

Monday, 14th February, 1927

**THE
COUNCIL OF STATE DEBATES**

VOLUME I, 1927

(8th February 1927 to 29th March 1927)

**THIRD SESSION
OF THE
SECOND COUNCIL OF STATE, 1927**



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CONTENTS.

	Pages.
Tuesday, 8th February, 1927—	
Members Sworn	1
Messages from His Excellency the Governor General	2
Committee on Petitions	2
Questions and Answers	3-20
Bills passed by the Legislative Assembly laid on the Table	20
Message from the Legislative Assembly	20
Governor General's Assent to Bills	21
Agreement between the United Kingdom and Estonia <i>re</i> Tonnage Measurement of Merchant Ships	21
Report of the Committee appointed to inquire into the privileges and status of Members of the Council of State	21
Congratulations to the Honourable Sir John Bell	22
Provident Funds (Amendment) Bill—Introduced	22-23
Bengal Tenancy (Amendment) Bill—Introduced	23
Madras Salt (Amendment) Bill—Introduced	23
Statement of Business	23-24
Wednesday, 9th February, 1927—	
Member Sworn	25
Questions and Answers	25-26
Resolution <i>re</i> Prohibition of alcoholic liquors in Local Administrations under the direct control of the Gov- ernment of India—Adopted as amended	26-49
Resolution <i>re</i> Formation of a Central Road Development Fund—Adopted as amended	49-59
Resolution <i>re</i> Abstention of Official Members from Voting on Non-Official Bills and Resolutions—Negatived	59-73
Resolution <i>re</i> Separation of the Post and Telegraph Depart- ments—Negatived	73-77
Resolution <i>re</i> Reduction of Railway Fares for Third Class Passengers—Negatived	77-80
Friday, 11th February, 1927—	
Member Sworn	81
Indian Lighthouse Bill—Introduced	81
Bengal Tenancy (Amendment) Bill—Passed	81-82
Provident Funds (Amendment) Bill—Passed	82-83
Indian Limitation (Amendment) Bill—Passed	84-87
Indian Registration (Amendment) Bill—Passed	87
Madras Salt (Amendment) Bill—Passed	88-89

	Pages.
Monday, 14th February, 1927—	
Questions and Answers	91-97
Resolution <i>re</i> Appointment of High Court Vakils as permanent Chief Justices of High Courts—Withdrawn by leave of the Council	97-102
Resolution <i>re</i> Transfer of the Poona District Headquarters from Poona to Secunderabad—Negatived	102-106
Resolution <i>re</i> Reduction of Postal Rates—Discussion Adjourned	105-111
Resolution <i>re</i> Amendment of the Indian Income-tax Act—Adopted as amended	112-124
Resolution <i>re</i> Provision of Intermediate Class Accommodation on the South Indian Railway—Negatived	124-130
Tuesday, 15th February, 1927—	
Questions and Answers	131-135
Motion <i>re</i> Election of a Panel for the Standing Committee on Emigration—Adopted	135
Motion <i>re</i> Election of a Panel for the Standing Committee to advise on subjects in the Department of Industries and Labour—Adopted	135
Motion <i>re</i> Election of a Panel for the Central Advisory Council for Railways—Adopted	135-136
Hindu Family Transactions Bill—Motion to refer to Select Committee adopted	136
Indian Lighthouse Bill—Motion to refer to Joint Committee adopted	136-141
Indian Forest Bill—Passed as amended	141-148
Wednesday, 16th February, 1927—	
Questions and Answers	149-155
Bill passed by the Legislative Assembly laid on the table	156
Resolution <i>re</i> Constitution of a Separate Self-Governing Andhra Province—Negatived	156-174
Resolution <i>re</i> Railway Bridge over the Netravathi River—Withdrawn by leave of the Council	175-179
Resolution <i>re</i> Interest on Deposits in Postal Savings Banks and Government Securities belonging to Mussalmans—Adopted	179-184
Friday, 18th February, 1927—	
Member Sworn	185
Message from His Excellency the Governor General	185
The Railway Budget for 1927-28	185-202
Election of the panel from which nominations to the Standing Committee on Emigration are to be made	202-203
Election of the panel from which nominations to the Standing Committee for the Department of Industries and Labour are to be made	203
Nominations for the panel for the Central Advisory Committee for Railways	203

	Pages.
Monday, 21st February, 1927—	
Member Sworn	205
Postponement of Questions	205
Statement <i>re</i> Settlement reached at the Conference recently held in South Africa	205-210
General Discussion of the Railway Budget	211-245
Tuesday, 22nd February, 1927—	
Member Sworn	247
Questions and Answers	247-251
Bill passed by the Legislative Assembly laid on the table	251-252
Resolution <i>re</i> Amendment of the Court-fees Act—Negotiated	252-259
Motion <i>re</i> Appreciation of the results achieved by the Government of India Delegation to South Africa	259
Resolution <i>re</i> Removal of restrictions imposed on Medical Practitioners in regard to the dispensing of Opium—Withdrawn by leave of the Council	260-264
Societies Registration (Amendment) Bill—Passed as amended	264-265
Election of a Panel for the Central Advisory Council for Railways	266
Election of a Panel for the Standing Committee for the Department of Commerce—Adopted	266
Wednesday, 23rd February, 1927—	
Member Sworn	267
Result of the Election to the Panel for the Central Advisory Council for Railways	267
Motion <i>re</i> Appreciation of the results achieved by the Government of India Delegation to South Africa—Adopted	267-292
Thursday, 24th February, 1927—	
Resolution <i>re</i> Reduction of Agricultural Indebtedness—Adopted	292-313
Election to the Panel for the Standing Committee attached to the Commerce Department	313
Statement of Business	313
Monday, 28th February, 1927—	
Member Sworn	315
Questions and Answers	315-316
The Budget for 1927-28	316-328
Tuesday, 1st March, 1927—	
Questions and Answers	329-330
Statement laid on the Table	330
Repealing and Amending Bill—Introduced	330
Sea Customs (Amendment) Bill—Introduced	331
Steel Industry (Protection) Bill—Passed	331-391

Thursday, 3rd March, 1927—

Resolution <i>re</i> Opening of new Railway Stations between Madras and Arkonam—Negatived	...	...	...	383-400
Resolution <i>re</i> Management and upkeep of Fish-curing Yards in the Madras Presidency—Adopted	...	...	...	401-406

Saturday, 5th March, 1927—

Member Sworn	...	...	...	407
Questions and Answers	...	...	...	407-416
General Discussion of the Budget—Part II	...	...	...	416-474

Monday, 7th March, 1927—

Member Sworn	...	...	...	476
Questions and Answers	...	...	...	476-480
Statement laid on the Table	...	...	...	480
Resolution <i>re</i> Construction of a new Railway line between Mangalore and the nearest point in British Indian Territory to Marmagoa—Withdrawn by leave of the Council	...	...	...	480-484
Resolution <i>re</i> Compulsory Military Training of University Students—Adopted as amended	...	...	...	484-503
Resolution <i>re</i> Treatment of Tuberculosis—Adopted	...	...	...	503-508

Wednesday, 9th March, 1927—

Member Sworn	...	...	...	509
Questions and Answers	...	...	...	509-514
Resolution <i>re</i> Control of the Craze for Medicinal Drugs—Adopted as amended	...	...	...	515-525
Resolution <i>re</i> Amendment of the Indian Forest Act, 1878—Adopted as amended	...	...	...	525-531
Resolution <i>re</i> Leaders of Indian Delegations to the League of Nations—Adopted	...	...	...	531-544

Thursday, 10th March, 1927—

Question and Answer	...	...	...	545
Repealing and Amending Bill—Passed	...	...	...	545-546
Sea Customs (Amendment) Bill—Passed	...	...	...	546
Indian Limitation (Amendment) Bill—Passed as amended	...	...	...	546-548
Resolution <i>re</i> Daily Allowance of Members of the Council of State—Adopted as amended	...	...	...	548-558

Wednesday, 16th March, 1927—

Questions and Answers	...	...	...	559-565
Statement laid on the Table	...	...	...	565
Resolution <i>re</i> Abolition of Communal Electorates as a condition precedent to further political progress in India—Withdrawn by leave of the Council	...	...	...	565-592
Resolution <i>re</i> Delivery of Speeches in Hindi or Urdu by Members of the Indian Legislature—Negatived	...	...	...	593-606
Resolution <i>re</i> Election of Departmental Advisory Committees—Negatived	...	...	...	606-610

Monday, 21st March, 1927—

Member Sworn	...	...	...	...	611
Questions and Answers	...	...	...	...	611-629
Resolution <i>re</i> Censorship and Control over Cinematographs and other Public Resorts of Amusement—Adopted	...	...	...	...	630-642
Resolution <i>re</i> President of the Council of State—Negatived	...	...	...	...	642-658
Resolution <i>re</i> Assignment of a Suitable Place in the Warrant of Precedence to Members of the Council of State, of the Legislative Assembly and of Provincial Legislative Councils—Adopted as amended	...	...	...	...	658-670

Wednesday, 23rd March, 1927—

Bill Passed by the Legislative Assembly laid on the Table	...	...	...	671-672
Motion for the election of a Panel for the Standing Advisory Committee to be attached to the Department of Education, Health and Lands—Adopted	...	...	...	672

Thursday, 24th March, 1927—

Questions	749-879	...	...	...	...
Currency Bill—Motion for Consideration adjourned	...	...	...	...	874-702, 704-741
Bill Passed by the Legislative Assembly laid on the Table	...	...	...	...	702
Date for the Consideration of the Indian Finance Bill, 1927	...	...	...	...	702-704
Nominations to the Panel for the Standing Advisory Committee in the Department of Education, Health and Lands	...	...	...	...	741
Message from the Legislative Assembly	...	...	...	...	741-742

Friday, 25th March, 1927—

Date for the Consideration of the Indian Finance Bill, 1927	...	...	...	...	743
Currency Bill—Passed	...	...	...	...	743-775
Gold Standard and Reserve Bank of India Bill—Motion for reference to a Joint Committee—Adopted	...	...	...	...	775-776
Imperial Bank of India (Amendment) Bill—Motion for reference to a Joint Committee—Adopted	...	...	...	...	776

Saturday, 26th March, 1927—

Questions and Answers	...	...	...	...	777-784
Message from the Legislative Assembly	...	...	...	...	784
Indian Finance Bill—Passed as amended	...	...	...	...	784-829

Tuesday, 29th March, 1927—

Bill Passed by the Legislative Assembly laid on the Table	...	...	...	...	831
Messages from the Legislative Assembly	...	...	...	...	831
Gold Standard and Reserve Bank of India Bill—Motion for Nomination of Members to serve on the Joint Committee—Adopted	...	...	...	...	832
Imperial Bank of India (Amendment) Bill—Motion for Nomination of Members to serve on the Joint Committee—Adopted	...	...	...	...	832
Indian Lighthouse Bill—Motion for Nomination of Members to serve on the Joint Committee—Adopted	...	...	...	...	832
Election to the Panel for the Standing Advisory Committee of the Department of Education, Health and Lands	...	...	...	...	833

COUNCIL OF STATE.

Monday, 14th February, 1927.

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

QUESTIONS AND ANSWERS.

NON-ISSUE OF THROUGH TICKETS TO INTERMEDIATE CLASS PASSENGERS FROM MADRAS TO DELHI.

58. THE HONOURABLE RAO SAHIB DR. U. RAMA RAU: (a) Is it a fact that no through tickets are issued to passengers travelling in the Intermediate class from Madras to Delhi *via* Bombay?

(b) If so, will the Government kindly state the reason for this difference from the practice in respect of first, second and third class passengers?

THE HONOURABLE MR. G. L. CORBETT: (a) and (b). The information asked for is not available, but steps are being taken to obtain it and, on receipt, it will be communicated to the Honourable Member.

THE TELlichERRY-WYNAD-COORG RAILWAY.

59. THE HONOURABLE RAO SAHIB DR. U. RAMA RAU: (a) Will the Government be pleased to state when the Tellicherry-Wynad-Coorg Railway line was surveyed and when the estimates for the same were prepared?

(b) Has the construction work for the above line been undertaken yet, and, if not, what causes the delay?

(c) Will the Government kindly state when the construction work is likely to commence?

THE HONOURABLE MR. G. L. CORBETT: (a) 1924.

(b) The construction has not yet been undertaken as the financial prospects were not favourable.

(c) A resurvey of the line from Tellicherry is now being made with an extension to Makut. The construction of this portion will depend on the result of the survey.

RECRUITMENT OF HIGH COURT JUDGES FROM MEMBERS OF THE PROVINCIAL JUDICIAL SERVICE.

60. THE HONOURABLE MR. MAHMOOD SUHRAWARDY: Is it a fact that one or more High Court Judges are recruited from the members of the Provincial Judicial Service in all provinces, except Bengal, Burma and Bihar and Orissa?

THE HONOURABLE MR. H. G. HAIG: The High Courts at Allahabad, Lahore and Rangoon at present include Judges promoted from the Provincial Judicial Service. The High Courts at Calcutta, Madras, Bombay and Patna do not.

THE HONOURABLE MR. MAHMOOD SUHRAWARDY: Does the Honourable Member think that the intelligence and legal capabilities of average Bengal men are not inferior to legal professional people of other provinces?

THE HONOURABLE THE PRESIDENT: Order, order. The Honourable Member must not ask for an opinion from Government.

**TRAINING OF I. C. S. OFFICERS AS MUNSIFS AND SUBORDINATE
JUDGES BEFORE APPOINTMENT AS DISTRICT AND
ADDITIONAL JUDGES.**

61. THE HONOURABLE MR. MAHMOOD SUHRAWARDY: (a) Do the Government propose to give training to I. C. S. officers in judicial work as Munsifs and Sub-Judges before they are made District and Additional Judges in accordance with the recommendations of the Public Services Commission?

(b) Is it a fact that an experiment was made in this matter in Bengal and then discontinued? If so, why?

THE HONOURABLE MR. H. G. HAIG: (a) The Honourable Member is referred to paragraph 14 of the Home Department Resolution No. 2559-Estabs., dated the 1st December, 1920 (as modified by the Home Department Resolution* No. F.-674/24-Judicial, dated the 15th January, 1925), announcing the decision of the Secretary of State on the recommendations of the Public Services Commission in this matter.

(b) The Bengal Government have so far been prevented from putting into operation the scheme recommended by the Public Services Commission owing to the disorganization of the provincial cadre of the Indian Civil Service in consequence of under-recruitment during the War.

MUHAMMADAN JUDGES OF THE CALCUTTA HIGH COURT.

62. THE HONOURABLE MR. MAHMOOD SUHRAWARDY: (a) Will the Government of India be pleased to state the number of Indian High Court Judges now in service in the Calcutta High Court, and how many of them are Muslims?

(b) Is it a fact that there were two Muhammadan High Court Judges appointed in the Calcutta High Court in the year 1907-08, and that since then only one Muhammadan is being appointed, instead of two, in the Calcutta High Court?

THE HONOURABLE MR. H. G. HAIG: (a) There are seven Indian Judges, permanent and temporary, at present in the Calcutta High Court, of whom one is a Moslem.

(b) The reply to the first part is in the negative. The second part does not arise.

**NUMBER OF MUHAMMADANS APPOINTED AS JUDGES OF THE CALCUTTA
HIGH COURT FROM THE RANKS OF VAKILS AND BARRISTERS
SINCE 1908.**

63. THE HONOURABLE MR. MAHMOOD SUHRAWARDY: Will the Government of India please state how many Muhammadan Judges of the

* Published in the Gazette of India.

Calcutta High Court were appointed from the rank of vakils and how many from the rank of barristers since the year 1908?

THE HONOURABLE MR. H. G. HAIG: Four barristers and one wakil have been appointed since 1908.

4 GRANT OF 15 DAYS' LEAVE ON AVERAGE PAY TO MEMBERS
OF THE PROVINCIAL JUDICIAL SERVICE, BENGAL.

64. THE HONOURABLE MR. MAHMOOD SUHRAWARDY: Is it a fact that the Government of Bengal recommended leave for 15 days, on full average pay, to members of the Provincial Judicial Service (Bengal) on their representation to the Government of India and, if so, when is the decision on the recommendation expected?

THE HONOURABLE MR. H. G. HAIG: A recommendation to this effect was made by the Calcutta High Court, but the Bengal Government to whom a reference was made have deferred any recommendation to the Government of India until certain questions relating to the general leave rules, which are now under consideration, have been settled.

• FENCING OF THE RAILWAY LINES BETWEEN KHARAGPUR AND
MIDNAPORE.

65. THE HONOURABLE MR. MAHMOOD SUHRAWARDY: Is it a fact that the Bengal Nagpur Railway authorities have not put up fencing on either side of the railway lines between Kharagpur and Midnapore (Bengal); if so, do the Government propose to take any action?

THE HONOURABLE MR. G. L. CORBETT: The usual practice is to provide fencing round station yards and along the railway lines where they pass through crowded tracts. The Government are not aware whether fencing is provided between the stations mentioned by the Honourable Member, but they will send the Agent a copy of the question and answer.

QUESTIONS RELATING TO APPRENTICES EMPLOYED IN THE RAILWAY
WORKSHOP OF THE EAST INDIAN RAILWAY AT
JAMALPUR, ETC.

66. THE HONOURABLE MR. MAHMOOD SUHRAWARDY: Will the Honourable Member for Railways be pleased to state whether the enquiries referred to in his reply to questions Nos. 120-134, published in Volume VII, No. 11 of the Debates, have been completed and whether he will make the result of those enquiries and the action that has been taken or is proposed to be taken upon them available to the other Honourable Members of this House?

THE HONOURABLE MR. G. L. CORBETT: The result of the inquiry was communicated to the Honourable Shah Muhammad Zubair and a copy of the letter is being supplied to the Honourable Member.

ACTION TAKEN ON THE RECOMMENDATION OF THE TAXATION ENQUIRY
COMMITTEE TO MAKE INDIA SELF-SUPPORTING IN THE MATTER
OF SALT SUPPLY.

67. THE HONOURABLE MR. MAHMOOD SUHRAWARDY: (a) Will the Honourable Member in charge be pleased to state what action the

Government propose to take to make India self-supporting, in the matter of salt supply, as recommended by the Taxation Enquiry Committee in paragraph 179 of their Report?

(b) Will the Honourable Member in charge be pleased to state whether the Government intend to grant any advantage to the local salt manufacturers (of India)?

THE HONOURABLE MR. A. F. L. BRAYNE: (a) and (b). The Government have not arrived at any decision. An officer has been placed on special duty under the Central Board of Revenue to investigate this and connected questions.

REDUCTION IN PASSENGER FARES ON STATE RAILWAYS.

68. THE HONOURABLE MR. MAHMOOD SUHRAWARDY: Will the Honourable Member in charge of the Railway Department be pleased to state whether the reduction of passengers' fares is proportionately the same in the case of the different classes on the State Railways; and, if so, will the Honourable Member be pleased to lay on the table a statement showing such reduction?

THE HONOURABLE MR. G. I. CORBETT: I lay on the table a statement showing the reduction in passenger fares on the four State-managed Railways since 1st April, 1925, with the fares in force on these Railways prior to that date. I hope this will give the Honourable Member the information he requires.

Statement of changes in passenger fares over the following State-worked Railways.

1. East Indian Railway.

Class.	Fares in force.			
	Prior to 1st April, 1925.		1st February, 1927.	
	Distance.	Rate per mile.	Distance.	Rate per mile.
I	1—300 <i>plus</i> 301 and over.	24 pies. 18 "	1—100 <i>plus</i> 101—300 <i>plus</i> 301 and over.	24 pies. 18 " 12 "
II	1—300 <i>plus</i> 301 and over.	18 " 9 "	1—100 <i>plus</i> 101—300 <i>plus</i> 301 and over.	12 " 9 " 6 "
Inter— (E. I. R. Section)—			<i>From 1st January, 1926.</i>	
Mail	1—300 <i>plus</i> 301 and over.	7 " 5 "	1—300 <i>plus</i> 301 and over.	7 " 3½ "
Ordinary	All distances.	5 "	1—300 <i>plus</i> 301 and over.	5 " 3½ "
E. R. Section— Mail and ordinary	Ditto.	5½ "	As on the E. I. section.	

1. East Indian Railway—contd.

Class.	Fares in force.					
	Prior to 1st April, 1925.		1st January, 1926.		1st February, 1927.	
	Distance.	Rate per mile.	Distance.	Rate per mile.	Distance.	Rate per mile.
III. E. I. R. Section—						
Mail	1—300 plus 301 & over.	5 pies. 4½ "	1—300 plus 301—600 plus 601 & over.	5 pies. 3½ " 3 " 3½ "	1—50 plus 51—300 plus 301 & over.	5 pies. 4 " 2½ "
Ordinary	All distances.	3½ "	1—300 plus 301 & over.	3½ " 2½ "	1—50 plus 51—300 plus 301 & over.	3½ " 3 " 2 "
O. & R. Section—						
Mail and Ordinary.	Do.	3½ "	As on the E. I. Ry. section.		As on the E. I. Ry. section.	

2. E. B. Railway.

Class.	Fares in force.		Remarks.
	Prior to 1st April, 1925.		
	Distance.	Rate per mile.	
I.	1—150 <i>plus</i> 151 and over.	30 pies. 20 "	No change.
II.	1—150 <i>plus</i> 151 and over.	15 " 10 "	
Inter	1—150 <i>plus</i> 151 and over.	6 " 4½ "	
III.—Mail	1—150 <i>plus</i> 151 and over.	5 " 4 "	
Ordinary	All distances.	3½ "	

S. G. I. P. Railway.

Class.	Fares in force.			
	Prior to 1st April, 1925.		1st April, 1926.	
	Distance.	Rate per mile.	Distance.	Rate per mile.
I.	1—300 plus 301 and over.	24 pies 18 "	} All distances	18 pies.
II.	1—300 plus 301 and over.	12 " 9 "		
Inter—Mail	1—300 plus 301 and over.	7½ " 6 "	} No change	...
Express	As above.	As above.		
III.—Mail	1—300 plus 301 and over.	5 pies. 4½ "	} No change	...
Ordinary	1—300 plus 301 and over.	4 " 3½ "		
			1—150 plus 151—300 plus 301 and over.	4 pies. 8½ " 3 "

4. N. W. Railway.

Class.	Fares in force.					
	Prior to 1st April, 1925.		From 1st April, 1926.		1st February, 1927.	
	Distance.	Rate per mile.	Distance.	Rate per mile.	Distance.	Rate per mile.
I	1—300 plus 301 and over.	24 pies 18 "	} All distances.	18 pies	1—300 plus 301 and over.	18 pies. 12 "
II	1—300 plus 301 and over.	12 " 9 "			1—300 plus 301 and over.	9 " 6 "
Inter	All distances	5 "	1—50 plus 51 and over.	5 " 4½ "	} No change	...
III	Do.	3½	1—50 plus 51 and over.	3½ " 3 "		
					1—50 plus 51—300 plus 301 and over.	3½ pies. 3 " 2 "

STANDING ADVISORY COMMITTEE, COMMERCE DEPARTMENT.

69. THE HONOURABLE MR. MANMOHANDAS RAMJI: (i) Will the Government be pleased to state, with regard to their reply to my question No. 86, dated the 24th August, 1926—

- (a) whether they have received the consent of any Members to serve on the Standing Advisory Committee to the Department of Commerce;
 - (b) who were the gentlemen asked to join this Advisory Committee;
 - (c) has such a Standing Advisory Committee to the Commerce Department been formed yet or not; and
 - (d) if it has been formed, of how many members does it consist and what are the names of its members?
- (ii) Do the Government propose to take advantage of this Standing Advisory Committee, if it has been formed, or not?

THE HONOURABLE MR. G. L. CORBETT: (i) (a) Yes, but the last reply was received only two days before the end of the concluding Session of the last Legislative Assembly, which was then dissolved.

(b) The Honourable Sir Arthur Froom.

The Honourable Sir Phiroze C. Sethna.

Sir Walter Willson.

M. R. Ry. Diwan Bahadur Mocherla Ramachandrarao Pantulu Garu.

Shaikh Mushir Hosain Kidwai.

(c) No. With the dissolution of the last Legislative Assembly the panel for the Standing Committee elected by it automatically ceased to exist.

(d) Does not arise.

(ii) Does not arise.

RESOLUTION RE APPOINTMENT OF HIGH COURT VAKILS AS PERMANENT CHIEF JUSTICES OF HIGH COURTS.

THE HONOURABLE MR. V. RAMADAS PANTULU (Madras: Non-Muhammadan): Sir, I beg to move the following Resolution:

"This Council recommends to the Governor General in Council to advise His Majesty's Government to take early steps to amend the Government of India Act so as to permit the appointment of High Court vakils as permanent Chief Justices of the High Courts of Judicature in India."

The Resolution aims at securing the removal of a serious disability which is supposed to be imposed upon vakils by the Government of India Act. By vakils I mean non-barrister legal practitioners, by whatsoever name they are locally known—advocates, pleaders or vakils. The disability is this: While vakils can be appointed as permanent puisne Judges of the High Courts they cannot, under the Statute, it is supposed, be appointed as permanent Chief Justices. This disability arises from the construction of an

[Mr. V. Ramadas Pantulu.]

ambiguously worded section of the Government of India Act. I shall refer to the relevant portions of that section. Section 101 says:

"Each High Court shall consist of a Chief Justice and as many other Judges as His Majesty may think fit to appoint: Provided also that the Governor General in Council may appoint persons to act as additional Judges of any High Court for such period not exceeding two years as may be required."

Then sub-section (3) of section 101 proceeds to lay down the qualifications of a High Court Judge and says that a High Court Judge must belong to one of four classes of persons possessing a certain standard: barristers of England and Ireland and Scotch Advocates, members of the Indian Civil Service, members of the Subordinate Judiciary not below the rank of a Subordinate Judge, and, lastly, High Court pleaders. Having laid down these qualifications, the section contains a proviso which is the cause of the whole trouble. The proviso runs thus:

"Provided that not less than one-third of the Judges including the Chief Justice, but excluding the additional Judges, must be barristers or advocates aforesaid, and not less than one-third must be members of the Indian Civil Service."

The particular words that give rise to the difficulty are the words "including the Chief Justice". There is a divergence of legal opinion on the interpretation of these words. One view is that the words "including the Chief Justice" like the words "excluding the Additional Judges" are intended for the purpose of computing the total strength of the High Court out of which the proportion of one-third of the barrister Judges is to be worked out. I shall clear the position by an illustration. If a High Court consists of 12 puisne Judges and one Chief Justice, 4 barrister Judges would satisfy the requirements of the section if the number is to be computed out of the total number of Judges only without including the Chief Justice; but if the Chief Justice is included, the total number being 13, 4 will be less than one-third; therefore, the proviso is not satisfied until you have at least 5 barrister Judges. Therefore, the view is that the words "including the Chief Justice" are merely put in the proviso for the purpose of computing the total strength, or, in other words, the proviso does not lay down any qualifications for a Chief Justice. The other view is that the proportion of one-third barrister Judges out of such a total strength should also include the Chief Justice. The Chief Justice must be a barrister judge and must be from among the one-third proportion. That is the other view. There is something to be said in favour of both these views. The plain grammatical construction of the section favours the former view, while the historic retrospect and the existing practice favour the latter view. I do not propose to trouble this House with an examination of the provisions of the regulating Act of 1773 under which the Supreme Court of Bengal at Fort William was established, or the Act of 1800 under which the Madras Supreme Court was established, or the High Courts Act of 1861 or the Letters Patent or any other enactments which are *in pari materia* and which might throw some light upon the construction of this obscure proviso. I am content to take settled facts as they are.

It is now, Sir, an open secret that the matter came to a head and the construction of this proviso was before the Government of India and of the Secretary of State when it was proposed to appoint the late Mr. K. Srinivasa Aiyangar as Chief Justice of the Madras High Court. We are credibly informed that the matter was referred to the legal advisers of

the Crown in England and that they opined that, although the wording of the section might possibly allow the contention of the Indian lawyers, they on the whole advised His Majesty's Government not to depart from the existing practice. The fear was entertained that an appointment in contravention of the existing usage might perhaps well be tested before the Judicial Committee, and that if that tribunal endorsed the view that the appointment made contrary to the existing usage was unlawful, then the judgments pronounced by the High Court might become invalid and the consequence might be a great deal of confusion. So the advice was that no departure should be made until a rule free from doubt was enacted. The Indian lawyers also made some inquiry as to why the section was not amended in 1919 when the Government of India Act had undergone numerous and extensive modifications. The inquiries, Sir, disclosed a very interesting fact. We are told that Mr. Montagu was led into the belief by his legal advisers in India that vakils were as much eligible as barristers for the office of Chief Justice, and that he would have sought an amendment if this legal doubt was present in his mind.

However, whatever might be the origin of the section and of the discrimination embodied in it, it is absolutely uncontestable in my view that in the year of grace 1927 the provision is not only an anomaly, but a barbarous anachronism on the Statute-book. The objections to pleaders enjoying the same rights, privileges and status as barristers are no longer tenable. The Law Membership of the Government of India is now thrown open to vakils, and a recent Bill introduced into Parliament with a view to add two persons with Indian experience to the Judicial Committee throws open the doors of the Privy Council to vakils, and the last vestiges of the class preserves of barristers have practically disappeared with the enactment of the Bar Councils Act. What, then, may I know, is the justification for the antediluvian relic which is found enshrined in the Government of India Act? In the name of this Statute, Sir, a great deal of injustice was done in the past to distinguished Indian jurists. Men of the high legal eminence of Dr. Subramania Iyer of Madras and Sir Ashutosh Mukherjee of Calcutta and others were kept out of their legitimate places on the bench as permanent Chief Justices, which places they would have filled with great distinction and benefit to India. These are only instances. The case of Justice Shah of Bombay is another instance. How long is this manifest injustice to be perpetuated? But while I am glad to learn that the Government of India are not at present in a mood to oppose this reform, I gather that they are in no mood to move quickly in the matter. This impression I have derived from an answer given by the Honourable the Home Member to an interpellation put by Diwan Bahadur Rangachariar in another place. Sir Alexander Muddiman said that the Government of India had already addressed the Secretary of State on the subject. In reply to a further query by Diwan Bahadur Rangachariar as to the cause of delay by the Secretary of State, the Honourable the Home Member gave two reasons, both of which, to my mind, are not only unconvincing, but patently unsympathetic. The one reason he gave was that the Secretary of State could not be expected to go to Parliament with a Bill for every minor amendment, and that the matter must accumulate before action could be taken. But I might remind the Honourable the Home Member that instances were not wanting when the Secretary of State rushed to Parliament, at the instance of the Government of India, when the interests of the heaven-born service had to be served by small

[Mr. V. Ramadas Pantulu.]

amendments, be it leave rules of their allowances or other things concerning them. But perhaps in the eye of the Home Member the Indian's right to the Chief Justiceship is insignificant compared with the leave rules of the members of his own Service. It is difficult to predict how long it would take for the sins of omission and commission of the Government of India Act to accumulate before the Secretary of State will be justified to go to Parliament to purge them.

The second reason, Sir, which the Home Member gave is a misreading of the situation and also an insult to the intelligence and the corporate spirit of the vakils. The Home Member said that the Government of India were not aware of any widespread discontent or agitation, and that all that he knew was that persons who were immediately affected by the disability clause were anxious to have it removed. The implication is that the vakils as a class did not agitate for it, but only persons, between whom and the Chief Justiceship the rule stood, were clamouring for its removal. That is not a correct statement. I am prepared to furnish the Home Member with heaps of references to prove that the question has been mooted almost ever since the Charter Act was enacted. Legal opinion as well as general public opinion was against the provisions of the Act, because the form of recruitment prescribed by the Act interfered with the efficiency of the Bench. The Indian High Courts, as we all know, are composed of heterogeneous groups of men of all talents, European barristers, Indian barristers, Indian civil servants, members of the subordinate judiciary, pleaders of the High Court, and so on. And it is difficult to say that exceptional talent or special qualifications are to be found only among any one particular class of these men. What I know is, that there are brilliant men in the subordinate service who rose from the rank of a munsiff, men like Sir T. Sadasiva Iyer, who eclipsed their barrister colleagues, their Civilian colleagues and their vakil colleagues. There are Civilians of the type of the late Sir Leslie Miller, who was a Member of this House, who eclipsed his barrister colleagues and his vakil colleagues on the Bench. Therefore, it is wrong to ask those who are responsible for recruiting Judges of the High Court to select the best men from only one particular class. Whenever a junior barrister Judge was promoted over the heads of his more capable Civilian and vakil colleagues in order to satisfy the requirements of the Statute, there was a great deal of clamour and loud complaint. Perhaps the complaints did not reach the ears of the Home Member. But I would tell him that any such procedure is likely to give rise to a great deal of discontent among the ranks of the judiciary, and discontent among the ranks of the judiciary is really a serious matter. I cannot put the effect of such discontent more effectively than by citing the words of Lord Brougham in this connection. He said, if there was disappointment, the result would be this:

"The hopes of it, the struggle for it, the chagrin at not receiving it, all interfere with the perfect calmness, the entire abstraction from court intrigue, the complete independence of all party connection, the exclusive devotion to judicial duties, which ought to characterise the great functionaries of justice, the oracles of law."

Therefore, a discontented judiciary, created by the promotion over the heads of competent men, of men of second and third-rate ability, will not tend to the satisfactory administration of justice in this country. In my

own province, the Madras Vakils' Association has, to my personal knowledge, been agitating for the repeal or modification of this portion of section 101 for the last 15 years. And recently they have passed a very strong resolution, pointing out the iniquity of the rule about the proportions of barristers and civilians in that section and asking for the modification of that section.

Finally, Sir, I would point out that the desire to secure a wide field of choice for the Chief Justiceship of the High Court is not based on any considerations of prestige or sentiment or material benefit of the vakil class. It is due to the desire to secure a rightful place to High Courts in the Indian Constitution. Indians, in their struggle for national freedom, are anxious to strengthen the High Courts so as to enable them to function as the repositories of the people's rights and the upholders of the subject's liberty. The Chief Justice of a High Court is mainly responsible for the dignity, the prestige, and the independence of the High Court. He combines in himself high judicial functions with important administrative functions. Therefore, we have a right to expect that the best men should occupy that place. In the first place, we associate with him the qualifications of the type of Judges who are "consummate and scholarly masters of the Science of Jurisprudence or are practical Judges with a masterful gift for the wise and expeditious despatch of judicial business." But we expect more than this from him. We desire to associate with him another great gift. It is the gift of "men who regard law as an instrument for the protection of the liberty of the subject, the maintenance of public order, or the promotion of social welfare rather than a technical art and who exhibit exceptional talent in directing the narrow English rules of law so as to achieve those ends." It is an unreasonable rule which asks India to find the highest types of Judges to control its judicial system only among European barristers. India will always welcome European barristers with high traditions and legal learning whenever they are appointed as Chief Justices in India. But our experience of barrister Judges and practising barristers in India, with a few notable exceptions, has been too unfavourable to induce us to accept them as Chief Justices of the High Courts. They have sadly been found wanting in the essential qualities which go to make a good Chief Justice. We really want men who will maintain high judicial traditions and administer law in the most progressive and civilised manner and try to attain the ideals of Judges like Lord Shaw and Lord Scrutton. Lord Morley, in a memorable Minute, very correctly pointed out that the appointment of Judges in India had to be very carefully done, and he warned the Government both at home and in India from importing party politics or any considerations other than efficiency and merit into these appointments. The ideals laid down by Lord Morley, I maintain, are unattainable unless you throw open the field wide; and to insist, at this time of day, on Chief Justices being only European barristers is an anachronism for which there is no justification either in principle or in expediency. With these words, Sir, I commend this Resolution to this House.

THE HONOURABLE MR. H. G. HAIG (Home Secretary): Sir, I do not propose to detain the House long this morning, for I am happy to find myself in a position to agree with, at any rate, most of the contentions of my Honourable friend opposite. The Honourable Mover explained clearly the provisions of the Government of India Act out of which this

[Mr. H. G. Haig.]

particular problem has arisen. He explained the ambiguity of the proviso and showed that it might be interpreted in two different ways. As he says, the construction which is placed upon this proviso is adverse to the claims of vakils to appointment as permanent Chief Justices. The section is interpreted as meaning that such appointments must be confined to barristers. Whatever may have been the original intention of the section, Sir, the Government of India are in entire agreement with my Honourable friend that it is not reasonable to differentiate against vakils in this manner, and they have already addressed the Secretary of State in the sense recommended. The Secretary of State, Sir, is prepared to give favourable consideration to that recommendation, but there is one caution which I must make. The proposal involves an amendment of the Government of India Act, and it is clear that the Secretary of State cannot commit himself to any date for this. The exigencies of Parliamentary business at Home preclude any such commitment. It is not, Sir, that the Government of India or the Secretary of State are not in a mood to move quickly in this business, but the demands on Parliamentary time cannot be regulated by the requirements of the Government of India. I think, Sir, I have made it clear that the Government of India have substantially complied with the recommendation which is contained in my Honourable friend's Resolution, and I trust that he may in view of this statement, see his way to withdraw it.

THE HONOURABLE MR. V. RAMADAS PANTULU: Sir, in view of what the Honourable Mr. Haig has said it appears to me that the Government of India have actually done what my Resolution wanted them to do. I quite realise that the Secretary of State for India cannot altogether regulate the course of legislation in Parliament. All that I have asked for here is for the Government of India to take early steps so that the Secretary of State also may take early steps in Parliament, and the steps have, I understand, been already taken so far as the Government of India are concerned. Therefore, I do not see any need to press my Resolution to a division now. Therefore, Sir, with the leave of the House I beg to withdraw my Resolution.

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

RESOLUTION RE TRANSFER OF THE POONA DISTRICT HEAD-QUARTERS FROM POONA TO SECUNDERABAD.

THE HONOURABLE SIR HAROON JAFFER (Bombay Presidency: Muhammadan): Sir, I beg to move the following Resolution:

"This Council recommends to the Governor General in Council that the orders for the transfer of the Poona District Headquarters from Poona to Secunderabad should be immediately cancelled."

In moving this Resolution I wish to make it clear at the outset that I have absolutely no intention of interfering with any military strategy, and so I trust I shall not be misunderstood when I say that so far no adequate arguments have been adduced in support of the proposed move of the District Headquarters from Poona to Secunderabad. As soon as the move was mooted, the citizens and public bodies of Poona expressed their disapproval of the change and many meetings of protest have been held in an endeavour to persuade the Army Department to reconsider their decision. The All-India Cantonment Conference held at Ambala

last year passed a Resolution against this transfer, but all in vain. Without giving any definite reasons, the fiat has gone forth that henceforth the headquarters of the important Poona District shall be Secunderabad. What is good enough for the Government of Bombay and for the Southern Command is not good enough for the Poona District Headquarters. Despite the fact that there is a probability that before many years are past Poona will be the permanent seat of the Bombay Government, there is being conducted a move at considerable cost, which will take away from a central place an important command and plant it down in an inaccessible location which is anything but central for the rest of the command. In other words, the change, as I hope to show, cannot be supported on grounds of history, geography, economy, necessity, or fairness.

Let me deal with these things in that order. Poona, has for more than a century been the military capital of the Deccan since the foundation of the British Government, and as such there has been built up a large Cantonment, thanks to the enterprise of a number of landholders who have never hesitated to erect houses for the residence of officers who have all too often obtained those houses at very cheap rents. But if the Poona District Command is removed to Secunderabad, there will be a corresponding decrease in the number of officers resident in the station, which will naturally cause considerable loss to the landlords. There is, as far as we can see, no urgent need or reason for this sudden decision to make the change, as no situation has arisen which makes Poona less historically important than it ever has been.

This brings me to my second point, namely, that of the geographical side of the question. If we carefully study a map of the Poona district, we see that the most central point is undoubtedly Poona, and not Secunderabad, not counting the very easy access of Poona to Bombay. Poona was originally selected as the seat of Headquarters because of that very accessibility, and while it is admitted that the General Officer Commanding must be called occasionally to Secunderabad, the geographical advantages of Poona certainly rule out of court any real necessity for removing the whole district Command to such a distant place.

Passing on to the grounds of economy, we have another very strong argument. It is admitted by the Army Department that the move would have been made before this had there been bungalows available at Secunderabad. But as there are not sufficient bungalows, even though it is supposed to be a large Cantonment, the order has just gone forth for the expenditure of a large sum of money on the erection of new bungalows and, I presume, a headquarters office and other necessary buildings. Now this is an unwarranted waste of money, especially as these buildings are now available in Poona and have been thus used for many years. To leave bungalows empty in Poona and erect new ones at Secunderabad in such times of financial stress as these could hardly be countenanced even if the other arguments in favour of a move were acceptable to this Honourable House, but with such a weight of evidence against the propriety or necessity of such a change, the expenditure of the extra money most certainly cannot be tolerated.

When it comes to a point of necessity, it is, I admit, difficult for a layman to say much, especially as so little has been said by the Army Department on the reasons governing the move. But, we citizens of

[Sir Haroon Jaffer.]

Poona are at liberty to assume from the absence of any definite explanation of the reasons for the move that these reasons are by no means strong. And if Poona is suitable in every other way for the location of the headquarters of the whole Southern Command, there seems no valid argument why the Poona District Command should be moved. But even suppose some slight advantage might accrue to the authorities from such a move, we might well ask: Will the saving, if any, thus made in the General's travelling expenses come anywhere near the great expense of establishing the headquarters in Secunderabad? And will not the General located at Secunderabad have to come to Poona very frequently to inspect and discuss things, with the Southern Command? At such a time as this, I would emphasise that any additional expense such as that now under consideration should not be undertaken except for the gravest reasons of urgency and necessity. And it will take a long time to convince us that such reasons have suddenly sprung up. And if they have sprung up, then it is the duty of the authorities to inform us of them. Sir, lakhs of rupees were spent in establishing the headquarters in Poona, and now the spending of further lakhs is contemplated, with the consequent waste of the existing buildings.

I trust I have made myself clear as to why I am opposing this move. Landlords, shopkeepers and merchants at Poona all fear considerable loss at a time when trade depression is just beginning to pick up, and all are wondering why the military importance of the Poona Cantonment should so suddenly have decreased. The City and Suburban Municipalities and the Cantonment Board will also feel the loss in the matter of octroi, and hence it is not surprising that the very largely-attended public meetings have vigorously voiced their disapproval of the scheme as being unnecessary, unwarranted and inadmissible on every ground.

I therefore trust that the Government will announce in their reply to this Resolution that they accept it, and will give immediate orders for all plans for the removal to be cancelled.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: Sir, I listened with interest and attention to the speech made by my Honourable friend, Sir Haroon Jaffer, because I hoped that he would have been able to tell us in moving his Resolution that he was actuated by the public interests, interests on behalf of the whole of India, the interests of the Army in India or the interests and the welfare of the Indian soldier, and perhaps even the interests of the Bombay Presidency. I have been unable to ascertain from his speech anything, except that he has been carried away by his zeal for the interests of the landlords of Poona. I need hardly say that the Government of India are very glad always to hear of the welfare of my Honourable friend and his brother landlords in Poona; but we cannot think that those interests are paramount and that the interests of the Army should be subordinated to them. In deciding upon the location of troops in this country and their general distribution, the Government of India have to be guided by very much wider interests than those of the Poona landlords. Roughly, what influences us in such matters is the strategical and tactical situation from time to time, and as regards the location of troops, as to how they can best be organised, administered and trained. It was after taking into consideration all

those factors that we recently decided upon a certain amount of reorganization and redistribution among the troops in Central and Southern India, which reorganisation has included the transfer of the headquarters of the present Poona Division to Secunderabad. My Honourable friend in moving his Resolution has made no mention of the fact that, though the divisional headquarters will be moved from Poona, yet Poona will still retain the headquarters of the Southern Army. I think possibly Honourable Members of this House, after hearing his speech, might have come to the conclusion that Poona will be left naked as regards senior soldiers. That is very far from being the case; for as I was saying, it will still remain the headquarters of the Southern Army with all its officers, and on the Poona Division removing its headquarters to Secunderabad, it will be replaced by a brigade command with its staff officers. I agree that there will not be as many officers in Poona coming with the brigade as those who will leave with the division; but as I have also said, we cannot in that matter regard purely the interests of the Poona landholders. As regards the expenditure point of view, I can assure my Honourable friend that he need spend no sleepless nights regarding that because I have always found the Finance Department extremely capable of looking after its interests in this respect. It is true there is a certain amount of initial expenditure involved in this transfer; but the eventual recurring saving will come to something like 14 per cent. on the capital sum invested. As a business proposition I am sure my Honourable friend will agree that that is not too bad.

I think, Sir, I need produce no further arguments beyond what I have said, and I am sure the House will agree that we must first of all consider the factors which I have mentioned as guiding us in the distribution of our troops. I therefore am not prepared to accept the Resolution moved.

THE HONOURABLE SIE HAROON JAFFER: Sir, I am not at all convinced by the reply which His Excellency has just given. The brigade which is coming to Poona with three officers will not be equal to the 25 officers going out with the district command. I am really sorry that my Resolution has not been accepted by Government, and I leave it to the House to decide whether the Government are justified in not accepting it.

THE HONOURABLE THE PRESIDENT: The question is:

"That the following Resolution be adopted:

"This Council recommends to the Governor General in Council that the orders for the transfer of the Poona District Headquarters from Poona to Secunderabad should be immediately cancelled."

The motion was negatived.

RESOLUTION RE REDUCTION OF POSTAL RATES.

THE HONOURABLE SETH GOVIND DAS (Central Provinces: General): Sir, I rise to move the Resolution which stands in my name. It reads thus:

"This Council recommends to the Governor General in Council to take immediate steps to reduce postal rates on letters and postcards to 6 pies and 3 pies, respectively."

Here, Sir, I have again brought a Resolution which according to the calculations of the Government would cost them about, I think, 2½

[Seth Govind Das.]

crores of rupees; and according to a remark of my Honourable friend Mr. Ley last year it is what is called a hardy annual.

Well, Sir, in the very beginning, when I came to this House from the other place, in my maiden speech I made it clear that my views may be considered by the Honourable Members of this House of a rather extreme nature, but I cannot help that; what I feel to be right in my mind it is my duty to put forward.

The other day when I moved my Resolution on the reduction of third class fares, the Honourable the Commerce Member did not accept it because he said that would cost the Government about 11 crores of rupees. I am sure, Sir, that in reply to this Resolution also my Honourable friend Mr. McWatters will come forward with the same plea and would ask me to find 2½ crores for this deficit. I would again say, as I said the other day, that the preparation of the Budget has not been entrusted to us. If this task had been entrusted to us, Sir, I am sure that in the other place my friend Sir Purshotamdas Thakurdas or in this House any non-official Honourable Member would have found out some way to meet the popular demands and make up the deficit.

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces: Nominated Non-Official): By taxation?

THE HONOURABLE SETH GOVIND DAS: Not by taxation, but by the reduction of civil and military expenditure.

Again, Sir, when the Government want money, they are able to raise crores. They had money for military expenditure to the extent of 87 crores; they have money to give effect to the recommendations of the Lee Commission. Last year, Sir, the Honourable the Commerce Member himself came here to us to provide 37 lakhs for the superior railway services, and we had to grant that money. Even if we had refused I am sure the Honourable the Commerce Member would have gone to His Excellency the Viceroy and got it. But, Sir, when we ask for a reduction in railway fares or postal rates or any such thing, which is calculated to alleviate the miseries of the poor, the Government always come forward with their financial bogey.

Now, Sir, coming to the merits of the question, I may at the very outset mention that this question has been threshed out both in the Assembly and on the floor of this House so many times that there is hardly any new argument left for me to produce. Therefore, Sir, I shall confine myself only to reviewing the arguments of both sides.

It has been repeatedly said that the postal rates in India are the cheapest. They were once the cheapest, no doubt, but to-day, I say, they are the dearest. I would be interrupted, and the Honourable Member in charge would say that in the United Kingdom the people pay an anna for postcards and one and a half annas for envelopes. Apparently this is true, but if we go a little deeply into the question, we will find that Indians pay more. The reason is this. If we consider the income of the people of the United Kingdom, we find that it is twenty times more than the income of the people of this country, and they pay only one anna for postcards and one and a half annas for envelopes. While our income is so low, we have to pay not much less. Similarly, Sir, in the United States of America, we find that they pay the same rates as we do here,

and their income, it is said, is about a hundred times more than ours. So, Sir, if we look at this matter from this point of view, we will see that Indians pay much more than any other people have to pay for postcards and envelopes.

Sir, I may recall here the circumstances under which the postal rates were increased. In 1922 there was a deficit in the Budget of the Government of India to the extent of 33 crores. At that time, Sir, not only were the postal rates increased, but customs duties, the salt tax, and railway fares were also increased. And what is the position to-day? To-day, Sir, there has been a reduction in the customs duties; there has been a reduction in the salt tax, though not to the extent that the people would desire; and there has been also a reduction in railway fares, though not to the extent that I want; but the postal rates remain the same. Again, Sir, in that year, there was a deficit in the postal Budget itself to the extent of 57 lakhs. But what is the position to-day? If we look at only the Postal Department and exclude Telephones and Telegraphs, as we ought to do, we see a surplus in the Postal Budget. In 1922-28 there was a surplus of 35 lakhs; in 1923-24 there was a surplus of 42 lakhs; in 1924-25 there was a surplus of 15 lakhs. When the enhancement in the postal rates was made, the Government thought that there would be an increase in the revenue to the extent of 160 lakhs on account of the enhancement of the rates. But, Sir, in the very first year the increase was only 79 lakhs; and what was the reason for this? The reason was that the people of India could not pay these enhanced rates. Between 1914 and 1915 and 1921 and 1922 the sale of postcards increased from 469 millions to 648 millions,—an increase by about 183 millions. But, Sir, as a result of the enhanced rates, the sale of postcards fell again to 523 millions, that is to say a fall by about 125 millions. Between 1914-15 and 1921-22, the sale of envelopes increased from 427 millions to 581 millions, and then it also fell to 480 millions, a decrease by about 101 millions. And, Sir, it is clear that this decrease was due to the poor economic condition of the people of this country.

Now, Sir, it will be said that the people are getting used to these higher rates and the sale is again increasing. But that is not a fact. If we see the increase during the last four years and compare it with the previous four years, we find the difference. In the last four years the increase in postcards has been only 27 millions, while in the preceding four years it was 84 millions. In envelopes during the last four years the increase has been about 28 millions, while in the preceding four years it was 95 millions. This is the reason why the Government could not get the amount which they thought they would get by the enhanced rates.

Now, Sir, the surplus is diminishing year by year, and the reasons for that too are clear. The first reason is that 19 lakhs of rupees have been spent for the redress of the grievances of the postal servants. I congratulate the Government on this as they have done the right thing in redressing the grievances of a hard working class like the postal employees. Then the Postal Department has to pay 10 lakhs to the Railway Department, which they had not to pay before. The Postal Department people were travelling formerly with free passes as the Military Department people are doing even now. It is very strange, Sir, that while the Railway De-

[Seth Govind Das.]

partment is not charging anything to the Military Department for their travelling, they should charge the Postal Department which is really an injustice. Then there is another thing, and that is, that 57 lakhs are being charged as interest on the capital invested in the Postal Department. Now, Sir, we find that this capital is in fact invested from that department itself, and it is not a sound business principle, Sir, that this capital should be charged with interest. In our ordinary banking shops,

12 Noon. we credit the profits of a certain shop to an account which is called in our Hindustani *Vridhhi khata*, and Sir, we do not charge any interest on that. Therefore, Sir, it is not right on the part of the Government also to charge any interest on the capital which is invested in the Postal Department.

Then, Sir, there is another thing to be considered. To-day, in fact, the surplus of the Postal Department is being taken up by the Telegraphs and Telephones and this charge has been accepted by the Government themselves. The other day, my Honourable friend, Dr. Rama Rau, moved a Resolution in this House urging that these two Departments should be separated. The Honourable Mr. McWatters said that they were already separated. But, Sir, I say that they are separated only in name because in fact to-day also the surplus of the Post Offices is making up the deficits in the Telephones and Telegraphs. Many times on the floor of this House and also in the other place, it has been said—and I also repeat that argument—that in fact the necessities of rich people, of commercial people, and their luxuries, are being provided by the poorer classes of this country. In reply to this argument, Sir, the Honourable Sir Bhupendra Nath Mitra said in the other House:

"It is hardly correct to say that the surplus in the postal branch is contributed to by the poor man. As has been pointed out by Sir Geoffrey Clarke several times on the floor of this House, our rural post offices do not pay."

And he went on to say:

"The surplus in the postal branch must therefore be contributed largely by men living in the big cities and urban areas who are the very people interested in the telegraph and connected services."

Well, Sir, this is an astounding statement coming, as it does, from the Honourable Sir Bhupendra Nath Mitra. I am afraid he imagines that in the urban areas there are only rich people. Well, in urban areas too, if he looks at the Census Report, the greater part of the population consist of poorer people. So if the rural post offices do not pay and the urban post offices do, it is also from the pockets of the poor people that the luxuries of the rich are provided.

Even after all these arguments, I am sure the Government will again bring the financial bogey before us. Sir Basil Blackett last year said:

"I know that a return to pre-war rates is keenly desired in many quarters in the House and in the country; nor would the Government desire to oppose such a reduction for a moment if they believed that it was within the range of practical politics. I desire, however, to put the question frankly before the House. There is in my view no probability whatever of a return to pre-war rates for letters and post-cards except at the cost of a heavy and steadily increasing subsidy from the pocket of the tax-payer."

I may point out, Sir, that there is no need of putting a greater burden on the tax-payer. I will give a few suggestions by acting on which I think my Honourable friend will be able to make up the deficit. According to the recommendations of the Inchcape Committee, the total expenditure of the

Department should not exceed more than 8½ crores and to-day, Sir, it is somewhere near 10·17 crores. The Honourable Member in charge of the Department should see whether he cannot make further retrenchment in this respect. As I first pointed out, 57 lakhs of interest should be remitted and no interest should be charged on the capital, and this will also be a means of covering the deficit to a certain extent. Then, Sir, 10 lakhs which are charged by the Railway Department should not be charged as was done hitherto and as they are doing in the case of the Military Department even now. If from all these sources the deficit is not covered, the Honourable Member can increase the rates of parcels, V. P. Ps., money orders, and certain other things which in fact are used mainly by the commercial class—a class which can afford to pay somewhat enhanced rates. But, Sir, as I said in the beginning, it is his business to look to that point and not mine, and I have merely given some suggestions.

In conclusion, I would only point out that for a very long time Government did not consider the Postal Department as purely a business concern. But, Sir, Sir Bhupendra Nath Mitra said in reply to Mr. Neogy last year:

"My friend Mr. Neogy said that years ago we used to spend money on postal communication without caring whether there was an adequate return for it. There is a perfectly good explanation for this. In those olden days it was essential to develop communications and the Government of the day placed that need in a higher order of precedence to questions of development of education, sanitation, etc., in the country. But things have now changed. Communications have been established, to a certain extent, at least."

I say, Sir, that the extent is not sufficient, even now. There are certain places, many many places, I should say, in the rural areas, where the beneficial activities of the Post Office are still unheard of. And, Sir, I think that Government should look to this matter from this point of view and should consider this Department not a business concern but a Department for the public good. We look upon this Department as a national agency, an agency of public utility and public good, though it is a monopoly of the Government. The Government ought to look at the whole thing from this view-point and should even contribute something to this Department from the general revenues. I submit, Sir, they should always have before them the principle of the greatest good of the greatest number.

With these words, Sir, I move my Resolution.

THE HONOURABLE SIR JOHN BELL (Bengal Chamber of Commerce): Sir, in placing his Resolution before the Council my Honourable friend seemed to me to express the opinion that it would be regarded as an extreme one. I think in this my Honourable friend was entirely wrong. Personally, I do not regard it as an extreme one. I think on the contrary that my Honourable friend is to be congratulated on showing sufficient interest in the poorer classes in the country to bring forward such a Resolution. At the same time, I think that he has been unfortunate in the time at which he has brought it forward. I think that is generally understood by Honourable Members of this House that any recommendation made by a House of its standing should be a reasonable recommendation, and in order to be reasonable, it must be justified by facts. Now, the position is that, in order to give effect to my Honourable friend's Resolution, Government would have to forego a very considerable amount of revenue. My Honourable friend has estimated that sum at 2½ crores, but I think that that is probably an under-estimate.

[Sir John Bell.]

In order that such a recommendation might be justified, two facts, it seems to me, would have to be established. In the first place, it would have to be shown that there was a surplus on the Budget which could be applied towards the loss which would be incurred in giving effect to my Honourable friend's recommendation, and, in the second place, it would have to be established that there was no more urgent claim to that surplus, if there was a surplus, than the object which my Honourable friend has in view. Now, at the present time we do not know whether there is any surplus on the Budget and we do not know whether the result of the last year's working of the Post Office has been a profit or a loss. Until we have some information on both these points I think it would be inadvisable to put forward this recommendation. What would be the position of the Council if we made this recommendation and if we found in a few weeks' time that the result of the working of the Post Office for the past year had been a considerable loss or that the Budget showed no surplus whatever? It seems to me that if the recommendation were made now it might have the appearance of being unreasonable and would detract from the value of future recommendations made by this Council to the Governor General in Council. I suggest to my Honourable friend that he should not at this time press his Resolution, but that he should postpone it till an appropriate date later on, when we have both the results of the Post Office working for the past year and the figures of the Budget before us. I think that if my Honourable friend were to adopt my suggestion, he would probably find that his Resolution would receive a greater measure of support from all parts of the House than he seems at the present time to anticipate.

THE HONOURABLE THE PRESIDENT: Does the Honourable Member move that the discussion be adjourned?

THE HONOURABLE SIR JOHN BELL: I do so. I am sorry that I omitted this and I move that the discussion be adjourned till a later date after the budget figures have been presented.

THE HONOURABLE LALA SUKHBIR SINHA (United Provinces Northern: Non-Muhammadan): Sir, I am not in favour of any adjournment, because I think this is only a recommendation to His Excellency the Governor General to consider the question. This matter has been discussed in this House several times. There is a great public demand for a reduction in the rates for postcard and envelopes. When the Honourable the Finance Member draws up his Budget he will be able to know the opinion of this House, if it was carried, how far we are for a reduction and if there is a surplus it will be very easy for him to allot that surplus to the reduction of postal rates. If there is no surplus he will try his best to make some cuts here and there and provide for this reduction if he likes. Therefore, I think that this is the proper and best time for this Council to make this recommendation for a reduction of postal rates. As regards the Resolution itself I think there is a great public demand not only among the poor, but among the rich also and among merchants, so far as I can gather, that these postal rates, are very high and should be reduced. As the Honourable Member has stated, the number of postcards and envelopes has gone down. That shows that the correspondence also has gone down proportionately. As this Department is meant for the use of the public

I think it should be made as cheap as possible and every effort should be made to reduce these rates as much as might be possible. I am for 3-pie postcards and half-anna envelopes as before. Therefore, I strongly support the Resolution. I am not in favour of any adjournment. I request the House to express their opinion on this matter now whether the reduction is required, and whether it is necessary, and desirable or not.

THE HONOURABLE THE PRESIDENT: Before we go any further I think I should tell the House whether I am prepared to put the Honourable Sir John Bell's amendment to the House or not. As Honourable Members are aware the Chair is not obliged to accept and put any motion for the adjournment of a discussion. It is in the discretion of the Chair. In the present case it appears to me that as the discussion is one that can come, and almost inevitably must come again in a few weeks' time in the consideration of the Finance Bill, it is desirable that I should allow the House to express its opinion on the amendment moved by the Honourable Sir John Bell, that is to say, whether the discussion should take place now, or whether it should be adjourned. The question therefore before the House now is:

"That the discussion be adjourned."

THE HONOURABLE MR. A. C. MCWATTERS (Industries and Labour Secretary): Sir, while we on this side of the House are in no way desirous of avoiding a discussion on this very important issue, I think that for the reasons given by the Honourable Sir John Bell we would be more likely to have a fruitful and practical discussion on this question if it were taken up when we have before us not only the figures of the working of the Department in all its branches, but also the financial position of the country, as a whole, as revealed in the Budget. Until we have these before us I think there is a danger of the discussion to-day being on somewhat academic lines. As has been stated by the Chair, this subject must inevitably come up again with the Finance Bill, to which the Postal Schedules are attached, and I think therefore the House would be well advised to support the motion moved by the Honourable Sir John Bell.

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

"This Council recommends to the Governor General in Council to take immediate steps to reduce postal rates on letters and post-cards to 6 pies and 3 pies respectively."

Since which an amendment has been moved:

"That the discussion on the Resolution be adjourned."

The question I have to put is:

"That the discussion on the Resolution be adjourned."

The motion was adopted.

THE HONOURABLE MR. V. RAMADAS PANTULU: Up to what time is the discussion adjourned?

THE HONOURABLE THE PRESIDENT: The motion was in the vague form that it be adjourned, the understanding of the House being, I gather, that it will inevitably come forward in connection with the Finance Bill in a few weeks' time, not necessarily that the matter will come before the House in the form of this Resolution.

RESOLUTION *RE* AMENDMENT OF THE INDIAN INCOME-TAX ACT.

THE HONOURABLE MR. P. C. DESIKA CHARI (Burma: General): Sir, I beg to move the Resolution which stands in my name and which runs as follows: .

"This Council recommends to the Governor General in Council to introduce a Bill in the Central Legislature to amend the Indian Income-tax Act by the introduction of (a) provision on the English lines for allowances in respect of wives, children and dependants of the assessee, (b) provision on the English lines for objections and appeals against assessment, (c) provision for differentiation for income-tax purposes between earned and unearned incomes, and (d) provision for giving effect to the recommendation of the Taxation Enquiry Committee for setting off the loss sustained in one year against the profits earned in the subsequent year."

Sir, my object in bringing forward this Resolution is to secure the introduction into the Indian Income-tax laws of those features of the English Income-tax Act which are responsible for the undoubted success of the English Income-tax law.

Sir, I mean the introduction of the permanent features which strike any casual reader of the English Income-tax law, namely, the happy blending of the regard for local interests and for fiscal productiveness of income-tax, secondly, the ingenious device of utilising the services of local experts by the method of Additional Commissioners, the introduction of the principle of differentiation of incomes as earned and unearned, the principle of giving allowances or abatement for the wife, children and dependants of the assessee as we find in the English Income-tax Act, and last but not least the feature of allowing the loss sustained in one period being set off against profits in a subsequent period by the process known as the three years' average system. I submit, Sir, that these features are the necessary equitable incidence that ought to attach to the tax for any successful working of an Income-tax Act. I find in the Report of the Taxation Inquiry Committee that it is stated that the tax whose justification lies in its capacity to work out an accurate adjustment to the capacity of an individual to pay the tax can be successful if the tax can be so adjusted. But I find that though the introduction of these changes which I advocate in this Resolution has been admitted to be justifiable in theory by the Taxation Committee, they put forward certain objections which are based mainly, if not wholly, upon the considerations of improvements in the administrative machinery which they consider as of paramount importance. But, I submit, Sir, that the introduction of these changes would be better done at the inception when the administrative machinery is new and when it is still undeveloped rather than if it were put off to a later stage when we will be met with the argument that the administrative machinery has been fully developed and that it is too late to go back upon the old principles which had been adopted in developing the administrative machinery.

With these remarks, Sir, I shall state as briefly as I can the changes which I want to introduce in the Indian Income-tax Act. It will be convenient if I deal first with item (b), i.e., the provision on the English lines for objections and appeals against assessment. It is necessary to state briefly how the Income-tax Act in England is worked by the aid of what are called various classes of Commissioners. Sir, in England the Central Government has very little to do with the assessment and levying of income-tax directly. They do it by a process which has been accepted by the test of time to be the best having regard to the protection of the assessee as well, the protection which is necessary for the Treasury to see

that the revenue is properly collected. With this object in view they have got what are called the General Commissioners, a body of persons selected by the Land Tax Commissioners, with certain property qualifications. These are local gentlemen who have got the duty of assessing and levying dues. These people are empowered to appoint an assessor, a clerk and a collector. There are then what are called Additional Commissioners and it is these Additional Commissioners who perform a very important function. These Additional Commissioners are appointed by the General Commissioners from among their own body or from local experts with certain qualifications—they should have at least half the qualification necessary for a General Commissioner. In the class of incomes which are classed as Schedule D, that is the class of incomes from business or from professional avocations earned by an individual, either personally or as a member of a firm, assessment is made not by the assessor or surveyor but by these Additional Commissioners. The party liable to be charged, as well as the representative of the Government, that is, the surveyor of taxes, are heard and the objections of these people are put forward before the Additional Commissioners who make the assessment. Against this assessment by the Additional Commissioners there is an appeal to the General Commissioners. Now, again there is another aspect of the English income-tax system which should appeal to everybody. One is not compelled to have his assessment by these General Commissioners if he has got any objection: If anybody likes and if he prefers an official element, he can make a return to the assessors to be transmitted to the surveyor, who makes the assessment and sends a certificate of assessment with a statement to the Special Commissioners who are salaried officials, and these salaried officials make a final assessment after making such disallowances as they think fit. Against this there is an appeal. The party aggrieved may choose the forum of the General Commissioners for the purpose of appeal, or if he pleases he may choose the Special Commissioners, who are salaried officials, for preferring appeals. So that it is a system which gives an alternative to the assessee to have his income assessed and to have his objections heard and his appeals heard either by these bodies of local men with local experts or to have these things done by the Special Commissioners if he adopts the other course. So that it gives him freedom of action; and there is no room for the complaint which we have in India to-day that the department responsible for the assessment sits as a judge in its own cause. That will be avoided by the introduction of a provision on the English lines for General and Special and Additional Commissioners.

Sir, certain objections are raised to this proposal for constituting such Commissioners in India. Dr. Paranjpye is of opinion that at least in some important centres Advisory Committees on English lines might be constituted, so that the assessee may ask that their opinion be taken. But though the majority of the Taxation Inquiry Committee think it feasible in the larger Presidency-towns, they are inclined to take the view of most of the Chambers of Commerce who are opposed to it. I find that the Bengal Chamber of Commerce gave a qualified approval to the introduction of this system in the Presidency-towns; but at the same time other Chambers of Commerce are distinctly opposed to it. But I submit, Sir, that the fact that the Chambers of Commerce representing European interests are opposed to the introduction on English lines of this system is not a reason for the non-introduction of it in India—at least so far as the larger centres are concerned. If they have got any

[Mr. P. C. Desika Chari.]

objection to be assessed by these General Commissioners or Additional Commissioners who are local men, it is quite open to them to have recourse to the officials as they do in England because there will be the other alternative of having their objections heard and their appeals heard by the surveyor and by the Special Commissioners respectively. There is no harm done because there is the other alternative in the matter of appeals also. Sir, as regards the other objection which finds a place in the Taxation Inquiry Committee's Report, I submit that in India, so far as the mufassil is concerned, we have found that a sufficient number of men would be available to act as Commissioners, and it is not correct to say that business men do not like to disclose their incomes or their business affairs except to officials. I think, Sir, that business men are not peculiarly sensitive, and they do not very much care if they have to disclose their business affairs, whether they disclose them to officials or to an expert body of men. If really there is any objection, there is really no harm done by introducing the English system, because these business men who have got objections can always have recourse to the Official Commissioners as apart from the General Commissioners. So that the principle of the introduction of expert advice and local knowledge into the system of making inquiries as regards objections and appeals is one which would readily commend itself to anybody who carefully goes through the provisions relating to Special and General Commissioners.

Then, Sir, coming to the provisions on the English lines in respect of wives and children and dependants of the assessee, I submit that this is also a just and equitable provision, and in theory it is not disputed by the Indian Taxation Inquiry Committee. Their objections are based entirely on different considerations which, I submit, ought not to weigh in giving effect to this equitable incidence of direct taxation. The first objection, so far as I can see, of the Indian Taxation Committee to the allowance is this. In the first place, they say that the exemption limit in India is high. But what do we find? Under the English Income-tax Act for an individual the exemption limit is £135, and for a married couple it is £220, and according to the present exchange rate, for an individual it works out at Rs. 1,800 roughly, and for the married couple at Rs. 2,983-5-0; so that, taking into account the prevalence of marriages in India, as a rule, the exemption limit in India seems to be very much less than in England. That is as regards the first objection of the Taxation Committee. The second objection which they urge is that the registration of births and deaths is not universal, and that it is not sufficiently reliable in India as in England, and the introduction of these inquiries would lead to inquiries of an inquisitorial nature. As Dr. Paranjpye points out in the Report, a false declaration as regards the wife and children and dependants of the assessee can very easily be found out in India, and there are no difficulties in knowing exactly whether a person is entitled to claim an allowance under this head. As Dr. Paranjpye points out, there is no harm in making an allowance, subject to a maximum of Rs. 950, in favour of one's own wife and minor children. I submit, Sir, that if the maximum is fixed, there is no harm in extending the principle in the case of the mother or other dependent relations provided they are maintained by the assessee and provided these dependants have no income, up to the maximum limit.

Then, Sir, coming to the question of earned and unearned incomes, I submit, Sir, that even in places like England, there appear to have been very great objections and it took nearly sixty years for the English people to introduce this principle, and even after the introduction of this principle, some people were opposed to it. We have got the highest authority as that of Mr. Asquith, who says that the introduction of this very necessary element of differentiation has been very remarkable in its results, and that it has removed one of the crying grievances. This is what Mr. Asquith says:—

"I hope I may say without undue self-complacency, that differentiation, always deemed to be just and fair, was for sixty years strongly denied by almost every great authority to be workable in practice. Differentiation has been proved by experience to be not only practicable, but smooth and easy in its operation; and it has in fact paid for itself, and it has removed, once and for all, the most obvious and crying grievances and inequalities,—I do not say all of them, by any means.—but the most crying grievances and inequalities which have marred the equity and clogged the efficiency of the income-tax as a permanent instrument of revenue."

Sir, this principle of equity and efficiency I wish should be introduced in the Indian Income-tax law. The introduction of this principle of differentiation and the principle which has been adopted in England after such a long course of deliberation extending over 60 years, has been found to be very satisfactory in its results, and I submit, Sir, if it is necessary to introduce direct taxation with all the dislike which such taxation involves in the minds of the people who are not used to such direct taxation, if it is necessary, to introduce such taxation, it is better to palliate it with some of these equities which are considered necessary even in the case of some of the more advanced countries who can very easily understand the necessity for paying a direct tax. With regard to earned income, I need not define it except by stating that it is income earned in any profession or vocation by personal exertion, either as an individual or as a partner, in a private company, and I find that this principle of earned income has been given an extended application in England so as to apply the provisions as regards the earned income in respect of a person who is actually doing some work, though the whole of his income may not be earned. If a part of the income is earned, then the benefits of the differentiation for earned and unearned income applies to that individual. In England there is what is called the assessable income which is arrived at in much the same way as is done here, but after arriving at the assessable income, there is a deduction of 10 per cent. from the assessable income to arrive at the taxable income. But this abatement is subject to a limit of £200 so that this abatement can be claimed only to an extent of £200 and on the resulting balance up to £2,000, half the standard rate is levied and on the remainder the full rate is levied. Then, I submit, in India the introduction of a provision for differentiation on these lines may be quite acceptable. A deduction of 10 per cent. may be given from an assessable income, subject to a maximum of Rs. 1,000, and out of the resulting balance on the first Rs. 1,000, a smaller income-tax, namely, 6 pies in the rupee would be equitable, and on the remaining balance a higher rate of tax may be levied. I submit that the difficulties which are pointed out in the recommendations of the Taxation Inquiry Committee must be due to this. The difficulties which they mention, though they admit the equity of these principles, is firstly the administrative difficulty. Sir, the difficulties were two-fold. Firstly, they say there is no large class of people who have got an income from investments. Most of the people who pay taxes

[Mr. P. C. Desika Chari.]

here are people who pay taxes on earned income. That is their first objection. Then the second objection is that the income from land escapes taxation altogether in respect of income-tax, and there is no reason why a differential rate ought to be levied on the small balance that remains. Sir, to my mind these are the very reasons which would support the introduction of an arrangement of a differentiation. The fact that there are very few people who can afford to live upon their investments is the very thing which ought to be taken into account in assessing their income, and in India in fact most of these assessee with earned incomes ought not to stand in the way of introducing these principles in the matter of taxation. It is these people that have got a small spending capacity because they will have necessarily to make some provision for old age and their dependants, and the income of people who have nothing to fall back upon will be precarious and they will be less able to pay a tax than people who can depend upon investments. The absence of people who can depend upon investments is not to be regarded as anything opposed to the introduction of this principle but as a thing in support of it.

And then, coming to the last ground, Sir, I wish to have introduced into the income-tax a provision for giving effect to the recommendation of the Taxation Inquiry Committee for setting-off the loss sustained in one year against the profits earned in the subsequent year. I find the recommendations are contained in paragraph 230 of the Taxation Committee's Report, and I do not think it is necessary for me to detain the House any further than by quoting the words of the Taxation Inquiry Committee which you will find at page 191 :

"It seems to them that the substantial justice of the claim to be permitted to set-off cannot be denied, but they recognise the necessity in Indian conditions for a strict limitation of the concession and for hedging it round with conditions. Their proposal is that a loss sustained in any one year should be allowed to be set off against the profits in the next subsequent year only, subject to the condition that any assessee who claims to have made a loss must prove the fact by producing his accounts as soon as possible after the close of the year in which the loss is made."

Sir, I admit that the introduction of these changes would necessarily involve a good deal of disturbance of the machinery of administration as we have it in India to-day, but such a consideration ought not to stand in the way of giving effect to equitable considerations which are admitted to be fair after a thorough examination by the Taxation Inquiry Committee. They admit, at least in theory, that these provisions are just and, when it is admitted to be just, I submit that other considerations, if they are not insurmountable, ought not to stand in the way of the introduction of necessary measures of reform at a time when admittedly the Income-tax Department is new and is not fully developed. With these words, Sir, I recommend this Resolution for your acceptance.

THE HONOURABLE SIR ARTHUR FROMM (Bombay Chamber of Commerce): Sir, I should like to ask through you, Sir, with your permission, if the Mover of this Resolution is prepared to put it in four parts, (a), (b), (c), and (d). I do not suggest that this Council should debate separately on these four parts, but what I do suggest is, that it might be convenient to vote separately on the four parts of the Resolution.

THE HONOURABLE THE PRESIDENT: That is a matter which has nothing to do with the Mover of the Resolution. It is for the Chair to put the Resolution in such form as seems to be acceptable to the House.

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces: Nominated Non-Official): Sir, I am rarely in agreement with my Honourable friend there, but on this occasion I am prepared to give him my whole-hearted support. The Income-tax Act, as it is administered at present, has caused great discontent in this country in various directions. The anomaly regarding certain matters has been consistently pointed out both in the Assembly and in this House. And I for one on very many occasions, when the Budget debate has taken place, have pointed out the incongruity and the injustice of the many provisions of that Act. My Honourable friend on this occasion seeks to bring certain defects prominently before the Council and desires that legislation for the amendment of those defects may be undertaken by the introduction of a Bill by Government. The Resolution, as it is worded, is of a very wide and far-reaching character, and it would be impossible to discuss fully the various directions in which my Honourable friend has asked that the amendments and improvements be made at this particular juncture. Personally I am ready to accede to the agreement that most of the amendments which he has suggested are of a right and just character and ought to be adopted immediately. But this Council is aware that the Report of the Taxation Inquiry Committee for an unfortunate reason was discussed neither in the Assembly nor in the Council of State. There is much to be discussed and debated in that Report. Though many of us may be in favour of the various suggestions which the Honourable the Mover of this Resolution has suggested they require a full measure of calm and dispassionate debate and discussion. They require to be threshed out from various aspects. It is, therefore, to my mind useless to ask Government to proceed immediately with the introduction of a Bill of the nature suggested by the Honourable Mover. I do not think that this Council will be prepared to discuss even the various details of the modifications suggested as they require a large amount of information and a collection of certain information regarding the provisions and administration of the English Income-tax law as well. My suggestion therefore is that we all endorse generally the view of the Honourable Mover and deal with this difficult and controversial subject in any way that will invite the least resistance and opposition. I therefore, Sir, beg to move a small amendment to this Resolution with your permission and, if that amendment is accepted, I submit the object which the Honourable Mover has in view will be fully achieved. I therefore beg to move my amendment to the following effect:

"This Council recommends to the Governor General in Council to appoint a committee of Members of both Houses to consider the desirability of amending the Indian Income-tax Act by the introduction of, . . . etc."

and the rest of the Resolution will remain.

THE HONOURABLE THE PRESIDENT: Amendment moved:

"That for the words 'to introduce a Bill in the Central Legislature to amend' the words 'to appoint a committee of Members of both Houses to consider the desirability of amending' be substituted."

THE HONOURABLE MR. A. F. L. BRAYNE (Finance Secretary): Sir, the difficulty which I find in accepting the amendment is the unsettling

[Mr. A. F. L. Brayne.]

nature of a further inquiry on the income-tax administration of the country. We had an Income-tax Bill, 1918. Four years later, after a report of an All-India inquiry, which investigated the whole question in extraordinary detail, there was another Income-tax Bill in 1922. Not long ago the Taxation Enquiry Committee examined various aspects of the income-tax with very great care and in great detail and they made certain recommendations; and of the four recommendations which are before the House in the original Resolution, there is only one recommendation, namely, the last, which they appeared to be prepared to support. It is hardly fair either to the assessee or to the Income-tax Administration, namely, the Central Board of Revenue, to subject them to another inquiry at this stage when scarcely 4 years have elapsed to enable the Bill of 1922 to get into full working order and for its defects to be discovered. There have been defects, it is admitted. Many of these defects have been removed by amending Bills, and now another amending Bill has been introduced in another place. It is not fair to the assessee because though the assessee cannot be said to like paying income-tax—none of us like it—still at the same time a great deal of the dislike is removed if one feels that the tax is regular and if one is not subjected to continual change and continual complications. Nor is it fair to the Central Board of Revenue that they should have to undergo another inquiry. They have done a very great deal to bring the Income-tax Administration out of chaos into order. It may not be perfect at the present moment, but at the same time the Income-tax Administration are doing their best to meet such objections as may be brought to their notice. Therefore, Sir, I oppose the amendment.

THE HONOURABLE SARDAR SHIVDEV SINGH OBEROI (Punjab Sikh): Sir, I feel very much interested in the subject-matter of the Resolution and the amendment proposed by my Honourable friend. So I rise to support the amendment put forward by my Honourable friend Sir Maneckji Dadabhoy. The Income-tax Act as it stands at present on the Statute-book consists of many inequalities and there are many points which do require a thorough examination from the public point of view. It has been said by the Honourable Member from the Government side that this Act was first passed in 1918 and then it was amended in 1922, and that after a short lapse of 4 or 5 years it is again sought to be amended. I take that argument and say that if the necessity was felt to amend it 4 years after it was passed in 1918, the necessity has been felt now to amend it again for the public interest after it was passed in 1922. Apart from the fact that this is a sort of direct taxation which is naturally felt by the people who pay, there are many sections which ignore altogether the interests of the assessee which have been embodied in the law simply to foster and promote the interests of the Government. Take, for instance, the question of the loss and profits of the assessee. There is a section in the present Income-tax Act—section 34 I understand—which says that if any amount in one year has escaped assessment, the Income-tax Officer is empowered to assess that amount in the next year. If the law provides this section for the interest of the Government, there cannot be any just reason based on equity for not allowing the losses of one year, which a business man or tradesman suffers, to be set-off against the profits of the next year. I think that on this very principle the income-tax law of England has been based, namely, not to assess the tax of one year on the income and profits

of the previous year, but to assess the income-tax on the average income of the last three years. This means that if a loss is incurred by the assessee in one year and a profit is gained in the next year, there would be an average of the loss and profit and thus the right amount would be calculated for the purpose of assessment. This is one of the great inequities of the present Income-tax Act.

1 P. M.

Then, take the right of objections and appeals. The Act provides for Assistant Commissioners above Income-tax Officers and Commissioners above Assistant Commissioners. On certain points an appeal lies to Assistant Commissioners and on certain other points to Commissioners. What I beg to say with all the emphasis at my command is this: that all these officers belong to one and the same Department, namely, the Income-tax Department, and they naturally feel interested on behalf of Government in the assessments made from the bottom and from the pen of the Income-tax Officer. It would not be uncharitable if I say that the Assistant Commissioner naturally has the ambition to become a Commissioner, and he will naturally see that his Commissioner watches how many appeals he accepts and how many objections he accepts of the assessees who object. What I mean to say is this: that all these officers belong to the same Department which assesses the income, and it does not therefore quite fall within the right principles of justice. The assessing authority must be one, and the authority to hear the objections and the appeals must be another.

Another funny section is found in the Income-tax Act where it is said that if the return sent by the Income-tax Officer to be filled up by the assessee is not returned within a time-limit of thirty days, the Income-tax Officer has the authority to assess income according to what he chooses, and in that case the assessee is deprived of the right of appeal. This does not seem to me to be a very sound principle. If the assessee fails, not wilfully but owing to other engagements of his, to submit that return to the Income-tax Officer, he must have a right of appeal if he finds that he is heavily taxed, just as is the case in civil courts. If any *ex parte* decree is given by a Sub-judge, although the party had been served with a summons to attend and explain whether he owes the sum claimed of to the plaintiff or not, still if the defendant is unable to appear in the court and the *ex parte* decree is passed against him he has got a right within a certain time to apply to get that decree set aside. So it must be in this Act also.

Then, take the question of allowances. It has been rightly put by my Honourable friend, Mr. Chari, that in the English law of income-tax different treatment to different assessees is given under that law. If a man who has only a wife and earns Rs. 2,000 is assessed to income-tax, if a man who has got no wife to maintain is assessed at the same rate and if a man who has got two or three boys reading in a school or college is assessed at the same rate and has to pay the same amount to the Government as tax upon his income, then it is not equitable. The framers of the law in England were very wise to take into consideration one of the canons of taxation, that is, the capacity to bear the taxation. It is undoubted that the capacity to bear taxation in the case of a man who has got two or three children to educate is much less than that of the man who has got no children to educate in schools and colleges. So this affects one of the canons of taxation if all the men are to be taxed equally.

[Sardar Shivdev Singh Oberoi.]

I find, Sir, that the whole Income-tax Act does require reconsideration and amendment, and it can be done only in two ways: either by an Honourable Member of this House or of the other House bringing forward a private Bill, or, as has been suggested by my Honourable friend, Sir Maneckji Dadabhoy, by appointing a committee to go into the whole question of amending the Act. I have thought over this question and have taken the opportunity of sending in an amending Bill to the Income-tax Act. It has been submitted to His Excellency the Governor General as it required his sanction before being introduced in the Council; but at the present moment I feel that I must give my support to the amendment proposed by my Honourable friend that the whole question should be entrusted to a committee consisting of Members of both Houses to make the necessary amendments in the present Income-tax Act.

THE HONOURABLE MR. V. RAMADAS PANTULU (Madras: Non-Muhammadan): Sir, I only wish to take a few minutes. I rise to support the amendment proposed by my Honourable friend, Sir Maneckji Dadabhoy. I really cannot understand the position of the Honourable Mr. Brayne towards the amendment. The whole question of taxes on income was one of the subjects referred to the Taxation Inquiry Committee since the passing of the last Income-tax Act. I expected Government to give some effect to the recommendations of that Committee. It would be wrong to say that that Committee accepted *in toto* the principles of the present Act. They have not done so. I agree that my Honourable friend Mr. Chari has committed a tactical blunder in clubbing together a number of these proposals; he ought to have brought them up either as separate Resolutions or moved for a committee in the terms in which the Honourable Sir Maneckji Dadabhoy has done. He suffers a great deal of disadvantage from the form of his Resolution. But, as a matter of fact, I wish to point out that the Taxation Inquiry Committee have really laid the foundation for a consideration of the whole question by the Government or a Committee. For instance, even on the question of the adjustment of loss in one year against the profit of another year they have pointed out that, while the existing system in England is on a basis of three years' average, the Royal Commission on Income-tax of 1920 had really gone so far as to recommend a basis of six years' set-off. They have also pointed out that in regard to the appellate tribunals, though there might be a difficulty in finding suitable Commissioners in the mufassal, they agreed to a qualified proposal that that system might be started in the Presidency-towns where it would be more easy to find Commissioners; they have made a recommendation like that though in rather a halting way. On various other matters also they have made certain recommendations, and those are matters which certainly ought to engage the attention of the Government and the Government ought to welcome a suggestion which merely gives them ample opportunities to have the whole question examined. Nobody is committed to any particular view and nobody can deny that the administration of the Income-tax Act in this country is one of very vital importance to all sections of the people, and that it causes a good deal of friction and irritation if it is not properly administered. Therefore, I hope that the recommendations of the Taxation Inquiry Committee will be tested by another Committee, and such recommendations as the Taxation Inquiry Committee have made or other recommendations which may be suitable may be suggested by a Bill.

In regard to another portion also of the Honourable Mr. Chari's Resolution, that is, with reference to the differentiation between earned and unearned incomes, the Taxation Inquiry Committee do not really rule it out. All that they said was that the lands which were the main forms of investments in the country were exempt from income-tax and that, therefore, the question could not be considered; but if the question of levying income-tax on agricultural incomes was again considered, they said that the question of unearned incomes should also be considered, and, therefore, that would also be a problem for the Committee. I think therefore the best solution will be to adopt the amendment which asks for a Committee to go thoroughly into this matter, and I heartily support the amendment.

THE HONOURABLE SIR JOHN BELL (Bengal Chamber of Commerce): Sir, my Honourable friend Sir Maneckji Dadabhoy has by proposing this amendment to the Resolution before the House got me out of a very considerable difficulty, because with regard to the Resolution of my Honourable friend Mr. Chari, while I found it possible to support him in connection with one of the sub-sections of his Resolution, I could not do so with regard to the first three. The first three sub-sections—if I may so describe them—are in an entirely different category to sub-section (d). The first three sub-sections are (a) provision on the English lines for allowances in respect of wives, children and dependants of the assessee, (b) provision on the English lines for objections and appeals against assessment, (c) provision for differentiation for income-tax purposes between earned and unearned incomes. Now, Sir, these three suggestions raise perhaps more considerable difficulties than my Honourable friend has contemplated. Some of these difficulties are indicated in the Report of the Taxation Inquiry Committee. In any case, they are all suggestions which would require the most careful consideration before this House could be committed to support them, and this purpose will be achieved and opportunity will be given for that necessary consideration if the Committee suggested by my Honourable friend be appointed.

With regard to the fourth recommendation. It is in an entirely different category, and at this point I might refer to what was said by my Honourable friend Mr. Brayne. My Honourable friend put forward a plea for a harassed Central Board of Revenue who had been given an Income-tax Act in 1922, and who had been constantly asked to alter it. I do not think that any Honourable Member of this House will have very much sympathy with the Central Board of Revenue. It is true that they got an Act in 1922, and it is true that there have been a great many amending Acts passed, but I think, if the history of these amending Acts be inquired into, it will be found that they all emanated from the Central Board of Revenue themselves. Not only do the Central Board of Revenue put forward a new Act at almost every Session of the Legislature, but between the Sessions they issue a number of rules under notification until now nobody knows what the income-tax law of the country really is.

I now come to the fourth recommendation of my Honourable friend Mr. Chari, and that is, that provision should be made for giving effect to the recommendation of the Taxation Inquiry Committee for setting-off the losses sustained in one year against the profits sustained in the subsequent year. Sir, this is not a point that has for the first time been brought up.

[Sir John Bell.]

for the consideration of Government. Commercial bodies in this country have been pressing Government to take some action in connection with it for at least five years. In 1922 representations were made to Government by the Associated Chambers of Commerce and the reply of Government at that time was a very lengthy one. I do not propose to trouble this House at this time with all the details. I replied to these in what was for me a long speech at the Associated Chambers meeting in Cawnpore recently. But one particular objection which they raised was that in no country in the world, with the exception of South Africa, was the principle of setting-off previous losses against profits in the year of assessment accepted. That has been entirely changed since that objection was put forward. As my Honourable friend Mr. Pantulu has pointed out, the law in England now provides that losses may be set-off against profits as far back as six years. The question was from time to time brought up between 1922 and 1925. In 1925 a Resolution on the subject was again presented at the annual meeting of the Associated Chambers of Commerce, and on that occasion it was replied to by the Honourable Sir Charles Innes. In his speech he made certain important statements. He said that the question had been referred to the Taxation Inquiry Committee, and that he had with him a very able note which had been prepared by Mr. Loftus Tottenham and which would be very carefully examined by the Taxation Inquiry Committee. He added that, if that Committee should make proposals in respect of this subject, these would be considered with the greatest care by the Government of India. The Bengal Chamber of Commerce asked Government to supply them with a copy of the note written by Mr. Loftus Tottenham, but they were informed that its contents were private and that it could not be supplied. However, while we do not know what is in that note, we know this that it was considered by the Taxation Inquiry Committee, and that after they had had the advantage and privilege of reading it, the Taxation Inquiry Committee expressed the opinion that has been read by my friend on my right. They said, after reading this note written by the head of the Central Board of Revenue, to which my friend Mr. Brayne referred, that it seemed to them that the substantial justice of the claim to be permitted to set-off could not be denied, but they recognised the necessity in Indian conditions for a limitation of the concession. The important point is that they considered that the substantial justice of the claim to be permitted to set-off could not be denied. Well, the matter was again brought up at the annual meeting of the Associated Chambers of Commerce in Cawnpore in December last, when the Honourable Sir Basil Blackett was present; but at this point I may diverge for a moment. I do not wish to take up the time of the House at this stage by going into many arguments in connection with the justice of the proposal that losses should be set-off against profits, especially in view of the opinion that has been expressed by the Taxation Inquiry Committee. But I would submit that Government is in the nature of a partner in each business in this country. When a business makes large profits, they take a large share of these profits, and it seems equitable that when a business makes losses, if they do not bear any part of these losses, they should at least allow assesseees to set-off these losses against the profits of the following year before assessing them for the purpose of taxation. The proposition is so simple and so fair, it seems to me, that it does not require any elaboration by me.

I now come to the meeting at Cawnpore in 1926 when the matter was again brought up. In his reply to a resolution which was moved by myself, or rather in the course of his reply, the Honourable the Finance Member made the following statements:

"In the first place, I am not prepared to deny out of hand that there is a very fair case in equity for some change in regard to business losses."

He again said:

"I am quite prepared to admit at once that the case for allowing business losses to be carried forward is one the fairness of which it is impossible to reject out of hand."

Then again, he said:

"I am prepared to give an undertaking on the part of Government that the matter shall be examined with a view to the introduction of legislation to meet the claim of business people to allow losses to be carried forward as soon as it seems to the Government that this can be introduced in a way that can satisfy business opinion and yet not interfere with the efficient working of the Income-tax Department."

I think to any one who knows my Honourable friend, the Finance Member, it will be apparent that he could hardly be expected on an occasion like this to say more. Well, having heard these valuable opinions on the subject of setting-off losses against profit, and having in view the fact that the question has been under the consideration of Government for the last five years, I do not think there is much force in the argument of my Honourable friend, Mr. Brayne, that it would be unfair and harassing to the Central Board of Revenue to introduce an amendment of the Income-tax Act to give effect to the recommendation which has been supported by the high official opinion that I have quoted, and it is in order to consider this and also the other recommendations of my Honourable friend, Mr. Chari, that this Committee has been suggested. This Committee would not necessarily accept all these suggestions, but would examine them and recommend this Council to put forward for the consideration of Government such of them as they approve of. I strongly recommend the appointment of this Committee.

THE HONOURABLE MR. P. C. DESIKA CHARI: Sir, I am glad that an amendment has been proposed for the formation of a Committee for the consideration of the changes proposed in the Resolution. I think that, having regard to the fact that various considerations ought to be taken into account in examining the desirability of introducing these changes, it is proper that a Committee should go into the matter fully with a view to give to the Government of India its opinion after deliberation so that there may be no possible objection to the introduction of those changes at least which are recommended by a body so constituted.

THE HONOURABLE THE PRESIDENT: The original question was:

"That this Council recommends to the Governor General in Council to introduce a Bill in the Central Legislature to amend the Indian Income-tax Act by the introduction of (a) provision on the English lines for allowances in respect of wives, children and dependants of the assessee, (b) provision on the English lines for objections and appeals against assessment, (c) provision for differentiation for income-tax purposes between earned and unearned incomes, and (d) provision for giving effect to the recommendation of the Taxation Enquiry Committee for setting-off the loss sustained in one year against the profits earned in the subsequent year."

Since which an amendment has been moved:

"That for the words 'to introduce a Bill in the Central Legislature to amend' the words 'to appoint a Committee of Members of both Houses to consider the desirability of amending' be substituted."

[The President.]

The question I have to put is that that amendment be made.

The motion was adopted.

THE HONOURABLE THE PRESIDENT: I do not know whether the Honourable Sir Arthur Froom still desires me to put the Resolution in parts. The Resolution as amended recommends the appointment of a Committee to examine the question of amending the Income-tax Act to make provision for the four points in Mr. Chari's Resolution.

THE HONOURABLE SIR ARTHUR FROM: My point has been met by the amendment.

THE HONOURABLE THE PRESIDENT: The question is:

"That the amended Resolution be adopted."

The motion was adopted.

The Council then adjourned for Lunch till Half Past Two of the Clock.

The Council re-assembled after Lunch at Half Past Two of the Clock, the Honourable the President in the Chair.

RESOLUTION *RE* PROVISION OF INTERMEDIATE CLASS ACCOMMODATION ON THE SOUTH INDIAN RAILWAY.

THE HONOURABLE RAO SAHIB DR. U. RAMA RAU (Madras: Non-Muhammadian): Mr. President, I beg to move the following Resolution which stands in my name:

"This Council recommends to the Governor General in Council that immediate steps be taken to provide intermediate class accommodation in all the passenger and mail trains of the South Indian Railway Company, both metre and broad gauges, and that the same fare as that now charged by the Madras and Southern Mahratta Railway Company for that class, namely, 5 pies per mile, be charged by the South Indian Railway Company as well."

Sir, about this time last year when I casually went through the proceedings of the meetings of the Standing Finance Committee for Railways held on the 18th, 19th, and 20th January, 1926, Vol. II, No. 6, I came across an amazing statement made therein on page 68 to the effect that "there is no intermediate class on the South Indian Railway". As one coming from the Southern Presidency and one in the know of things pertaining to the South Indian Railway administration, I was really surprised to find such a misleading and incorrect statement recorded in an official document published by the Government of India, and curiosity led me to consult my friend Mr. Rama Iyengar, who was known to be good at facts and figures regarding Railways, in the last Assembly, on this subject. He was surprised too and was himself taken aback when he read it, but he was absent at that particular meeting and so he said he was not a party to that statement. At the time of the discussion of the Railway Budget, I made pointed reference to this and asked the Government to reconcile this statement with the actualities, but the speeches of

both the Honourable Sir Clement Hindley and the Honourable Sir Charles Innes in reply to the Railway Budget debate, while they wandered from China to Peru on broad principles of railway administration and even gave admonitions to the Honourable Non-official Members who referred to the vexed questions of the hour, such as the Indianization of the railway staff, etc., were silent on this particular point, probably because it was an ugly fact which could not be met. I have therefore thought it best to move a Resolution on the subject of intermediate class accommodation on the South Indian Railway to evoke a reply from the Government and make them take definite action in the matter early—which I am now doing.

The South Indian Railway stands unique among all the railways in India in successfully defying public opinion in the matter of providing and improving intermediate class accommodation in their trains. The intermediate class accommodation is very useful for, and very largely availed of by, the middle classes, who have not the means to travel in either of the two upper classes and who are reluctant at the same time to be huddled together in the proverbially overcrowded third class carriages like beasts of burden. The agitation, therefore, for the provision of intermediate class accommodation on the metre gauge section of this Railway grew so much in volume and intensity that the Railway Administration made a show of providing an intermediate class in the two Ceylon Boat Mails by labelling a third class compartment in each as intermediate class and fixing the maximum fares allowed, namely, 7½ pies per mile. This was at the beginning of 1922 or so. If I were to give a true description of this intermediate class carriage, I am afraid I may not be able to find choice expressions in the English dictionary. It is nothing, but a third class compartment converted into an intermediate class, the only difference being that the paint inside the compartment is of a different colour from that of the third class and perhaps less sticky and the seats are provided with cushions of cocoanut fibre. The compartment selected is very narrow, where passengers cannot freely move about nor can they conveniently sit, because the seat is not broad enough to allow the full circumference of their bodies to rest on it without a portion of it protruding outside. The manner of passengers sleeping comfortably on such seats during the nights can better be imagined than described. Railway journey especially in the lower classes is not meant for such comforts, and passengers must either accustom themselves to be wide awake all through, however long their journey or to practise dozing while sitting as an indispensable art, before taking up railway journey in India. There is only one common urinal, and no wash basin, no toilet, no electric fans are provided. There is no possibility for free ventilation either as the compartment resembles a cage walled all round. This is the sort of intermediate class accommodation that is provided, for which the company is extorting from the travelling public the maximum rate of 7½ pies per mile! I understand that even this small mercy was due to pressure from the Railway Board and the Government and this attempt was first branded as "an experiment". But this miserable experiment still continues, though it is now five years since it was started. Any amount of representation and agitation in the Press and on the platform to confirm this experiment, to provide a better type of accommodation, to reduce the fares, etc., was of no avail. The Railway Company had been pleading some

[Rao Sahib Dr. U. Rama Rau.]

excuse or other and turning a deaf ear to the demands of the public. Evidently, the Company is nervous that it may lose its income from the second class if an intermediate class is run on all trains and the experiment confirmed. Assuming for the sake of argument that some second class passengers may take to the intermediate class, the Company will be more than compensated by a larger number of third class passengers taking to the intermediate. In spite of the audacious attempts of this Railway to make out a case that the intermediate class is not popular, by arbitrarily fixing 7½ pies per mile for the intermediate class mail and 9 pies per mile for the second class for the Trivandrum Express, thereby inducing passengers to prefer the second class in the latter to the intermediate class in the former, the intermediate class is still largely availed of and is becoming increasingly popular. For the twelve months ending December 1926, the total number of intermediate class passengers carried by the South Indian Railway was 17,426 and the earnings amounted to Rs. 1,10,784. It must be remembered that only the two Boat Mails carry intermediate class accommodation. If 17,426 passengers had travelled in a year, it means that roughly 25 passengers a day have travelled in each Boat Mail in its most uncomfortable compartments with provision for 18 berths during the night. If in 18 berths during the night (i.e., 36 seats during the day), 25 passengers had been carried in a train, is it not popular? If at the highest rate in India, namely, 7½ pies per mile, the Company gets 25 passengers for 18 berths every day, does it indicate want of popularity of the intermediate class? Is not the Company benefited far more than it deserves by the Intermediate class passengers? And is not therefore the Company morally bound to reduce its Intermediate class fares and provide better and more spacious accommodation? The other systems of Railways in India are far ahead of this Railway in the matter of Intermediate class accommodation. They run one full Intermediate carriage in all their mail trains and the North Western Railway, I understand, are running three intermediate class carriages in some of their passenger trains. The East Indian Railway whose Intermediate class carriages are well known for their palatial accommodation are intending to reduce the fares for intermediate class to 3½ pies per mile for distance over 300 miles, while the third class mail fares on the South Indian Railway are much higher than that. The Madras and Southern Mahratta Railway has provided intermediate class accommodation in 41 trains and from the 1st April 1925 to the 31st March 1926 carried 344,786 intermediate class passengers, earning Rs. 6,94,000. This works out at 8,409 passengers per train as against 8,713 per train carried by the South Indian Railway. Can there be better evidence as to the popularity of the intermediate class on the South Indian Railway? Can it be said that its introduction would be a retrograde step as the Agent of the South Indian Railway seems to opine? Can anything be more absurd than a metre gauge line charging more for third class than a broad gauge one does for its intermediate? To add insult to injury, the public are told in a public document that there is no intermediate class on the South Indian Railway. It is clearly an attempt to hoodwink the Members of the Legislature and I do not know whether the statement originally emanated from the Railway Company or whether the Government themselves are the authors of it. If the explanation be that the provision of intermediate class on the South Indian Railway is only an experimental measure and needs, therefore, no mention being made of it,

then what is the way open to the Honourable Members of this House and the other, to know of such an experiment being tried, the results of that experiment and the measures taken to confirm or abandon that experiment? There is nothing on record to show that such an experiment at all is on foot, and the earnings from the intermediate class whose rate is double that of the third class, are not separately exhibited either in the Budget of the South Indian Railway or in the Standing Finance Committee's Proceedings alluded to above. On page 44 of the said Proceedings, an analysis of passenger traffic on the South Indian Railway is given in which it is said under the heading intermediate class—number and earnings—"No intermediate class". Are we to understand, Sir, that the intermediate class is treated as third class or as second class? What is this wonderful system of accounting called, Sir, to include the earnings from a particular class with a different rate of its own, under another unknown class, making the earnings from that class abnormally swell? The Railway Administration has got separate figures but they are unwilling to disclose them for reasons which are too well-known, namely, to brand the experiment as a failure and drop the question of intermediate class accommodation altogether. Have the Government Railway Audit Department approved of this system? Have they drawn the attention of the Railway Administration or the Railway Board to this wrong and misleading method of accounting? These are some of the questions which require a clear and detailed explanation.

Now, turning to the subject of my Resolution, Sir, I would ask the Government to urge on the South Indian Railway Administration to provide suitable and spacious intermediate class accommodation in all their passenger and mail trains, both broad gauge and metre gauge, and reducing the existing fare of 7½ pies per mile to 5 pies, the same as what is prevailing on the neighbouring line, the Madras and Southern Mahratta Railway. I now commend this Resolution for the favourable acceptance of this House.

THE HONOURABLE MR. G. L. CORBETT (Commerce Secretary): Sir, the Honourable Mover has struck a chord with which most of us will sympathise, for we are all fond of grumbling at the railway authorities and their shortcomings, and wondering why they do this and why they don't do that. But my personal experience has been that when I have had occasion to go into it, they generally have got a very good reason for what they have done or what they have left undone. In the case of this particular question—the provision of intermediate class accommodation by the South Indian Railway—the facts are actually as follows: In 1885 intermediate class accommodation was introduced as an experimental measure and was continued for three years. It was then found that there was considerable financial loss owing to the lack of demand for this accommodation, and it was withdrawn. Subsequently, another experiment was tried to provide more comfort and space for those who were prepared to pay for it; this was to reserve two third class seats for 1½ third class fares; but there was a poor response and this was also withdrawn. Again, in 1908, another experiment was made; third class passengers on the Ceylon Boat Mail train were offered lying down accommodation at double third class fares. This was subsequently reduced to 1½ third class fares, but again there was no adequate response and the matter was dropped. During the War nothing more could be done, of course, owing to the great shortage of rolling stock. But afterwards, when the railway position became easier, the matter was again re-examined, and in 1922 intermediate class carriages were provided on the Ceylon Boat Mail train and are still running and carrying on an average 41 passengers

[Mr. G. L. Corbett.]

a day. A further extension is at the present moment being considered by the Agent of the Railway and the Local Advisory Committee. As a result of a discussion in November last the Committee were asked to advise whether the public would prefer one of two alternatives: firstly, the introduction of intermediate accommodation, or secondly, provision for the reservation of eight third class seats—that would be a third class compartment—for the price of six third class fares. That is where the matter now stands. I think this House will agree that this question is essentially a local one and dependent on local supply and demand. I think the Railway is taking all reasonable steps now to meet the local demand, and it should be left to work out its own problem with the assistance of the Local Advisory Committee, without any interference from the Government of India.

At the same time, I think this Resolution raises a very interesting question of general policy, which is well worth ventilating; that is, whether the number of classes on a railway should be multiplied in future, or whether they should be as few as possible. The Honourable Member's motion suggests that we should add another class where it does not exist, and of course it is quite easy to see that it is a very attractive proposition to provide a large number of classes to suit all tastes and requirements; and I think one has particular sympathy for the class to whom the Honourable Mover referred, that is, those who are not able to afford second class fares but yet want a little more privacy and more space than the present third class accommodation affords. But, on the other hand, the multiplicity of classes is open to some very serious objections: first of all, it must lead to a great deal of empty carriages running on trains. You cannot estimate in advance how many passengers of each particular class you are going to carry, and very often you may find one class crowded while the carriages of another class are empty. Anybody who has travelled must of course be aware of that. And that in itself is an uneconomical arrangement which should be avoided, if possible. But it is a good deal worse to my mind than merely uneconomical; because the provision of these additional intermediate carriages, which may not be occupied, may restrict very seriously the amount of space that is available for the third class passengers, whose discomforts we particularly wish to avoid increasing. In other countries I think the tendency is everywhere to reduce the number of classes. You had four classes originally in the early days in some countries; and then they reduced it to three, and then to two; and sometimes on many trains you have only one class. That is the general line of progress; and I think this has been achieved, at any rate partly, by constantly improving the accommodation for the lowest class; and I think that is what many of us would like to see in India. But the difficulty at present in improving the lowest class of accommodation is that there is a constant demand for reduction in the fares, which we had ventilated in this House only recently. And so long as even the very low fares now charged are considered excessive, it is a very difficult thing obviously to improve the accommodation provided. In the meantime there is another and a suitable way, as it seems to me, of providing for this class that the Honourable Mover mentioned, who want more privacy and more space than they can get in the ordinary third class carriages, and that is to provide facilities for reserving seats or reserving a compartment by the payment of so many third class fares. That is, as I said, the other alternative which the Agent of the South Indian Railway has put before his Advisory Committee. That, I think, is

a way that meets the difficulty without adding to the number of classes on the Railway.

So looking ahead, one imagines that the tendency in India as in other countries will be towards a reduction rather than an increase in the number of classes. And from this point of view the action proposed in the motion might be regarded as rather retrograde and likely to hamper the improvement of the conditions of third class travelling which we all would like to see. One does not want at the present moment to be dogmatic or lay down general principles on this question of whether we should have few classes or many classes in India. But at present I think the best thing one can do is to regard it as a local problem. As you know, even in England where you have passenger traffic very highly developed, you still have the railway companies varying very much. On one railway you get first, second and third classes, on another you get first and third only. and so on. I think it is a point which each Railway Administration should study for itself as a local problem, and in India we have the safeguard that they have a Local Advisory Committee whose views on such matters are always very useful. And I think, as the Local Advisory Committee is now considering this particular question, it would be out of place and uncalled-for for the Government of India to interfere in their deliberations in regard to this matter at the present moment, and I feel sure that the Honourable Mover will take the same view himself and will not press this Resolution.

THE HONOURABLE RAO SAHIB DR. U. RAMA RAU: Sir, I am surprised to hear the reply from Government, that they propose to give power to the railway to reserve seats or to reserve a compartment of 8 seats by the payment of six third class fares,—a proposal which the Agent of the South Indian Railway has put before his Advisory Committee. That will never improve matters, because if one man desires to get intermediate class accommodation, he will have to arrange to get five more men. That does not meet the point I have mentioned.

The Honourable Member says that it is entirely a question of policy, but until that question of policy is settled, I do not see why the South Indian Railway should act in a manner different from that of other Railways where intermediate class accommodation is already provided.

The Honourable Member next argued that if you introduce intermediate class accommodation, some of the compartments will have to run empty. I do not agree there. I myself have seen on different Railways in India that intermediate compartments are not at all empty. On the other hand, they are always running full, and people do make use of intermediate accommodation very extensively. Therefore, Sir, instead of decreasing the intermediate class accommodation, let the Honourable Member increase it and reduce the third class accommodation, to some extent, or for the matter of that, he can to some extent reduce even the second class accommodation. In that way it will be of very great use to the people.

The Honourable Member himself admits that there are 41 intermediate class passengers to and fro every day on the South Indian Railway, and that the railway authorities are afraid that the income from the second class will go down. But I may assure the Honourable Member and those interested in the matter that the income will certainly increase and more

[Rao Sahib Dr. U. Rama Rau.]

third class passengers will travel by the intermediate class. In these circumstances, Sir, I do not see any reason why I should withdraw the Resolution. If the Honourable Member had given me an assurance that he would communicate the debate to the authorities of the South Indian Railway, so that they might carry out my suggestions, I could have withdrawn the Resolution; but since he has not done so, I do not wish to withdraw it.

THE HONOURABLE THE PRESIDENT: Do I understand the Honourable Member to say that he does not see his way to withdraw the Resolution?

THE HONOURABLE RAO SAHIB DR. U. RAMA RAU: I do not want to withdraw it, Sir.

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

"This Council recommends to the Governor General in Council that immediate steps be taken to provide intermediate class accommodation in all the passenger and mail trains of the South Indian Railway Company, both metre and broad gauges, and that the same fare as that now charged by the Madras and South Mahratta Railway Company for that class, namely, 5 pies per mile, be charged by the South Indian Railway Company as well."

The motion was negatived.

The Council then adjourned till Eleven of the Clock on Tuesday, the 15th February, 1927.