differs from the English criminal law; the penal code in many respects differs from the English code, which makes very fine distinctions between offences called felonies and offences known as misdemeanours. Our civil law too is also widely different in many respects from the English civil law. In India, for instance, adultery is a criminal offence; in England it is only a civil offence for which damages may be awarded. Similarly, with regard to the law relating to seduction. So, I say we cannot attain a uniformity between England and India in all matters, both civil and criminal. So this argument of uniformity does not help us much and can be dispensed with. Each country, as my Honourable friend knows, makes its laws to suit its particular requirements and the laws and rules made in one country may be wholly unsuitable in another.

As regards the merits of the case, I am afraid my Honourable friend, though he attempted it very hard, has hardly made out a case. He himself has acknowledged the great difficulty that confronts us in the matter, and as a lawyer he also knows the great difficulty of drawing a line of demarcation as to what exactly are political offences. My Honourable friend has said that the matter may be left to the determination and decision of the Local Government, but the Government would be placed in a very invidious position in determining what particular class of offences come within a particular category and what fall in a different category. However, assuming that any such power of determination was left to Local Governments, I cannot understand how the decision of the Local Government would be unquestioned in a civil court, unless there were some rule or law framed debarring a reference to a civil court. This is a very grave difficulty. I quite sympathise with many things which my Honourable friend has said, but at the same time I do not consider, and I honestly do not consider, that any serious hardship is involved by the retention of the present rule. It is true that the law makes it clear that a person awarded a certain sentence is ineligible to stand, but the law does not debar permanently a man who has been imprisoned for more than six months provided he asks for a pardon; if the pardon is granted, and it would be granted in nine cases out of ten, he can stand for election. If a man is seriously disposed to enter a Provincial Council and help in the administration of the country, he must certainly go there with a clean record. He cannot keep up an attitude of hostility and opposition to all Government measures and at the same time try to seek his entrance into the Legislature. He must show that there has been some repentance, some action on his part

showing a sort of penitence over the matter which will entitle him to readmission. After all, if the man is really and seriously inclined to obtain a seat in the Council, there is nothing to prevent him from doing so by applying for a pardon. That is one aspect of the case. Then pray tell me for what classes of people is the Honourable Member fighting? I have never seen in any newspapers or even at public meetings heard it said that there is any insistent demand of this nature. On the whole, from what I have seen in newspapers, I find that there is an absolute abhorrence of the Councils. These people have been arraigned for various offences; what action have they taken when they were taken to the Courts of law? They have refused to undergo trial, they have shown their contempt for Courts of Justice, they have stood silent, they have non-co-operated with the Courts, they have refused to lead the evidence and enter on their defence, and they have refused all professional aid and co-operation. This class of people do not want to join Councils. If this concession is not demanded by these very people, why is it necessary for my Honourable friend to plead their cause? Why is it necessary that this Council should go out of its way and stretch out its arms to these people and say, 'well, despite these convictions against you, we are going to make it easy for you to come into the Council'? These people do not want to come into the Councils, as I understand; and the few people who are inclined to enter the Councils have definitely stated that, if they do at all enter there they will be there with the avowed object of wrecking the Councils. Is this the class of people to whom I say this Council should extend its sympathy and support, and alter rules making their elections permissible? I say we are the Upper House, we are called the Council of State, we constitute, as it is, a Council of elder and level headed statesmen in the country. Should we be so foolish as to entertain such a proposition? Are we going to be so blind to the public interests, are we going to be oblivious of the past and pass and support a Resolution of this character, which I say will not reflect any credit on this Council? My Honourable friend has not appreciated a particular difficulty in the matter. I will just cite a single illustration. Rules were framed and notifications issued, about two years ago under a particular Act and unlawful associations of volunteers were prohibited. In spite of that, there were found large numbers of people who defied the rules and deliberately acted as volunteers and impressed upon the public the advisability of breaking the rules and holding public meetings against the rules. These very people were arraigned and convicted and some of them received more than six months' imprisonment. There was another class of people who, when *hartal*s were proclaimed in the country, went about and compelled, forced, and threatened innocent shopkeepers against their wish to close their shops. These people were put on their trial and convicted and some of them got more than six months' imprisonment. Can you really with any show of justice with any show of reason, with any show of reasonable clemency, extend your generosity to this class of people and say, "we will welcome you to this Council, though you will not express your regret for your offence"? I know many of these people got unfortunately involved in these events, many of them were respectable citizens; I quite admit that many of them went there with good motives and subsequently got dragged in in the heat of the moment, and thus unwittingly exceeded the standard of moderation in many ways. I am in full sympathy with them, but I say, let there be some change in their mental attitude, let there be some expression of regret before we say, "come and sit with us and help us in framing rules and regulations for the administration of the

[Sir Maneckji Dadabhoy.]

country". And just reflect on the position you are about to create: you are asking them to come and assist us in the maintenance of peace and order in the country,— the very men who violated, and defied laws and broke peace and caused breaches of the peace and who are not prepared to express the smallest repentance. Is it right for us to accept this Resolution? I say, whatever may be the motives that may have induced my Honourable friend to bring forward the Resolution before this House, it will not reflect any credit on the Council of State to give support to a Resolution of this nature.

The HONOURABLE MR. J. CRERAR (Home Secretary): Sir, in spite of the persuasive and conciliatory eloquence of my Honourable friend the Mover, I also must oppose the Resolution. In doing so I wish to make one preliminary observation. There is, I believe, a doctrine known to Scots law, the doctrine of "vicious intromission": and that doctrine prescribes that if any person, without the authority of the parties principally concerned, intervenes in a cause of action, he thereby incurs certain liabilities. I would point out that to the transaction which the Honourable Member proposes to invite the House there are several parties. There is the Honourable Member himself, there is this House, there is the Government of India, and there is His Majesty's High Court of Parliament; and there are also the convicted persons to whom my Honourable friend refers. Now, Sir, I do not invoke that doctrine of Scots law in order to deter my Honourable friend in any way from moving any constitutional issue which is within the lawful cognizance of this House, but I am seriously concerned about my Honourable friend's position. It would distress me extremely that he should put himself in the invidious position of the patron who embarrasses his beneficiaries with uninvited and unwelcome assistance.

Now, on the questions of general policy which have been dealt with by the Honourable Mover, a great deal of the answer which I propose to give has been given by the Honourable Member who preceded me, and it is my purpose to deal not so much with general questions as with the prosaic but by no means easy question of the practical application of what my Honourable friend proposes. When you propose to frame statutory rules, it is above all things necessary not only to have a clear apprehension of your policy but also a very precise specification of your facts and of the manner in which you propose to apply them. My Honourable and learned friend has, perhaps wisely, not attempted to offer any solution whatsoever of the practical problem. He has paid the Local Governments the very high compliment of transferring to them the onus of solving this exceedingly difficult problem, and in doing so he pays a compliment to their acumen, to their wisdom and to their legal subtlety, the highest, I think, I have ever heard. But after all, the rules contemplated by my Honourable friend would have to be interpreted and applied by some body, by the Returning Officer, by the Commissioners, or by some other authority, and how would they proceed to do it? What is a 'political offence'? Now I can conceive of questions of this kind coming before an electoral Court, and of their having to search the Statutes to find out whether such an expression as 'political offence' or 'political offender' or 'offence of a political nature' has been used. They would find them only in one series of enactments—the enactments relating to the law of Extradition. Now, Sir, I think it will be interesting to the House to gain some idea as to what the results of an appeal to the law of Extradition

might be. I will quote a few words from an eminent authority on the subject. This is the interpretation placed by the English Courts on the phrase "offence of a political character" so far as the law of Extradition is concerned :

"An offence is of a political character if it is one which is incidental to, or forms part of, political disturbances. [In *re Castioni* (1891) 1 Q.B., 149.]"

"In this case there was a general rising against the authorities of the Canton of Ticino and in the course of the disturbances Castioni who had taken a prominent part in organizing them shot one Reni, a Member of the State Council. It was held that the offence was of a political character."

It might also interest the House to know that from the point of view of Extradition law, anarchists are not political offenders.

"Anarchists, however, are not political offenders, for to constitute an offence of a political character, there must be two parties in the State, each seeking to impose the Government of their own choice on the other, whereas anarchists are the enemies of all Governments."

Now, Sir, what would be the application to our present purposes of that law? Let us take only one instance. The principal offenders in the Mopla rebellion, men guilty of murder, arson and the most atrocious crimes, would probably, for the purposes of Extradition Law, be held, to have committed offences of a political character. Is that the kind of offence which my Honourable friend proposes to include in his category of political offences? I leave it to him to answer that. As a matter of fact it must be obvious to the House that the law of Extradition could not possibly be a sound basis for regulating the internal criminal jurisprudence of India or any State. It is substantially a matter of international law, and as a matter of fact it is observed by the authority which I have just quoted that "most continental nations regard the fugitive offender as a purely political matter in which the Courts have no concern". We shall, therefore, have no assistance from the law of Extradition with regard to the interpretation of the phrase 'political offences' of 'political offender' for the purpose we have now in contemplation. Other attempts have been made to solve this question in another way. It has been suggested that offences which do not involve moral turpitude should be excluded. But from the point of view of the practical lawyer that phrase presents difficulties almost equally insurmountable. I shall merely quote from the remarks of a very learned jurist, Sir Erle Richards. In another connection but dealing with the same question of principle he observes :

"Is there any precedent for the phrase moral turpitude? I know of none."

Then after reciting some instances he adds :

"Do these involve moral turpitude? They may afford interesting problems for divines but, as a mere lawyer, I give them up though they would provide employment to the honourable and meritorious profession to which I belong." (*That point of view might perhaps commend itself to my Honourable and learned friend.*) "Any other point of view seems to me difficult to defend."

As a matter of fact, Sir, we shall find that ultimately we come to a consideration of what is really a fundamental principle of criminal jurisprudence, and that is the distinction between motive and intention. I will illustrate my point by a concrete instance. A man who has a starving family may steal a loaf. Well, what is uppermost in his mind is not to cause wrongful loss to the baker but he undoubtedly intends to steal. His motive is to relieve the

[Mr. J. Crerar.]

sufferings of his family. The law deals with it in a reasonable and just manner. It enjoins upon the Magistrate, if evidence of the offence of theft is made out, that the accused shall be convicted of the offence of theft. But it leaves to the Magistrate a certain discretion as to the penalties he shall inflict, and in the exercise of that discretion the Magistrate would no doubt take the motive of the offender into consideration. But, Sir, what I particularly want to emphasise is this, that the law does not take into consideration motive as distinct intention as an ingredient in the strict definition of the offence which is necessary for the due processes of law. My Honourable friend has adverted to the English law on the subject and stated that there ought to be complete uniformity in our electoral law to the electoral law of England. That question has to a large extent been answered by the Honourable gentleman who preceded me. There are very important distinctions between the conditions in which the English electoral law operates and the conditions in which the Indian electoral law operates. In England there is a very old and stable Parliamentary tradition. In India there is yet not an ancient and stable tradition. There is another important distinction. There is no political party in England whose avowed policy is the destruction or the extirpation of the constitution. There is another important distinction. Even if the English precedent were adopted and acted upon, I venture to point out that the English law gives no precedent whatsoever for a distinction drawn in favour of political offences, however they may be defined; and yet that is the radical, indeed the fundamental, feature of the Honourable Mover's proposition. I do not think he is well advised in invoking the English precedent in his case. Is there anything really unjust or inequitable in the present provision of the electoral rules? I must frankly say, Sir, to my mind there is nothing really unjust or inequitable. It appears to me that franchise disqualification is a reasonable and proper penalty to attach to offences which are imagined and committed against the State and the Constitution. I do not think it unreasonable that any person, who has been found guilty of such offences by the formal process of a judicial tribunal, for some period at least should be left to reflect upon his political views before he is again admitted to constitutional political life. My Honourable friend did not deal with that matter at length. I am not surprised at it, because my Honourable and learned friend is a lawyer and he has that subtle consciousness of the lawyer when he is coming to the weakest part of his case. But we cannot get over the obvious fact that among the gentlemen of whom the Honourable Mover spoke there are two distinct schools. One of these schools treats with the utmost contempt all forms of the legislature as at present constituted. They are not merely against the 'bureaucracy,' whatever that may be, but they are against the whole constitution and in particular the Legislative bodies. The second party would, I understand, be willing to enter the Legislatures, but for one sole purpose, to paralyse them, to render them impotent. Sir, would it be really rational, politic and sensible if we deliberately advised the Government of India to take steps to introduce gentlemen into the Legislature whose declared purposes are now of that nature? I think it would be advisable that some interval should interpose itself, between expressions of that nature and the admission of those gentlemen to the Legislatures. I do not deny and I sympathise very deeply with much that was said by my Honourable friend on that point. He regretted the loss to the constitutional life and the political progress of India of very great

1 P.M.

talents. I deplore that no less than my Honourable friend the Mover, but I do not think he has taken the wisest course to deal with that deplorable circumstance. I do not intend to detain the House any longer because my main purpose has been to point out the very serious practical difficulties which are attendant upon my Honourable friend's proposal. The Government of India have, I think, given every proof of their desire to encourage all reasonable means of reconciliation and appeasement, to take every possible step for the amelioration of the unhappy political developments that have taken place in recent years in India. I think that state of affairs has to a great extent been ameliorated and we may look forward to very great improvement in that direction in the future. But I do not think that we shall be doing a wise and sensible or politic thing if we endeavour to stimulate a movement which is, I think, rapidly gaining momentum by a measure which has very little prospect of success and does not proceed on a sound practical basis.

The HONOURABLE LIJUTENANT RAO BAHADUR CHAUDHRI LAL CHAND (Punjab: Nominated Non-Official): Sir, I welcome the desire that is contained in the Resolution. I would request every Non-Official Member of this House to work for the creation of that healthy atmosphere when these hopes may be realised, but my idea is that the Resolution is a little too premature. Some of the responsible leaders have expressed their desire to come to the Councils, but for what purpose? To make them a success or to make the Reforms a success? No, to wreck these Councils and to make the Reforms a failure. I think, under the circumstances, it is hardly advisable for us to approach Government or to bring pressure to bear upon Government to forget the past. Let the other party at least give an undertaking that they are realising their mistakes, that they are repenting and that they are prepared to co-operate with the Government to bring about a very healthy atmosphere for the general progress of the country. Unless that is done, my sincere view is that such Resolutions are premature. They will neither be welcomed by Government, nor are they likely to be welcomed by the other party, and I request the Honourable Mover to withdraw his Resolution.

The HONOURABLE SIR ZULFIQAR ALI KHAN (East Punjab: Muhammadan): The Resolution under discussion now has far-reaching effects. One has to look at it from different points of view, from the point of view of political expediency and also from the point of view of the constitution. The constitution, Sir, is clear enough and it is easy to prevent these people from coming to the Councils. But the consideration of political expediency is another point of view which this Council might consider. These people who have expressed any desire to come to the Council with the sole purpose of wrecking these Councils, or paralysing the action of Government, are certainly there, and it is problematical whether, when they actually come to this Chamber, they will be able to paralyse the Council or the Government. One of the ex-Members of His Excellency the Viceroy's Council, I mean Sir Tej Bahadur Sapru, immediately after his retirement from his sphere of action in the Government, pronounced a weighty opinion. He challenged these non-co-operators to come to the Councils and try to wreck them. Well, if an authority of the calibre of Dr. Tej Bahadur Sapru is able to pronounce the impotence of these people to wreck the Councils, then I think every one of us here present would endorse his view. I am not in the inner counsels of the

[Sir Zulfiqar Ali Khan.]

Government, but there is one who has just pronounced his opinion. Then, Sir, with regard to the political expediency of the step, I being an Oriental and guided by the traditions of historical importance, have studied Indian history very carefully, and I think there are numerous instances in the past where people have tried to revolt against authority and rebelled against it. Well, some of the past Emperors and Kings have earned an imperishable reputation and have lived in history by not only condoning the acts of hostility of these people, but by embracing them and winning them over as friends to the Government, and in many instances we have seen that these very people were the staunchest supporters of those rulers. I do not know whether human nature has become more perverse now than it was then. But I think if Government shows a generous attitude on their part there is a great probability that these people may be won over to the cause of Government. Sir, these people are, some of them, the most intellectual assets of this country. They have great respect and popularity with the masses and any generosity or leniency shown to them will be appreciated by the masses. If they are won over to the side of Government I think they will provide an atmosphere of friendliness and co-operation with Government. We have seen, Sir, in these last few years that even the most blatant nationalist when he enters a Council has a spell cast on him; he is at once converted to the side of Government. My friend the Honourable Mover has mentioned certain instances and I may mention a few more. Sir Surendra Nath Banerjee who was supposed to be a very dangerous nationalist..... (*A Voice*: "He has been mentioned already".) He is one of those instances in which Government have won a loyal friend. Well, Sir, if such an atmosphere exists in the Councils as to make friends of foes, then I ask Honourable Members why they should vote against the entry of these people into the Councils? With these few remarks, Sir, I support the motion put before this House.

The HONOURABLE RAJA PRAMADA NATH RAY OF DIGHPATIA (East Bengal: Non-Muhammadan): Sir, I do not quite understand why any distinction is made between political offences involving a sentence of six months' imprisonment and those which involve a sentence of even one more day's imprisonment. This sort of time limit does not necessarily mean always that in one case the offence is any the less or any the more serious than in the other, especially when Judges and Magistrates in many cases have the power to exercise discretion regarding the period of imprisonment for the same kind of offence. Besides, a political offence as a rule does not involve any moral turpitude. It is possible to find instance even in this country, as the Honourable Mover has just mentioned, where political prisoners of yesterday have been raised to the dignity of Ministers to-day. And as time goes on such instances would, I dare say, go on multiplying. The present constitution of Ireland will, I believe, supply many such instances as have been quoted by the Honourable Mover. If the Government had debarred all persons convicted of political offences from seeking election, it would have been quite another matter. But that not being so, I fail entirely to see the policy underlying this time limit of six months and would, therefore, advocate its removal. I have, however, no intention of saying anything here either in favour or against the policy of the Government with regard to the rights and privileges of ex-political prisoners in general so far as their eligibility to stand

for election is concerned. But I do, Sir, say that this distinction is invidious and as such should be removed. If I may venture to say so, Sir, I think it would have been a sounder policy to do away with all such restrictions in the matter of election, so that men of all shades of opinion might have been able to come into the Councils and who knows that by doing so the Government would not convert a non-co-operator of to-day into a staunch co-operator to-morrow! I have every reason to believe that when they do come into the Councils they will sing a very different song to that which they are singing now.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab: Non-Muhammadan): Sir, I rise to oppose the Resolution. The distinguished non-co-operators and others who want to co-operate with Government by entering the Councils can be pardoned by the Government in case they prove their change in policy. If their entrance to the Councils is unconditional as the Honourable Mover advocates, I think an element will come into the Councils which will make the working of the Councils difficult and perhaps may tend to wreck their work. Under these circumstances it will be unwise to take such a risky and rash step.

The HONOURABLE KHAN BAHADUR NAWAB MUHAMMAD MUZAMMIL-ULLAH KHAN (United Provinces: Nominated Non-Official): Sir, there is only one thing which I wish to point out. My Honourable friend Nawab Sir Zulfiqar Ali Khan has just quoted the authority of one of our retired Ministers who is preaching to the non-co-operators to come to the Councils. But I fail to see in that quotation a single mention of the people who are convicted. To deal with the non-co-operators is one thing, and to deal with the convicts is another thing. As has been said in many speeches about these non-co-operators, there is no question of non-co-operators in this Resolution. The question relates only to whether political offenders will be allowed to enter. So I enlist myself on the side of those who oppose this Resolution.

The HONOURABLE MR. V. G. KALE (Bombay: Non-Muhammadan): Sir, I should have liked this Resolution to have been made more comprehensive than it is, and at one time I contemplated giving notice of an amendment to that effect. But unfortunately I could not do so. What I wished to bring out was that the law in India so far as qualifications of candidates who want to contest seats in the Legislative Councils are concerned, should be placed upon the same footing as the corresponding law in England. So much has been said to-day regarding the distinction that exists between the English and the Indian law, but I desire to point out that now that India is progressing along constitutional lines, we in this country should try to follow the lead, particularly, of a country like England, and I would like to remove all disqualifications which have been imposed in this country which do not exist in England. But my difficulty with reference to this Resolution is that, as was pointed out by the Honourable Mr. Crerar, it will not be easy to make a distinction between political offences and other offences.

I am not myself afraid of any non-co-operators coming into the Councils at all. A plea was put forward in favour of those non-co-operators who are anxious to come into the Councils. I do not think that any large number of those who have been convicted by Indian Courts are likely to stand as candidates. I do not myself believe that any large number of non-co-operators are likely to come into the Councils at all. While so many have been

[Mr. V. G. Kale.]

convicted, only a very few from among them may stand as candidates, so that I do not see any point in removing the disqualification from political offenders as such as a whole, unless we try to amend our electoral law so as to bring it into line with the English law. A great deal has been said in this connection about the non-co-operators being made co-operators. I know that the logic of facts itself has already brought about that transformation in some cases, and that those who, for example, opposed us while we were last contesting seats in the Legislature, are themselves coming forward now as candidates for the next elections. However, I do not see that the political atmosphere is yet clear in India. There is at present a truce of two months between two sections of non-co-operators. Nobody knows whether civil disobedience will be set on foot after the expiry of the truce. I do not want, therefore, to lay any stress upon the political situation in this connection; I do not want that we should emphasise in any way the entry into the Councils of this party or that party, of this section or that section of non-co-operators. If the Council wants to do anything by way of constitutional reform, the only thing to my mind which will be reasonable and justifiable will be that the whole law should be reformed, so that it might be brought into line with the English law. But I do not find that this object is likely to be gained by this kind of Resolution and I would have liked that the Resolution should have been of a more comprehensive character which would have met with the approval of all reasonable people.

(The Honourable Saiyid Raza Ali rose.)

The HONOURABLE THE PRESIDENT: Is the Honourable Member likely to be long?

The HONOURABLE SAIYID RAZA ALI: I will take some time, at least.

The HONOURABLE THE PRESIDENT: The Council will now adjourn.

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

The Council re-assembled after Lunch at a Quarter to Three of the Clock. The Honourable the President was in the Chair.

The HONOURABLE SAIYID RAZA ALI: Sir, I think it was the late Mr. Gokhale who pointed out that greatly gifted though the English race was and had special aptitude for the art of administration, it was lacking in the gift of what is known as the power of imagination. I find, Sir, this morning not only has there been a display of want of that spirit from Government Benches, but some of my own countrymen have joined to aggravate the position and to justify the remark that at times not only Englishmen, but Indians also are sadly lacking in that gift. Sir, the position ought not to have offered any very great difficulty to Government and I had no doubt that Government might not be in a position to make a clear and definite pronouncement on this subject to-day, but I thought they would express their willingness to consider the whole question carefully in the light of events that may happen hereafter. I am sorry, Sir, that I fail to discover any signs of this sympathetic attitude in the speech of my Honourable friend the Home Secretary. With his usual skill and ability he raised a number of questions which unfortunately have a tendency to cloud the issue but which are not calculated to strengthen the hands of Government. My Honourable friend

charged me with meddling with a cause of action with which I was not concerned. Sir, my Honourable friend is greatly mistaken if he takes that view. From time to time we find that in the beginning of the new year a letter appears in the daily newspapers headed "missing heirs". Sir, so far as political issues are concerned, I can say that I, no less than any other Member of this Council, am a residuary legatee, with this difference that the residuary legatee comes into the legacy after the death of the testator, whereas we get the legacy, say the gift, in the life time of such testator. Sir, my point of view is vastly different from that of my Honourable friend. I say that every public issue which is of importance either to the people of this great Continent or to the Government is an issue which gives me no less than to any other public-man a direct cause of action. My interest in that cause of action is supreme, and it is in no way less important than the interest of the man who is personally concerned with a question.

Sir, I took pains to point out that it is not in any spirit of hostility or antagonism that I brought forward this motion. I was in fact trying to help the Government in laying down a sound policy on a question which has been exciting very considerable attention. Sir, the position is by no means an obscure one. The present position is that Government have got one party on their side and can claim and rely on the support of that party. I do not propose to go into the numerical strength of that party, but surely, Sir, there is a party much more influential, much larger in numbers between whom and the Government unfortunately to-day there is a gulf. I was trying to bridge that vast gulf if possible. Government have got their friends no doubt, but I want the number of the Government's friends to be much larger than it is to-day. It was, Sir, in this spirit that I brought this motion to-day. It is open to Government to so conduct their policy and to so change the rules as to rally on their side a party which, I believe I am justified in saying, is in the majority in this country, a party which can count among its numbers some of the most respected and influential leaders of Indian thought. Is there any reason why earnest and serious efforts should not be made to compose the present differences between Government and that party? My Honourable friend the Home Secretary asked what would be the definition of a political prisoner according to me. Now the House will remember that that is a question to which I addressed myself in my opening speech, and I confess that there are certain difficulties in classifying prisoners and picking out from among them what are generally known as political prisoners. But, Sir, the difficulty is by no means an insurmountable one. On the whole we have a general idea as to what is meant by a political prisoner. It is a very difficult task to define as to what a political prisoner is

The HONOURABLE MR. J. CRERAR (Home Secretary) : Hear, hear !

The HONOURABLE SAIYID RAZA ALI : I hope I will hear that "hear, hear" again later on. Here is an authority that has defined what a political prisoner is. In a case reported in Queen's Bench, page 415, in 1894, it was said :

"Anarchists are not political offenders, for to constitute an offence of a political character there must be two parties in the State, each seeking to impose the Government of their own choice on the other, whereas anarchists are the enemies of all Government."

The HONOURABLE SIR MANECKJI DADABHOY (Central Provinces General) : That is what the Home Secretary quoted.

The HONOURABLE SAIYID RAZA ALI: I am told that this is what the Home Secretary quoted. That is not my recollection. The Home Secretary quoted to the best of my recollection another passage and not this. The case quoted by the Home Secretary is reported in 1 Q. B. 149. Now, Sir, I hope in my humble way to lay down the definition of a political prisoner. Sir, according to me a political prisoner is a man who courts going to jail in order to accomplish his object on a political issue between him and the State, provided such offence stops short of being an offence against person or property. This is, Sir, my definition of a political prisoner. If a man breaks the law, knowing he is going to jail and is prepared to suffer the consequences, he can be called a political prisoner, provided that in doing so, he does not commit a theft, he does not commit a robbery, he does not break another's head. If this definition is acceptable to Government, let them have it and let them take away the ban from this class of prisoners. But, Sir, it is unnecessary for me to formulate any definition at all. Fortunately for us there is a Provincial Government which I think has been able to lay down the definition of a political prisoner. It was only the other day, Sir, that, to the great relief and joy of the people of the United Provinces, a large number of political prisoners was released by the Government of the United Provinces. Let me say, Sir, that the people of that Province stand to a man behind the Government of that Province. Let it be remembered that the people here released were political prisoners. If my Honourable friend will put himself in communication with the United Provinces Government, he will find, I am sure, what was the definition that commended itself to that Government. Sir, where there is a will, there is a way, and I am sure that if the Government are serious in this matter and want really to come to a solution, there is not the slightest doubt that they will be able to do so. Whereas if the will is wanting, all sorts of arguments can be adduced, and I can be taken to task for not having attempted this or that. Sir, it was pointed out by my Honourable friend Mr. Kale, and reference was made to the subject by the Honourable Mr. Crerar also, that it would be extremely difficult to introduce the distinction between political and non-political prisoners. Sir, I limited my Resolution to its present terms because I was under the impression that if I made any attempt to bring our law into conformity with the law as it exists in England, I would be charged with entertaining revolutionary views; but nobody would be more happy than I if Government would be prepared to accept the English electoral law. Let the Government accept that law for all classes of prisoners, namely

The HONOURABLE THE PRESIDENT: I must remind the Honourable Member that the time for reply is limited to 15 minutes and he has already exceeded that time.

The HONOURABLE SAIYID RAZA ALI: I am sorry, Sir, for having exceeded the time limit. I say, Sir, let the Government make that law applicable; and if that is the attitude of Government I am prepared to withdraw my Resolution.

Sir, the last thing that I would say is that I am not pleading for leniency or generosity towards these unfortunate men who have served out long sentences of imprisonment, as was pleaded by my Honourable friend Sir Zulfiqar Ali Khan. My plea is for justice; let Government be just to co-operators; but let Government be no less just to non-co-operators. The

India of the future will be the India not only of co-operators, but also of non-co-operators, of Englishmen and Hindus, of Muhammadans and Sikhs and of every man who has made his home in this country.

The HONOURABLE MR. J. CRERAR (Home Secretary): Sir, I regret that my Honourable and learned friend should have supposed that I did not give him sufficient credit for his good intentions in moving this Resolution. I thought I had done so, but if I was in any respect deficient in that regard, I should now desire to give him the amplest acknowledgment of his good intentions. But I supposed, Sir, that an Honourable and learned gentleman moving a Resolution of this nature would hardly be content that credit should be done to his good intentions, without regard to the practical implication of the policy he advocated. It is to that, that I took particular exception. My Honourable and learned friend accused me of want of imagination. I think, Sir, that that is a charge which is most frequently employed by the advocate of a measure who feels very serious hesitation as to the practical validity of his own case, and that appears to be my Honourable friend's position. He did admit that the question of the definition of a political offence presented practical difficulties. I think it would have been more convenient to the House—it would certainly have been much more convenient to me—if he had propounded his definition of a political offence at an earlier stage in the debate: at a stage when we could have examined it at our leisure and seen whether it had any real practical bearing upon his proposition. However, late as it is and brief as is the time at my disposal, I shall endeavour in one or two words to deal with the equally few words which my Honourable friend devoted to that exceedingly important aspect of the question. He quoted, Sir, as an illustration of the manner in which a political offence might be defined a leading case in Extradition Law, *In Re Meunier*, which I had already alluded to. I thought I had made it fairly clear to the House that that case was a case arising out of the law of extradition. I thought I further made it clear to the House that the law of extradition is a law which cannot really be compared to the municipal law, the internal criminal law of a State. Its purposes, its objects, the ratio decidendi of the rulings made under that law, are of a totally different character from, and could not possibly be made the basis for, an electoral rule or statute or a provision of the specific criminal law of a State. Well, my Honourable friend then abandoned the definition based on the extradition law. I understood him to say that the main ingredient in his definition of political offence would be, to specify offences which were not offences against person or property. The offences, I take it therefore, which he specially has in contemplation are offences directed against the State and against society. Why in any rational system of jurisprudence offences of that kind should receive particularly favourable notice passes my wit to understand. Apart from the intrinsic quality of such offences, I must point out that if they do not in the first instance contain in themselves the elements of an offence of violence against person and property, we have only too bitter reason to remember that the proximate results of such offences very frequently have been to an appalling degree disastrous to the life, to the property and to the liberty of His Majesty's subjects. I cannot therefore regard my Honourable friend's somewhat belated attempt to define a political offence as in any degree satisfactory or in any degree throwing light on his main thesis.

Another Honourable gentlemen referred to the action taken by the Royal Governments in India in times past: measures of clemency exercised by great

[Mr. J. Crerar.]

kings after the suppression of a rebellion : measures, in short, of the nature of an amnesty. That again is entirely irrelevant to the question now before this House. We are not dealing with amnesties which are special measures of the sovereign power designed to meet special and extraordinary conditions. We are concerned with the consideration of a statutory rule which is to have permanent validity : not to deal with extraordinary or abnormal situations, but to constitute a part of our permanent electoral system ; and I venture to say that any basis following measures of that extraordinary character would not be a satisfactory basis to take for a permanent provision of our electoral law.

An important point was raised by my Honourable friend Professor Kale which was also adverted to briefly by my Honourable friend the Mover in his reply. My Honourable friend Professor Kale inquired whether it would not be possible to take into consideration the rules regulating disqualifications arising from criminal convictions on a more comprehensive basis. Well, Sir, I wish to make it quite clear that that is a question which does not arise on the Resolution proposed by my Honourable friend ; but if I may be permitted, I should like to inform my Honourable friend opposite that the question of making more elastic the rules relating to the removal of disqualification arising out of criminal convictions on a comprehensive basis without any reference to particular categories of offences is a matter which is already engaging the serious attention of the Government of India. I must repeat once more that I make that statement, though I admit it is irrelevant to the discussion, because the question was adverted to by my Honourable friend opposite and also by my Honourable and learned friend the Mover.

I have little further to add except this. The issue before the House is really a very simple one. My Honourable friend accused me of lack of imagination. Well, Sir, I thought the issue before the House was a practical issue. I thought it was one in which we should not contribute very greatly to promote a practical solution if we spent our time in giving rein to our imagination. I endeavoured to point out the practical difficulties of the question and to deal with the matter in a practical way.

My final conclusion is — I admit it does not emulate the flight of my Honourable and learned friend's poetic eloquence — that the question is mainly a question of common sense. Should we be acting wisely, should we be consulting the interests of the State and our own dignity if, in this gratuitous manner, we impose on unwilling persons a privilege which they do not desire and which indeed they emphatically repudiate ?

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

“ This Council recommends to the Governor General in Council that the electoral rules should be modified in such a manner as to make a person convicted of a political offence involving a sentence of imprisonment for more than six months, eligible for election to any Legislative body constituted under the Government of India Act, 1919.”

The Resolution was negatived.

THE HONOURABLE THE PRESIDENT: That concludes the business for the day.

The Council then adjourned till Eleven of the Clock on Thursday, the 15th March, 1923.